

**CHAVES COUNTY  
PLANNING & ZONING COMMISSION  
MAY 3, 2022 AT 5:30 P.M.  
COMMISSION CHAMBERS  
CHAVES COUNTY ADMINISTRATIVE CENTER  
#1 ST. MARY'S PLACE, ROSWELL, NM**

**A G E N D A**

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**I. CALL TO ORDER**

**II. ROLL CALL**

**III. CONSIDERATION OF MINUTES: April 5, 2022**

**IV. NEW BUSINESS**


1. **Case Z 2022-04:** Request for a Special Use Permit for a Community Solar Array Facility in the N2NE4NW4 S10 T12S R25E aka Tract 1 and Tract 2 Seward-Hubble Boundary Survey, 334 Tumbleweed Rd., Dexter; owner-Thomas Warren; applicant-CVE North America, Inc.
2. **Case Z 2022-05:** Request for a Rezone to Industrial to allow an aggregate and crushing operation in T14S R25E Sec 2 NW4; Sec 3 NE4, SW4, N2NW4, SE4 less .12 acres; Sec 10 N2 @ 108 E. Chickasaw Rd., Hagerman; owner-JHTC Investments, LLC; applicant-Jim Mitchell
3. **Case Z 2022-06:** Request for a Rezone to Industrial for an office, shop and hot plant operation in portion of S33 T13S R25E S2SE4 E of Hwy 285 @ 5 and 31 E. Chickasaw Rd., Dexter; owner-JHTC Investments, LLC; applicant-Jim Mitchell
4. To amend the Chaves County New Mexico Zoning Ordinance No.7, Revision #11; Article I General Statements.

**V. OTHER BUSINESS**

UNSCHEDULED COMMUNICATION LIMITED TO THREE MINUTES PER VISITOR. NO FORMAL ACTION TAKEN BY THE COMMISSION.

**VI. ADJOURNMENT**

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Planning & Zoning Department at 624-6606 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the Planning & Zoning Department at 624-6606 if a summary or other type of accessible format is needed.

<p style="text-align: center;"><b>Chaves County Planning &amp; Zoning Commission</b></p>	<p style="text-align: center;">Chaves County</p>	
<p>Meeting Date: April 5, 2022</p>	<p style="text-align: center;"><i>Meeting Minutes</i></p>	<p>Created By: Julia A. Torres</p>

**Members Present:**

Mark Lewis  
Valli West  
Brian Archuleta  
Dale Rogers  
Andy Morley

**Guests:**

Theresa Patton  
James Duffey  
Dick Davis  
Alan Earnest  
Mike Mathews  
Travis Williams  
Bobby Moody  
Mark Earnest

**Staff Present:**

Louis Jaramillo  
Julia A. Torres

The Regular Meeting of the Chaves County Planning & Zoning Commission was held in the Commission Chambers at the Chaves County Administrative Center on April 5, 2022, beginning at 5:33PM.

**MINUTES**

The minutes of the March 1, 2022, meeting were approved unanimously as submitted.

**NEW BUSINESS**

**1. Case Z 2022-02**

*Request for a Special Use Permit for a Community Solar Array Facility in the S2SW4 of S8 & N2NW4 of S17 T11S R25E being that part south of South Spring River described in Eastham Cedarvale Boundary Survey, 3831 Cedarvale Rd., Roswell; owner-Eastham Living Trust, c/o Laurene Eastham; applicant-BAP Power Corporation dba Cenergy Power*

**Louis Jaramillo** gave a brief description of this case. Should the request receive favorable consideration, Staff recommended six (6) Conditions of Approval and five (5) Findings of Fact listed on the Staff Report.

**William Heck** Director of Technical Development, Cenergy Power provided some information on the solar project and stated that it would not create noise, dust, glare, vibration, interference with WiFi/Cell data and that it would not have any water usage. The project will be fenced in and there was a possibility of having some landscaping.

**Commissioner Morley** asked if there was ever the need to clean the panels. Mr. Heck responded that they would be washed approximately once a year.

**Commissioner Lewis** wanted to know if the property owners were from Chaves County. Mr. Heck stated that the property owners do not live in Chaves County.

**Commissioner Archuleta** asked Mr. Heck to explain how the community would be able to participate in the solar array facility. Mr. Heck explained that Xcel would be providing the energy to the participants including low income households, within an approximate five (5) mile radius. There was the possibility of anybody within the Xcel power grid to be able to purchase the energy.

**Commissioner West** wanted to know what would happen if this project was not granted approval by the state. Mr. Heck responded that Cenergy Power would either wait until the program was expanded or that they wouldn't build there.

**Commissioner Morley** asked if there was a nearby substation that would receive the energy delivered by the solar array. Mr. Heck stated that there was a substation about 1.5 miles away. Commissioner Morley then asked what would happen if there was more interest from nearby property owners on starting a solar array at their properties. Would this require an expansion of the substation and would the existing power lines be able to handle the additional power? Mr. Heck responded that in this case, the substation would run out of its capacity and upgrades would be needed to expand. This could be done by upgrading the transformer and the wires.

**Commissioner West** wondered if there had been any health studies done. Mr. Heck responded that there have been numerous electromagnetic field studies in particular with transmission voltages. He mentioned that this project was low voltage and that there were no hazardous materials.

**Commissioner Lewis** asked if local businesses/contractors would be hired. Mr. Heck stated that this was the intention.

**Commissioner Morley** wanted to know why the requirement of a 26-year lease. Mr. Jaramillo responded that this was part of the legislation by the NM government.

**Mr. Heck** asked for a one-time assignment of the land to an LLC. Mr. Jaramillo explained that this was added as an additional Condition of Approval by the ETZ Commission for a similar case last month.

**Vice-Chair Rogers** asked if there was anyone wanted to speak in favor or against the application.

**Theresa Patton** at 3761 Spring River Road would like for Cenergy Power conduct a terrain management plan.

**James Duffey** at 3787 Cedarvale Rd. had concerns on property values and drainage/erosion/flooding issues. He wondered if the company was required to have an archaeological survey done. Mr. Duffey thought it would be a good idea for the company to talk to the neighbors. In conclusion, he stated that the Easthams have not lived in Chaves County for a while now.

**Commissioner Morley** indicated that there was the Gravel Pit Drain in that area that hits the Pecos River.

**Mr. Jaramillo** stated that a cultural and archaeological study would be required by the state as part of Cenergy Power's application.

**Dick Davis** at 3795 Cedarvale Rd. spoke against the application because of property values and the existing wildlife in the area.

**Alan Earnest** at 3673 Spring River Rd. spoke against the application because of the wildlife there and property values.

**Mike Mathews** at 3675 Spring River Road spoke against the application and stated that he does not want the solar project in his backyard.

**Travis Williams** at 3677 Spring River Road likes the open view and doesn't want to see solar panels. He stated that solar panels negatively affect properties resell ability.

**Bobby Moody** spoke against the application and felt there were better locations for this that were not in an agricultural field.

**Mr. Heck** took the opportunity to address some of the neighbors' concerns.

*Commissioner Morley stated that although he encourages development in the community, due to the discussion and concerns from the neighbors, he made a motion to recommend denial of Case Z 2022-02. Commissioner Lewis seconded the motion. The Findings of Fact for denial are based on the concerns with 1. Wildlife 2. Attracting nuisance/visual 3. Resell ability of properties and 4. Total maximum daily load of a stream system. Motion carried by a 0-5 roll call vote. This case is scheduled to be heard by the Chaves County Board of Commissioners on April 14, 2022 @ 9 a.m.*

**2. Case Z 2022-03:**

*Request for a Special Use Permit for a Community Solar Array Facility in the S2SE4 of S12 T11S R24E, 2005 White Mill Rd., Roswell; owner- Blach Revocable Trust, Leonard and Joanne Blach; applicant-BAP Power Corporation dba Cenergy Power*

**Commissioner West** recused herself from voting on this case because she is a neighbor and would be speaking against the application.

**Louis Jaramillo** gave a brief description of this case. Should the request receive favorable consideration, Staff recommended six (6) Conditions of Approval and five (5) Findings of Fact listed on the Staff Report.

**Commissioner Morley** suggested that both cases be consolidated due to their proximity to each other.

**William Heck**, representing Cenergy Power indicated that the property owner, Mr. Blach was present.

**Leonard Blach** briefly explained his application. He stated that other uses for the property were a marijuana farm and a feed lot. He believed that the solar array project would be the best usage of his land.

**Mr. Heck** asked for a one-time assignment of the land to an LLC.

**Vice-Chair Rogers** asked if there was anyone wanted to speak in favor or against the application.

**Valli West** at 3659 Spring River Road spoke against the application and had concerns with the looks of the solar panels, the resell ability of properties and drainage/flooding/runoff issues.

**Mike Mathews** spoke against the application and mentioned to keep in mind the potential for substations to keep expanding.

**Commissioner Lewis** asked Mr. Blach what he would do if the solar project did not get approved. Mr. Blach responded that he would look into his other two options.

**Alan Earnest** spoke against the application.

**Mark Earnest** at 1611 S. Lea Ave spoke against the application. Some of his concerns were related to the flood issues, existing easements for Berrendo Water Co-Op, and equipment maintenance and upkeep costs.

**Mr. Blach** stated that another option he had would be to sell the property.

**Mike Mathews** commented that he would not be against a feed lot on the property.

**Travis Williams** stated that a feed lot would not bother him at all.

*Commissioner Morley made a recommendation to deny Case Z 2022-03 with the same Findings of Fact as the previous case. Commissioner Archuleta seconded the motion. Motion carried by a 0-4 roll call vote. This case is scheduled to be heard by the Chaves County Board of Commissioners on April 14, 2022 at 9 a.m.*

### **Other Business**

**Mr. Jaramillo** informed the Commission that they will be presented with amendments to the Chaves County Zoning Ordinance in the upcoming months. Some of the amendments will include renewable energy (solar and wind) regulations, clarifying special use permits and the appeals process.

There being no other business listed on the agenda or to come before the Commission, the meeting adjourned at 7:07PM.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Chairperson/Commissioner

\_\_\_\_\_  
Attest

*Note: The minutes of this meeting are on file in the Chaves County Planning and Zoning office for review, upon request.*



# PLANNING & ZONING STAFF SUMMARY REPORT

MEETING DATE: May 3, 2022

CASE # Z 2022-04

<b>REVIEWING BOARD</b>	<b>PLANNING &amp; ZONING COMMISSION</b>
<b>ACTION REQUESTED:</b>	Special Use Permit for a Community Solar Project in Area I Zone A-R - Agricultural-Residential
<b>LAND OWNER AND AGENTS:</b>	Thomas Warren Changing Vision of Energy (CVE) North America Inc.
<b>LOCATION:</b>	334 Tumbleweed Road, Dexter NM N/2NE/4NW/4 Sec. 10, T.12S. R.25E. Tract 1 & 2 Seward-Hubble Boundary Survey
<b>ITEM SUMMARY</b>	Mr. Warren and CVE are proposing a 3.60-megawatt Community Solar Facility on both Tract 1 & 2; being approximately 20 acres in total size.
<b>SUPPORTING DOCUMENTS</b>	Staff Review, Application, Development & Site Plan, Vicinity Map

**SUMMARY BY:** Louis Jaramillo–Planning & Zoning Director

# STAFF'S REPORT

## CASE # Z 2022-04

Mr. Warren along with CVE North America Inc. are requesting a Special Use Permit for a community solar facility at 334 Tumbleweed. The property is accessible from Tumbleweed Road and Shadow Road both privately maintained roads being approximately twenty-one (21") feet wide. The area is currently vacant land with an abandon mobile home. It is bound to the north and east by vacant land, zoned A-Agriculture and to the south and west by farm/residential homes zoned A-R Agriculture-Residential. This area is not in the flood hazard area and is designated Zone "X" per the 2009 FIRM maps. Staff is cautious of this designation as this area is prone to flooding and ponding due to storm water flow from the areas west.

According to the 2009 FIRM maps, the vacant land just north of the proposed site is designated Zone "X" or in common terms an area of 1% annual chance of flooding with an average depth of less than 1 foot with no development restrictions. Staff believes this is an error by FEMA as this area is part of Tumbleweed Draw that runs from the Roswell Airport west to the agricultural fields at Crossroads and Baker Road. FEMA did study the area northwest and west of the proposed site and determined this area to be a Zone "AH", or areas of ponding with average depths of one to three feet. The Base Flood Elevations derived in this area are from detailed hydraulic analyses.

CVE North America Inc. has provided a development plan for the proposed community solar facility. The facility would be ground based and stand approximately four to six feet in height from the natural ground. The proposed facility would connect to the existing overhead transmission line which runs east to west through the proposed site. The solar facility would be completely fenced in by a six-foot chain link fence with three barbed wire strands at the top. (See Project Description for details.) CVE North America Inc. has provided a de-commissioning plan upon abandonment of the site.

Renewable energy facilities are not addressed in our County Zoning Ordinance nor in the County Comprehensive Master Plan. Therefore, per Section 1.A.1. of Article XVIII of the Chaves County Zoning Ordinance #7, the Board may grant a SUP in districts from which the uses are otherwise prohibited by this Zoning Code and shall impose appropriate conditions and safeguards to protect the general plan to conserve and protect the property values in the neighborhood. SUP should not create a nuisance, such as, noise, dust, glare, vibration, and interference with WIFI and cellular data. SUP should not interfere in the daily life nor create a hardship on the neighbors for which the SUP would be located.

Should the subject request receive favorable consideration, Staff recommends the following conditions of approval:

1. Failure to complete the construction of the community solar facility within ten years shall result in the Special Use Permit being terminated.
2. CVE North America Inc. shall apply for any necessary building and electrical permits for construction of the community solar facility within one year of being awarded the project by the utility service company, at this location.



3. CVE North America Inc. shall provide a topography study of the proposed site, along with 200 feet north of the proposed site, in order to assist Staff in evaluating, determining and preventing any possible expansion of the flood hazard area, Zone AH, due to extensive development of both tracts of land.
4. Construction traffic shall not be permitted along Shadow Road (south of the proposed site). Failure to comply with this requirement shall result in a "Stop Work" order by the County Building Inspector or Code Enforcement Officer. Work shall not be permitted until all necessary repairs are completed to the road as determined by the Inspector or Code Enforcement Officer.
5. CVE North America Inc. shall repair or reconstruct Tumbleweed Road (Shadow Road to Alabama Road) and Shadow Road (660 feet south of Tumbleweed and Shadow Road intersection) to Chaves County Road Standards, upon completion of construction of the community solar facility as determined by the County Building Inspector.
6. CVE North America Inc. shall utilize the existing electric transmission lines and substations in the area.
7. All lighting used on-site shall be shielded from traffic, surrounding properties and shall comply with the NM Night Sky Act.
8. All solar panels and their foundations shall be setback from the perimeter property lines of the site, a minimum of fifty (50) feet.
9. The property owner, Mr. Thomas Warren, shall have one year, from the date of approval by the Chaves County Board of Commissioners (Board), to transfer the properties to an LLC, partnership or corporation for whom Mr. Warren shall be a primary owner or partner of said LLC, partnership or corporation. Transfer of properties after one year shall require an amendment to the Special Use Permit to be approved by the Board at a public hearing.

**Findings of Fact:**

1. The Chaves County Zoning Ordinance #7 nor Chaves County 2016 Comprehensive Master Plan address renewable energy facilities, therefore a Special Use Permit, approved by the Zoning Authority is necessary.
2. Owner's within 100 feet of the proposed Special Use Permit have been notified by certified mail, per Chaves County Zoning Ordinance No. 7, Article XVIII Section 2-B.1. No protest has been received at the time of this report.
3. This case has been advertised in the local newspaper and on the Chaves County website, 3 days prior to this meeting, as required by Chaves County Zoning Ordinance #7 and State Statute.



ROSWELL- CHAVES COUNTY ETZ/ CHAVES COUNTY ZONING APPLICATION

Case Number: Z2022-04 Date Received: 4-1-2022 Fee: \$ 300<sup>00</sup>

Type of Request:  Rezoning  Special Use  Variance  Change of Use

Owner's Name: Thomas Warren

Mailing Address: 21 Messer Road, Waynesville, NC 28786

Phone Number: 256-630-2862

Agent's Name: CVE North America, Inc. (rep. Carson Weinand, Senior Business Developer)

Mailing Address: 109 W 27th St, Floor 8, New York, NY 10001

Phone Number: 239-784-8080

Roswell-Chaves County ETZ

Chaves County

Case Address: 334 Tumbleweed Road, Dexter, NM 88230

Legal Description: See Exhibit A of Lease Agreement

Parcel Number: 4-142-069-191-017-000000; 4-142-069-202-049-000000

Present Land Use: Residential

Intended Land Use: 3.6 MWac community solar facility

Present Zoning: A-R Agriculture Residential Requested Zoning: A-R Agriculture Residential

Reason for Requested: (Attach Letter if necessary)

To seek a Special Use Permit for the construction of a 3.6MWac community solar facility.

**PLEASE INCLUDE ALL DEVELOPMENT PLANS, SITE PLANS, AND /OR BUSINESS PLANS**

**I ACKNOWLEDGE THAT I HAVE BEEN INFORMED OF THE DATES, TIMES, AND LOCATIONS OF THE PUBLIC HEARINGS FOR WHICH I OR MY AGENT SHALL ATTEND IN ORDER TO FULFILL THE REQUIREMENTS OF THIS APPLICATION.**

Thomas Warren

Owner's Signature

04/01/22

Date



April 1, 2022

Louis Jaramillo  
Planning and Zoning Director  
Chaves County, NM  
1 St Mary's Place  
Roswell, NM 88203  
Louis.jaramillo@chavescounty.gov

**Re: Special Use Permit for Community Solar Energy Facility  
Project Narrative**

Dear Director Jaramillo,

Please accept this letter as a statement in support of the enclosed site plan for a community solar energy facility. With this application, CVE North America, Inc. (the "Applicant") will develop a 3.60 megawatt (AC) community solar energy facility on two parcels of land (4-142-069-191-017-000000; 4-142-069-202-049-000000) located at 334 Tumbleweed Road, Dexter, NM 88230 (the "Property").

The Property contains approximately 20 acres and is currently used for residential purposes. The area surrounding the Property is defined by low-density residential uses. The Property is zoned to the A-R, Agricultural Residential District (the "A-R District").

The Applicant intends to develop all the Property with a community solar energy facility. Community solar is a relatively new feature in New Mexico that allows local residents to receive a direct benefit by subscribing to receive credits, which lowers their electricity bills. There are no costs to subscribe, and in general, customers can expect to save 10% on their monthly utility bills. The 3.60 megawatt system is sufficient to provide credits to approximately 800 homes in Chaves County. Over the 25 years of the program, the total energy savings to customers will be over \$2,000,000.

At the end of the project's life (~year 35), the solar energy panels and related equipment will be removed, per the decommissioning plan approved by the County, and the project site restored to previous conditions.

The maximum height of the solar panels and other above-ground equipment will not exceed fifteen (15) feet. The solar panels and other above-ground equipment will be setback 50 feet from property boundaries. The project also will not have any substantial traffic impacts, as the Applicant anticipates less than two (2) trips to the Property monthly for basic maintenance, and overall will not have a material impact on existing or planned characteristics of the neighborhood.

The Applicant, CVE North America, Inc. ("CVE"), is an international renewable energy developer with over 250 employees worldwide and over 500 MW of operating assets. CVE owns and operates each project it develops. Furthermore, CVE strives to execute each project with integrity and transparency, while delivering a positive impact for the local community. To that end, CVE will be making a ~\$8,000 (\$1 per panel installed) "Green Initiative" donation to a local environmental agency.



For the reasons noted above, the Applicant believes this application should be approved. Thank you for your time and attention to this matter. We look forward to working with you and the community as the application progresses.

Very truly yours,

*Carson Weinand*



**Decommissioning Plan  
Thomas Warren Solar  
Project**

**Chaves County, New  
Mexico**

**Prepared For:**



**Prepared By:**  
TRC



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## 1.0 INTRODUCTION

CVE North America (CVE) proposes to construct and operate the Thomas Warren Solar Project, a 3.60-megawatt (MW) alternate current (AC) community solar energy facility on property located in Chaves County, New Mexico. The Project spans a 20.1-acre tract of land, across two parcels (4-142-069-191-017-000000; 4-142-069-202-049-000000) located at 334 Tumbleweed Road, Dexter, Chaves County New Mexico 88230 (the "Property").

The Property is currently used for residential purposes, and the area surrounding the Property is defined by low-density residential uses. The Property is zoned to the A-R, Agricultural Residential District (the "A-R District").

The Applicant intends to develop all the Property with a community solar energy facility.

The Project will consist of arrays of solar panels separated by pervious access drive. The arrays will consist of rows of solar panels installed aboveground on a metal framework. In addition, concrete pads for inverters and transformers will be installed. The access drive will be designed to allow access for emergency vehicles. An 8.5-foot-tall perimeter fence will surround the solar arrays and access will be through a single security gate. Emergency access will be available through a KnoxBox. The expected life of the Project is 35 years.

This document presents the Decommissioning Plan for the Project.

## 2.0 SYSTEM DECOMMISSIONING

Solar panels (photovoltaic modules or PV Modules), brackets, posts, support structures, battery storage pack units, inverters, transformers, concrete pads, underground electric, fencing, access drive geotextile support structures and gate will be removed from the Site. Materials will be salvaged when possible. In the event that salvage is not an option, recycling or disposal in the appropriate facility will be carried out. Any work completed as part of the Decommissioning Plan will be conducted in compliance with all local, state, and federal regulations governing the activities.

No decommissioning activities will occur in wetlands or associated buffer zones on the property and any excavations to remove Project components will not commence until best management practices (BMPs) for erosion and sediment control are in place.

### 2.1 Photovoltaic Modules

The PV modules will be disconnected from the inverters and removed from the steel racking system. Since PV modules are made of silicon, glass, and aluminum they do not constitute hazardous waste. Recycling and reuse of the PV modules will be assessed at the time of decommissioning.

## **2.2 Electrical Equipment**

All electrical equipment including, but not limited to inverters, switchboards, transformers, and meters will be disconnected from the electrical grid and removed from the concrete pads upon which they are mounted. The electrical equipment will be disposed of at an approved facility.

## **2.3 Electrical Wiring**

All electrical wiring is made of copper and aluminum, which will be recycled appropriately. All aboveground and underground conductors will be removed to the point of interconnection with the local electrical grid.

## **2.4 Concrete Pads**

The concrete mounting pads for the electrical equipment will be excavated to the depth below grade necessary to remove all concrete, rebar, and foundation bolts. Clean concrete will be crushed and re-used off site or on-site at the discretion of the property owner. The excavation will be filled with clean material with characteristics similar to surrounding soils.

## **2.5 Access Drive**

If requested by the property owner and with approval of the County, the access drive can be maintained and remain in place for future use of the Site. Otherwise, clean gravel will be stripped and reused. All other gravel and geotextile fabric will be disposed of at an appropriate facility. Compacted soils in the subgrade of the road will be assessed for use on-site. Soil will be scarified and loosened to return the road access area to pre-existing slope conditions.

## **2.6 Racking and Fencing**

All metal racking equipment, fencing, and gate material will be removed and recycled at an appropriate facility. All driven posts for the racking system and fence footings will be removed.

## **3.0 SITE RESTORATION**

To the extent practical, the topography of the Site will remain consistent with the grading plan for post-construction contours. The small amount of fill introduced to the Site to accommodate the installation of the Project will remain on the Site. The fill necessary for excavations related to below grade components (internal conductors or concrete pads) will be filled with materials similar to adjacent soils. Any disturbed areas will be re-seeded. Erosion and sediment control BMPs will remain in place until final stabilization is achieved.

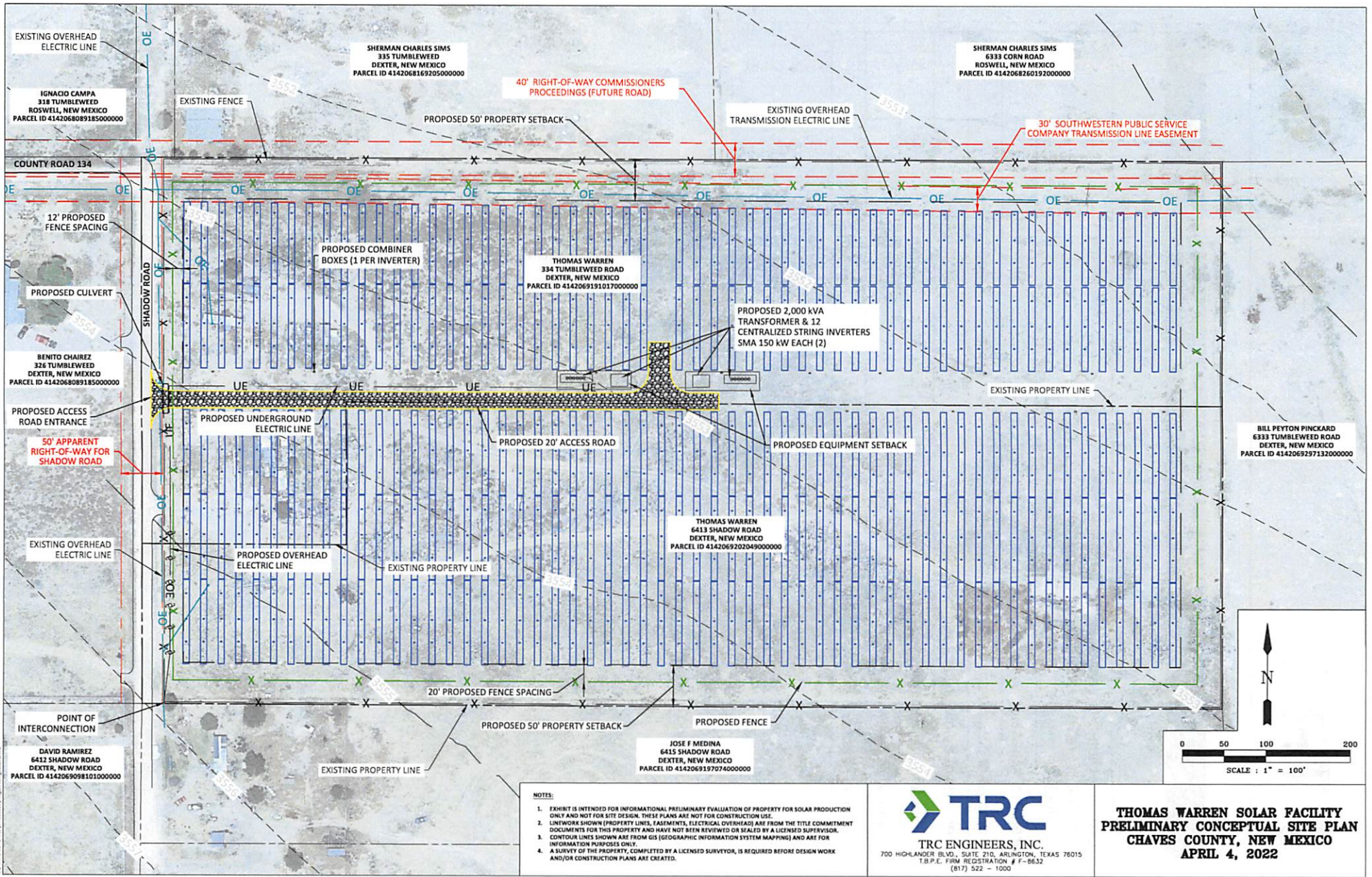
## **4.0 DECOMMISSIONING SCHEDULE**

Removal of the Project components will begin within 90 days of the Project's decommissioning. Table 1 presents an approximate schedule for decommissioning activities.



**Table 1. Approximate Decommissioning Schedule**

<b>Activity</b>	<b>Time After Commencement of Decommissioning</b>
Disconnection from local electrical grid and removal of the PV Modules and aboveground conductors	Month 1 – 2
Removal of racking system	Month 2 – 3
Removal of concrete pads	Month 3 – 4
Removal of below grade conductors	Month 4 – 5
Regarding post-construction contours	Month 5 – 6
Removal of fence	Month 6
Removal of access drive (if pursued)	Month 6 - 7



# National Flood Hazard Layer FIRMette



104°26'23"W, 33°18'12"N



104°25'45"W, 33°17'42"N

## Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

- SPECIAL FLOOD HAZARD AREAS**
  - Without Base Flood Elevation (BFE) *Zone A, V, A99*
  - With BFE or Depth *Zone AE, AO, AH, VE, AR*
  - Regulatory Floodway
- OTHER AREAS OF FLOOD HAZARD**
  - 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile *Zone X*
  - Future Conditions 1% Annual Chance Flood Hazard *Zone X*
  - Area with Reduced Flood Risk due to Levee. See Notes. *Zone X*
  - Area with Flood Risk due to Levee *Zone D*
- OTHER AREAS**
  - NO SCREEN
  - Area of Minimal Flood Hazard *Zone A*
  - Effective LOMRs
  - Area of Undetermined Flood Hazard *Zone D*
- GENERAL STRUCTURES**
  - Channel, Culvert, or Storm Sewer
  - Levee, Dike, or Floodwall
- OTHER FEATURES**
  - Cross Sections with 1% Annual Chance Water Surface Elevation
  - Coastal Transect
  - Base Flood Elevation Line (BFE)
  - Limit of Study
  - Jurisdiction Boundary
  - Coastal Transect Baseline
  - Profile Baseline
  - Hydrographic Feature
- MAP PANELS**
  - Digital Data Available
  - No Digital Data Available
  - Unmapped



The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 4/26/2022 at 10:51 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

DOCUMENT PREPARED BY AND  
AFTER RECORDING, PLEASE RETURN TO:

CVE NORTH AMERICA, INC.  
ATTN: DAVID FROELICH  
109 WEST 27TH STREET, 8<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10001

**MEMORANDUM OF LEASE AND EASEMENT AGREEMENT**

This MEMORANDUM OF LEASE AND EASEMENT AGREEMENT (this "Memorandum of Lease") is made and entered into as of NOVEMBER 17<sup>TH</sup>, 2021 and is made by and between THOMAS WARREN, a married man dealing in his sole and separate property with an address of 21 Messer Road, Waynesville, North Carolina 28786 ("Landlord" and "Grantor" for indexing purposes), and CVE NORTH AMERICA, INC., a Delaware corporation, with an address of 109 West 27th Street, 8<sup>th</sup> Floor, New York, New York 10001 ("Tenant" and "Grantee" for indexing purposes).

WITNESSETH

WHEREAS, pursuant to that certain Ground Lease and Easement Agreement (the "Lease") of even date herewith by and between Landlord and Tenant, Tenant leases from Landlord the land more particularly described in Exhibit A attached hereto and made a part hereof, together with all appurtenances thereto (collectively, the "Leased Premises").

WHEREAS, the parties hereto desire to enter into this Memorandum of Lease for the purpose of recording a document in real property records of Chaves County, New Mexico (the "Land Records") that will provide public notice of the existence of the Lease and certain of its terms and conditions.

NOW, THEREFORE, the parties hereto do hereby certify and agree as follows:

1. Lease of the Leased Premises. Landlord leases to Tenant, and Tenant leases from Landlord, for the Term (as defined below) and subject to the provisions of the Lease, to each of which Landlord and Tenant mutually agree, the Leased Premises, together with ingress, egress, and utility easements providing access to and from a public road and the point of utility interconnection, for the purposes of installing, operating, maintaining and removing a solar photovoltaic electric generating facility, which includes all photovoltaic solar panels, mounting systems, inverters, transformers, integrators, all electrical lines and conduits required to generate, collect, distribute and transmit electrical energy and such additional utility lines, cables, conduits, transformers, wires, meters, monitoring equipment, improvements and other necessary and convenient equipment and appurtenances common to such a facility (the "Solar Facility").

2. The rights granted to Tenant in the Lease include, without limitation the following easements and related rights:

- a. the exclusive right to erect, construct, reconstruct, replace, relocate, remove, operate, maintain and use the following from time to time, on, under, over and across the Leased Premises, in connection with the Solar Facility: (a) line or lines of towers, with such wires and cables as from time to time are suspended therefrom, and/or underground wires and cables, for the transmission of electrical energy and/or for communication purposes, and all necessary and proper foundations, footings, crossarms and other appliances and fixtures for use in connection with said towers, wires and cables (collectively "Transmission Facilities"); (b) facilities consisting of one or more substations for electrical collection, to step up the voltage, interconnect to transmission line or lines, and meter electricity, together with the right to perform all other ancillary activities normally associated with such a facility as may be necessary or appropriate to service the Solar Facility, regardless where located (collectively "Interconnection Facilities", which collectively with the Transmission Facilities and improvements installed in connection with the Solar Facility, collectively constitute the "Solar Improvements"); and (c) with all necessary easements therefor;
- b. an easement and right over and across that certain parcel of real estate located in the County of Chaves, New Mexico, more particularly described on Exhibit B attached hereto and made a part hereof and consisting of approximately 20.04 acres (the "Land", together with the Leased Premises, collectively referred to herein as the "Property"), for any audio, visual, view, light, shadow, noise, vibration, electromagnetic or other effect of any kind or nature whatsoever resulting, directly or indirectly, from the Solar Facility, including but not limited to rights to cast shadows and reflect glare onto all of the Property, from the Solar Facility and/or any and all other related facilities, wherever located;
- c. an exclusive easement and right to capture, use and convert sunlight and related solar resources on an unobstructed basis over and across the Property, which shall extend horizontally three hundred sixty degrees (360°) across the entire Property, together extending vertically through all space located above the surface of the Property, that is one hundred eighty degrees (180°) or such greater numbers of degrees as may be necessary to extend from each point on and along a line drawn along the surface of the ground and from each point along the exterior boundary of the Property; any obstruction to the receipt of and access to sunlight throughout the entire area of the Property is prohibited;
- d. Landlord shall not construct buildings or structures, initiate or conduct activities or plant trees or vegetation of any type or allow any trees or other vegetation on the Property which now or hereafter in the reasonable opinion of Tenant may be a hazard to the Solar Facility, overshadow or otherwise block or interfere with access of sunlight to the Solar Facility and/or interfere with the exercise of Tenant's rights hereunder. Landlord and Tenant hereby acknowledge that Tenant shall have the right (but shall not be obligated) to remove, at Landlord's cost, any such buildings or other structures in violation of the preceding sentence.

- e. an easement and right on the Property to prevent measurable diminishment in output due to obstruction of the sunlight across the Leased Premises including but not limited to an easement right to trim, cut down and remove all trees (whether natural or cultivated), brush, vegetation and fire and electrical hazards now or hereafter existing on the Property which might obstruct receipt of or access to sunlight throughout the Leased Premises or interfere with or endanger the Solar Facility or Tenant's operations;
- f. an access easement over and across the Property for ingress and egress to the Leased Premises, to and from a public road, and a construction and utility easement over the Property adjacent to the Leased Premises for construction and maintenance of the Solar Improvements;
- g. an easement to be located at a mutually acceptable location on a portion of the Property to be used for temporary (i) storage and staging of tools, materials and equipment, (ii) construction laydown, (iii) parking of construction crew vehicles and temporary construction trailers, (iv) vehicular and pedestrian access and access for rigging and material handling, and (v) other facilities reasonably necessary to construct, erect, install, expand, modify or remove the Solar Facility; and
- h. the right to undertake any such purposes or other activities, whether accomplished by Tenant or a third party authorized by Tenant, that Tenant determines are necessary, useful or appropriate to accomplish any of the purposes or uses set forth in this Lease or that are compatible with such purposes or uses.

3. Term. The term of the Lease (the "Term") commenced on or about November 17<sup>TH</sup>, 2021, and shall terminate on or about MAY 17<sup>TH</sup>, 2062. The Lease contains Tenant's two (2) options to renew the term of this Lease for a period of five (5) years each.

4. Successors and Assigns. The Lease provides that the provisions of the Lease are binding upon and inure to the benefit of Landlord and Tenant and each of their respective representatives, successors and assigns, subject to certain limitations.

5. Purchase Right. Tenant has the right to purchase the Leased Premises, the Land or any part thereof or interest therein on the terms and conditions set forth in the Lease.

6. Purpose of Memorandum of Lease. This Memorandum of Lease, when recorded in the Land Records is intended to serve as public notice of the existence of the Lease and of certain of its terms and conditions, including easements and restrictions affecting land adjacent to the Leased Premises. This Memorandum of Lease does not describe or refer to all of the terms or conditions contained in the Lease, nor is this Memorandum of Lease intended to modify, amend or vary any of the terms or conditions set forth in the Lease. To the extent not set forth herein, all of the terms, covenants and conditions of the Lease are incorporated herein. In the event of any inconsistency between the terms of the Lease and the terms of this Memorandum of Lease, the terms of the Lease shall control.

7. Termination of Memorandum. Upon the expiration or earlier termination of the Lease, Landlord and Tenant agree that they shall execute and record a termination of this Memorandum of Lease.

8. Counterparts. This Memorandum of Lease may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

*(signature pages follow)*

ACKNOWLEDGMENT

STATE OF NEW MEXICO §  
COUNTY OF CHAVES §

This instrument was acknowledged before me on 11/17/2021, by  
Thomas Warren.



(Seal)

Angela J Stewart  
Notary Public

My commission expires: 9-15-2023

SPOUSAL JOINDER

<sup>TEXAS</sup>  
STATE OF NEW MEXICO §  
<sup>Bowie</sup>  
COUNTY OF ~~CHAVES~~ §

This instrument was acknowledged before me on NOV 29, 2021, by  
Carla Warren.



Angela J Stewart  
Notary Public

My commission expires: 10-6-24



IN WITNESS WHEREOF, the parties have caused this Memorandum of Lease to be duly executed under seal and delivered as of the date first written above.

Landlord:

By: Thomas Warren  
THOMAS WARREN

Date: 11/17/21


**SPOUSAL JOINDER**

The undersigned hereby joins in this Memorandum of Lease for the purpose of granting the rights hereunder in and to any community property rights he or she has in the Property granted hereunder, if any.

By: Carla Warren  
Name: Carla Warren  
Date: 11/29/21

Tenant:

**CVE NORTH AMERICA, INC.**

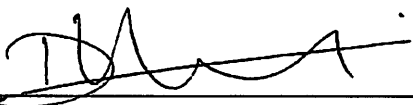
By:   
Name: David Froelich  
Its: Director, Business Development  
Date: 12/7/21

**CORPORATE ACKNOWLEDGMENT**

STATE OF NEW YORK §  
  §  
COUNTY OF NEW YORK §

This instrument was acknowledged before me on December 7, 2021 by David Froelich as Director, Business Development of CVE North America, Inc., a Delaware corporation, on behalf of said corporation.

(Seal)

  
Notary Public  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**DAPHNE M MONNOYEUR MOORE**  
**NOTARY PUBLIC-STATE OF NEW YORK**  
**No. 02MO6425034**  
**Qualified in Westchester County**  
**My Commission Expires 11-15-2025**

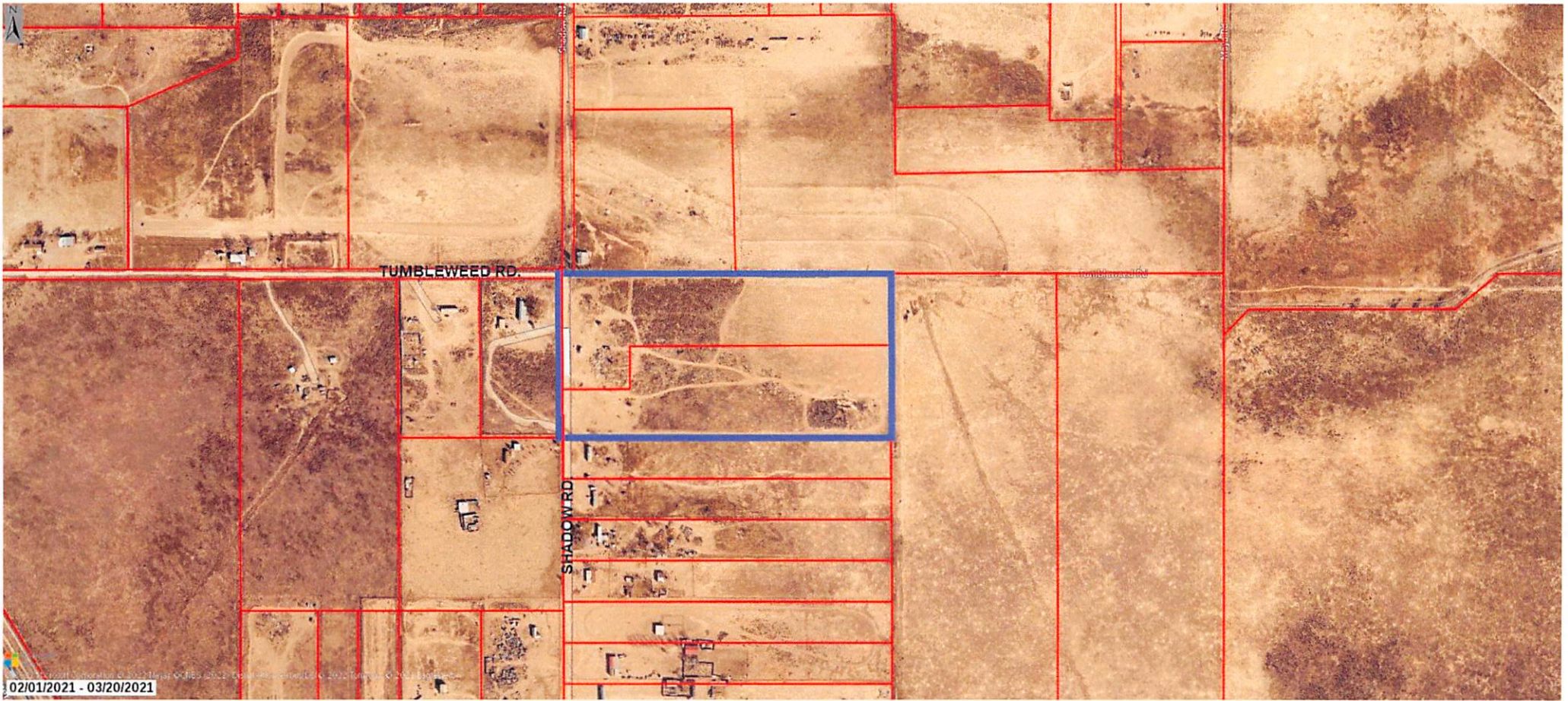
**EXHIBIT A**

**LEGAL DESCRIPTION OF THE LAND**

TRACTS ONE AND TWO (1 & 2) OF SEWARD - HUBBLE BOUNDARY SURVEY OF THE N1/2NE1/4NW1/4 OF SECTION 10, TOWNSHIP 12 SOUTH, RANGE 25 EAST, NMPM., IN THE COUNTY OF CHAVES AND STATE OF NEW MEXICO, AS SHOWN ON THE OFFICIAL SURVEY FILED IN THE CHAVES COUNTY CLERK'S OFFICE ON SEPTEMBER 26, 2014 AND RECORDED IN BOOK S20 OF SURVEY RECORDS, CHAVES COUNTY, NEW MEXICO, AT PAGE 68.

TAX MAP PARCEL NO(S). 4-142-069-191-017-000000; 4-142-069-202-049-000000

AS DESCRIBED IN THAT CERTAIN INSTRUMENT DATED 6/22/2017 BY AND BETWEEN RICHARD L. HUBBLE, AS GRANTOR, AND THOMAS WARREN, AS GRANTEE, AND RECORDED AT DEED BOOK 787, PAGE 1713 IN THE ABOVE LISTED COUNTY'S OFFICE OF THE COUNTY CLERK.





# PLANNING & ZONING STAFF SUMMARY REPORT

MEETING DATE: May 3, 2022

CASE # Z 2022-05

REVIEWING BOARD	PLANNING & ZONING COMMISSION
ACTION REQUESTED:	Zone Change from Zone A- Agriculture to Zone D- Industrial in Area I
LAND OWNER AND AGENTS:	JHTC Investments  Jim Mitchell
LOCATION:	108 E. Chickasaw Road  A portion of land being the NW/4 of Section 2; N/2N/2, S/2NE/4, & S/2 of Section 3 and N/2 of Section 10. All in T14S R25E
ITEM SUMMARY	JHTC Investments wishes to operate a mining and rock crushing facility on this site.
SUPPORTING DOCUMENTS	Staff Review, Application, Development & Site Plan, Vicinity Map

**SUMMARY BY:** Louis Jaramillo–Planning & Zoning Director

# STAFF'S REPORT

**CASE # Z 2022-05**

JHTC Investments wishes to zone change approximately 1,070 acres of vacant land from Zone A-Agriculture to Zone D-Industrial for the operation of a crushing facility along with their proposed new mining areas. The proposed area begins approximately 1,500 feet west of the intersection of US 285 and Chickasaw Rd. and extends east approximately 1.5 miles along the south side of Chickasaw Rd. JHTC Investments has proposed placing the crushing facility in the far SE corner of Section 10 being over a mile south of Chickasaw road.

JHTC Investments is currently operating a crushing, asphalt plant and mining area just across the street at 73 Chickasaw Road. They are leasing the property from Kerr Trust. JHTC Investment has not stated if they would be closing this facility, if approved. The crushing and asphalt facility were approved as a Special Use Permit in Zone A-Agriculture District in April 2018. Mr. Mitchell has stated that they would rather not operate their business under another SUP. Mineral exploration is a permitted use in Zone-A Agriculture District, per Article V of the Chaves County Zoning Ordinance No.7

Chickasaw Rd. is a 30-foot wide, chip-sealed, county-maintained road with 40 to 60 feet of right-of-way depending on the location. The Chickasaw-US 285 intersection does have deceleration and acceleration lanes in both north and south bound traffic lanes. Electric service lines are located on the north side of Chickasaw Rd. with a large transmission line running north to south from the existing CVE substation.

The proposed area was used for grazing of cattle for years and still contains a water tank area located along the eastern edge of Section 3. The area is zoned A-Agriculture along with the surrounding properties with the exception of the Mr. and Mrs. Vasquez's residential home located at 248 E. Chickasaw Road in Section 2, zoned A-R Agriculture-Residential. Central Valley Electric did receive a variance to the 5-acres minimum lot size for a proposed new substation just to the west of this area. An earth dam running north to south is located in the W/2 of the N/2 of Section 3. It was created and is maintained by the Army Corp of Engineers to assist in the control of storm water that sheet flows across the plains area from west to east. This earth dam channels the storm water south to the Felix River.

This proposed zone change covers a large portion of land along the south side of Chickasaw Road that begins more than a quarter of a mile from the intersection of Chickasaw Rd and US 285 and runs west for 1.5 miles. The 2016 Comprehensive Master Plan does recommend Commercial and Industrial Districts along major corridors like US 285; however, the width of the corridor is not stated in the Plan. Staff has tried to establish a common distance of half a mile on either side of the main road, however there has been times that Industrial zoning has been approved for property more than a mile from the main road.

Staff is concerned with the Industrial zoning request extending into agricultural areas used for farming, ranching and residential homes. Therefore, staff is in favor of the zone change for areas in Section 3 and 10 but is not in favor of the area located in Section 2, T.14S., R25E. Staff believes that a buffer area must remain between Industrial and Agricultural areas with homes and fields. Staff also understands that mineral operations are a permitted in Zone-A Agriculture District, per Article V of the Chaves County Zoning Ordinance No.7.

Staff recommends the following Conditions of Approval:

1. That all State and Federal regulations be met and maintained; and
2. That the driveway apron be constructed, and maintained, of concrete or asphalt; and
3. That JHTC Investments coordinate with the County Road Department and NMDOT to install any traffic signs necessary for the health, safety and welfare of the citizens of Chaves County traveling along Chickasaw Road and US 285; and
4. That all light structures comply with the NM Night Sky Protection Act; and
5. That no derelict vehicles or junk be stored on any of the property located in Sections 2, 3, or 10 of T.14S R25E.

**Findings of Fact:**

1. The 2016 Chaves County Comprehensive Master Plan supports industrial uses along the Highway 285 corridor with limits and restrictions to farming, ranching and residential homes.
2. Conditions of approval will limit negative impacts on surrounding properties.
3. Owners within 100 feet have been notified by certified mail as required by the Chaves County Zoning Ordinance #7 and State Statute. Staff has not received letters or phone calls from neighbors, at the time of this writing.
4. This case has been advertised 3 days prior to this meeting as required by the Chaves County Zoning Ordinance #7 and State Statute.



# CHAVES COUNTY/ETZ ZONING ORDINANCE

## APPLICATION TO **REZONE** PROPERTY

Case Number: Z 2022-05 Date Received: 4-4-2022 Fee: 350<sup>00</sup>

Name of Property Owner: JHTC Investments, LLC Phone Number: 505-896-9428  
 Mailing Address: 6616 Gulton Ct. NE Ste 90  
 Name of Applicant: Jim Mitchell  
 Mailing Address: 6616 Gulton Ct. NE Ste 90 City: Albuquerque Zip: 87109  
 Home Phone Number: 505-250-7673 Business Phone Number: 505-896-9428  
 Applicant Status:  Owner  Agent  Tenant  Other \_\_\_\_\_

Site Address: 108 E. Chickasaw Rd. Dexter  ETZ  Chaves County  
Parcel 1 Township 14 South, Range 25 East, N.M.P.M in Chaves County Section 2 NW 1/4  
 Section 3 NE 1/4, SW 1/4, N1/2NW1/4 LESS AND EXCEPT the following facts out of the W1/2SE1/4 to wit the North 25 feet  
 of the East 100 Feet of the West 110 feet of the South 1850 feet, and the North 25 feet of the West 110 feet of the South 1750'  
 Section 10 N1/2  
 Parcel II Township 14 South, Range 25 East N.M.P.M Chaves County  
 Section 3 the North 25' of the East 100' of the West 210' of the South 1950' UPN: \_\_\_\_\_  
Parcel IV Township 14 South, Range 25 East, N.M.P.M Chaves County Section 3 the North 25' of the west 110' of the South 1750'  
 Present Land Use: Agriculture  
 Intended Land Use: Aggregate and Crushing Operation  
 Present Zoning: Residential Requested Zoning: Industrial Size of Development in Acres: 1000 Acres  
 Reason for Request (Attach sheets if more space is needed):  
JHTC Investments, LLC is requesting the zone change in order to establish a new crushing  
operation. The current location is directly across the road where we currently lease the property.  
The expansion would allow greater source of aggregate for our current construction operation  
and public sales. Copy of Deed Attached:

I ACKNOWLEDGE THAT I HAVE BEEN INFORMED OF THE DATES, TIMES, AND LOCATIONS OF THE PUBLIC MEETINGS WHICH I OR MY AGENT MUST ATTEND IN ORDER TO FULFILL THE REQUIREMENTS OF THIS APPLICATION.

Jim Mitchell \_\_\_\_\_ Date 3/28/22  
 Owner's Signature \_\_\_\_\_ Date

10/01/14 April 4 - for May 3rd PEZ Commission





# WARRANTY DEED

GF#2200039

**Bob C. Finch aka Bob Finch and Aria D. Finch aka Aria Finch, husband and wife, for consideration paid,**

grants to: JHTC Investments, LLC, a New Mexico limited liability company

Whose address is: 6616 Gulston Ct., NE  
Albuquerque, NM 87109

the following described property situated in Chaves County, New Mexico.

**PARCEL I:**

TOWNSHIP 14 SOUTH, RANGE 25 EAST, N.M.P.M., in the County of Chaves and State of New Mexico:  
SECTION 2: NW1/4

SECTION 3: NE1/4; SW1/4; N1/2NW1/4; SE1/4 LESS AND EXCEPT the following tracts out of the W1/2SE1/4 to wit: the North 25 feet of the East 100 feet of the West 210 feet of the South 1950 feet; and the North 25 feet of the West 110 feet of the South 1850 feet; and the North 25 feet of the West 110 feet of the South 1750 feet.

SECTION 10: N1/2

**PARCEL II:**

TOWNSHIP 14 SOUTH, RANGE 25 EAST, N.M.P.M., in the County of Chaves and State of New Mexico:

SECTION 3: the North 25 feet of the East 100 feet of the West 210 feet of the South 1950 feet

**PARCEL IV:**

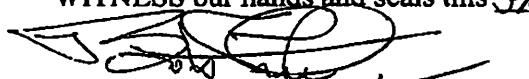
TOWNSHIP 14 SOUTH, RANGE 25 EAST, N.M.P.M., in the County of Chaves and State of New Mexico:

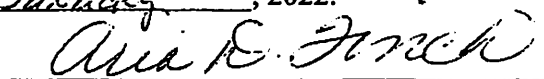
SECTION 3: the North 25 feet of the West 110 feet of the South 1750 feet

SUBJECT to all reservations contained in the Patent and all covenants, easements and restrictions of record and taxes of current year and there after.

With Warranty Covenants

WITNESS our hands and seals this 1st day of January, 2022.

  
Bob C. Finch aka Bob Finch

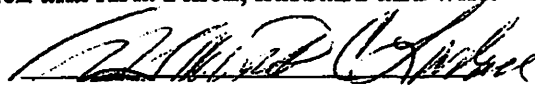
  
Aria D. Finch aka Aria Finch

### ACKNOWLEDGEMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO )  
) ss.  
COUNTY OF CHAVES )

This instrument was acknowledged before me this 3rd day of January, 2022 by **Bob C. Finch aka Bob Finch and Aria D. Finch aka Aria Finch, husband and wife.**

My Commission Expires:



7920'

Chirkosny Rd

1320'

2640'

2640'

Same Area / 50' wide

2640'

1320'

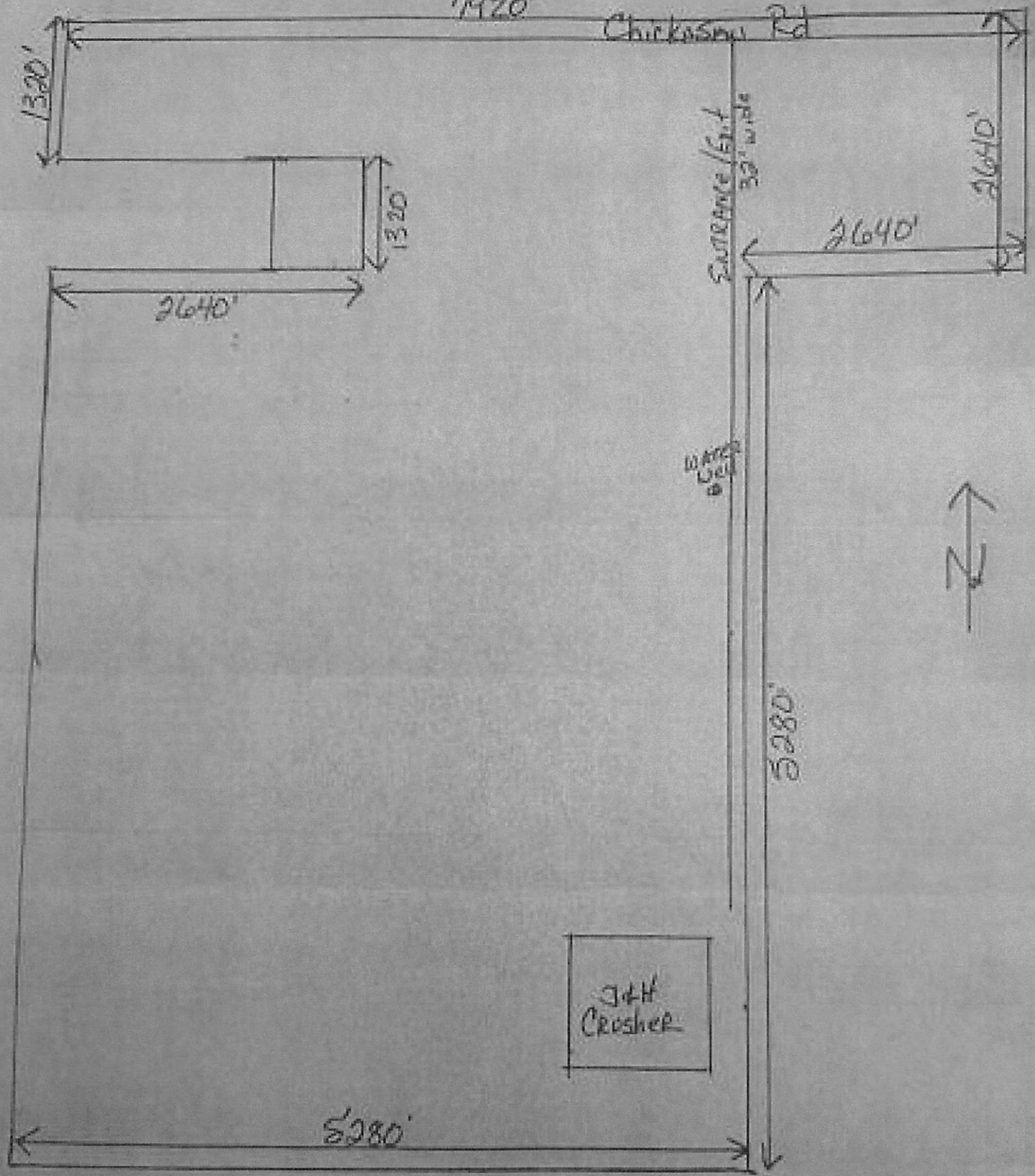
Waste Cell

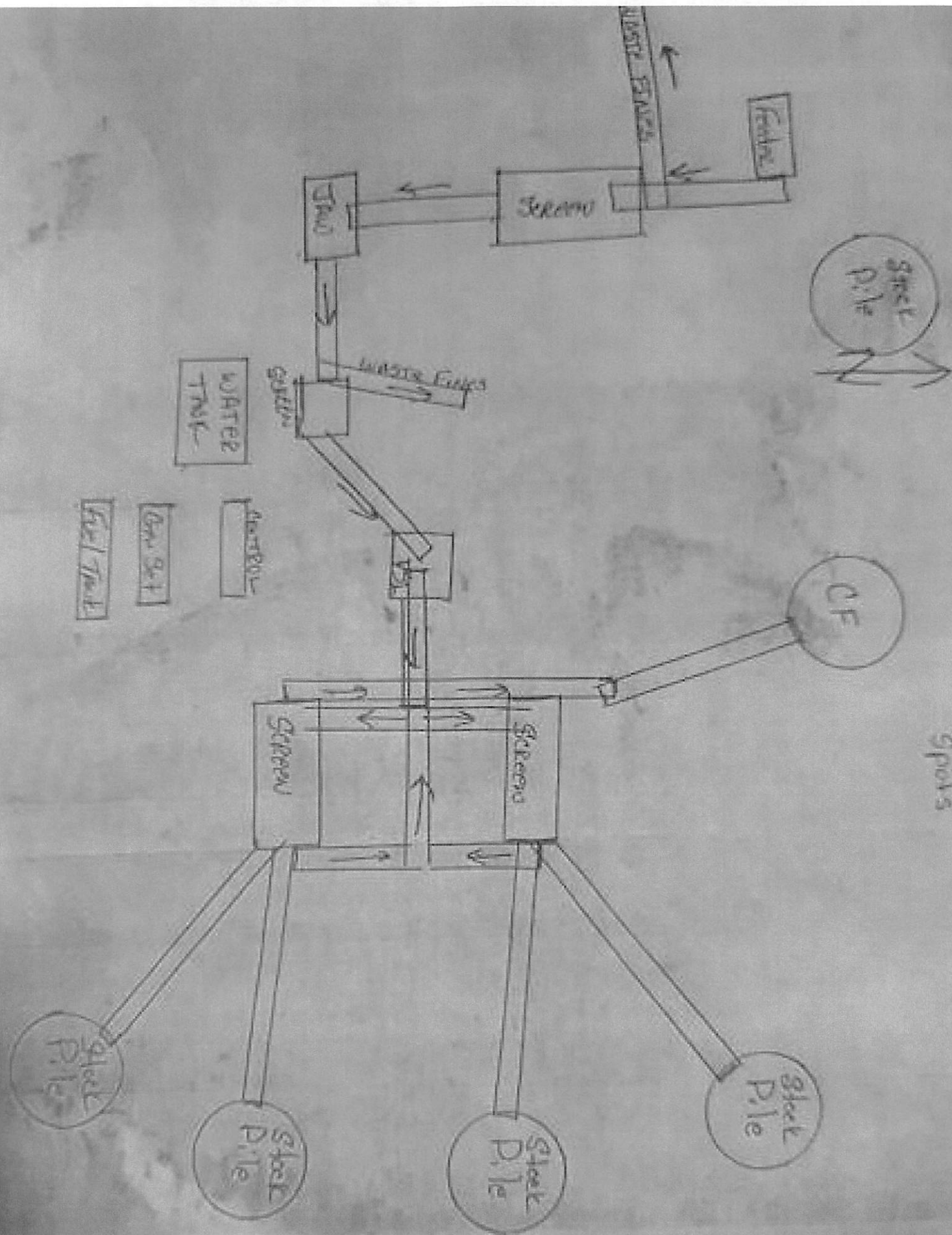


5280'

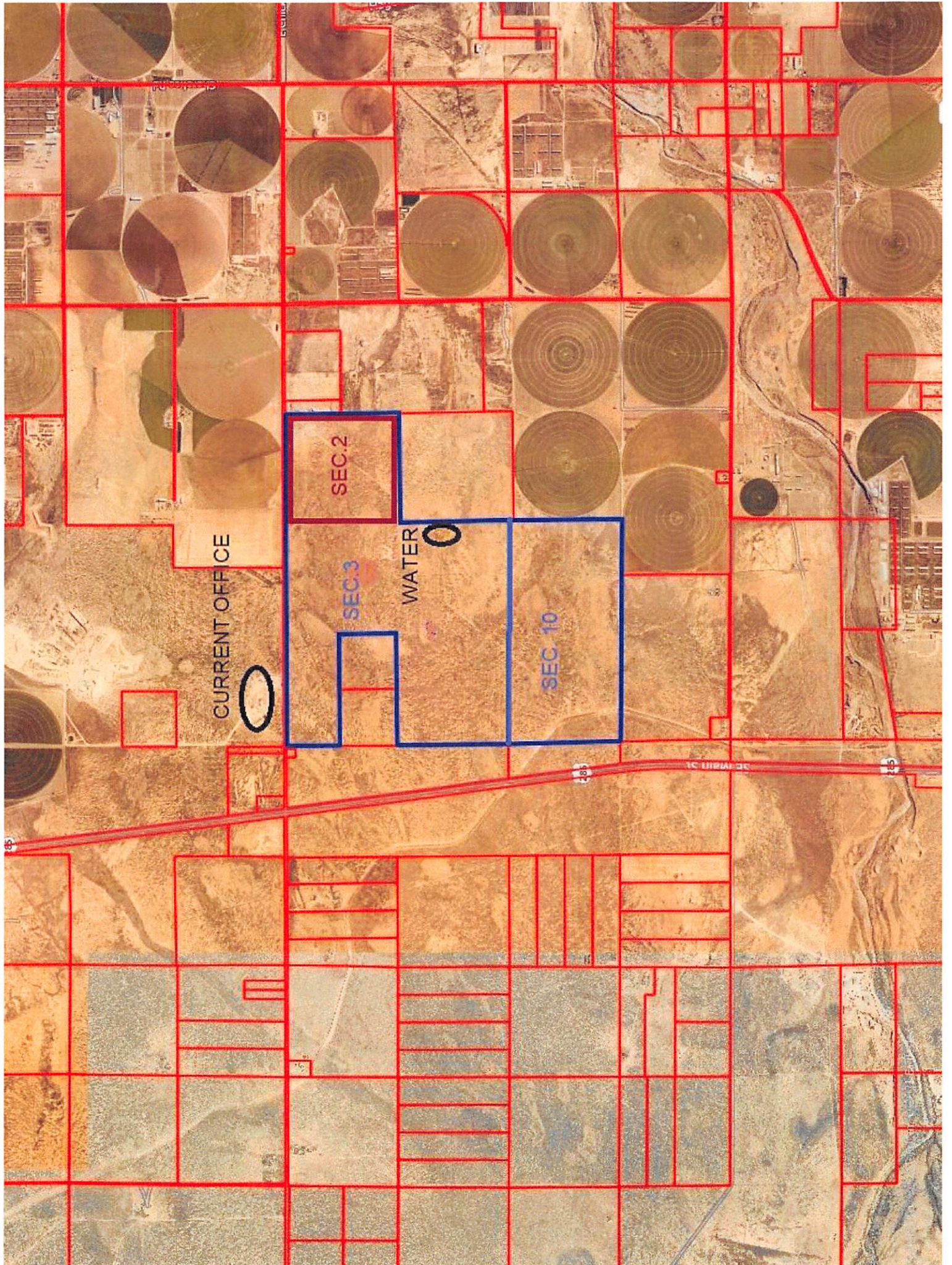
J&H  
Crusher

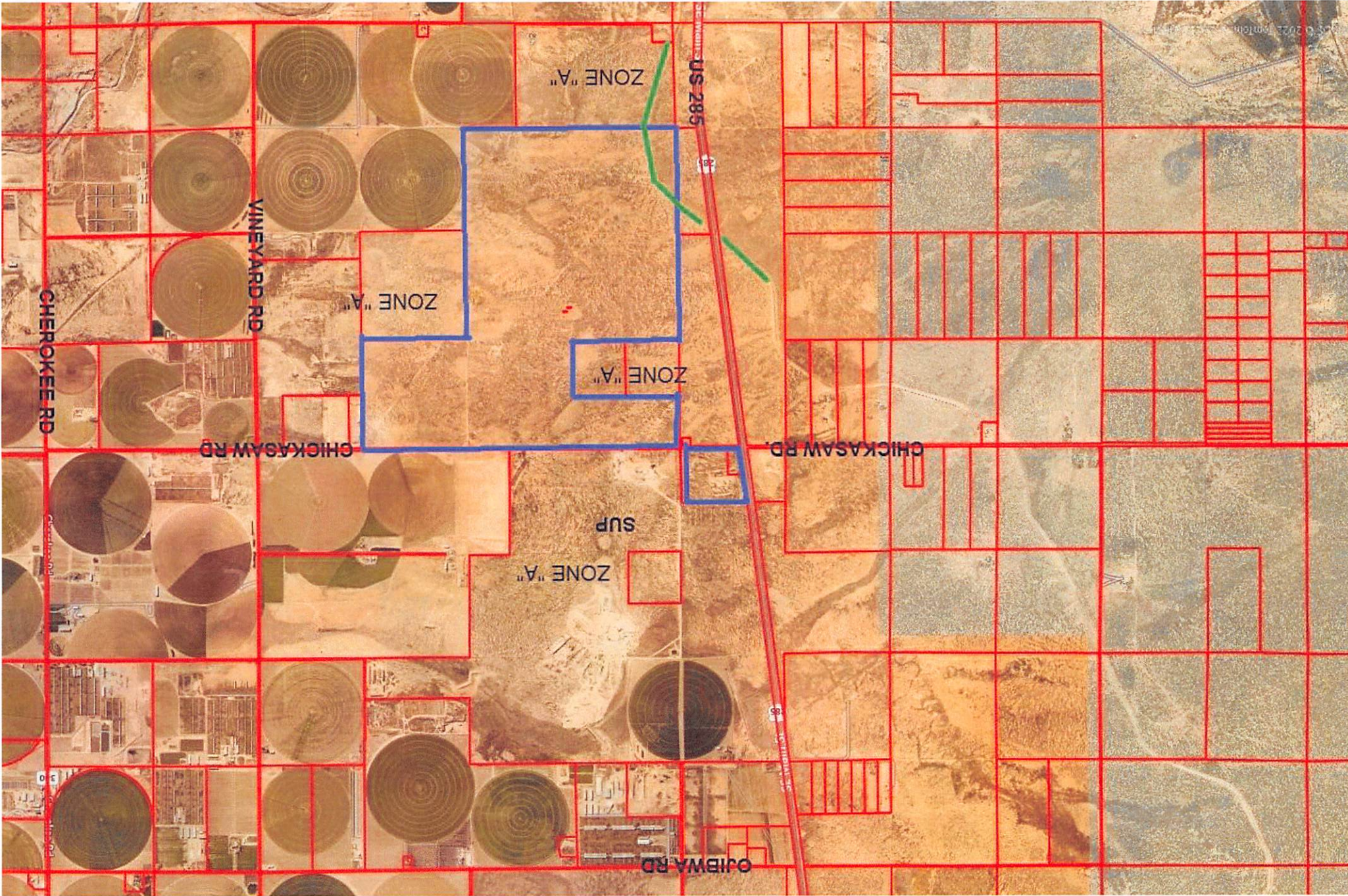
5280'

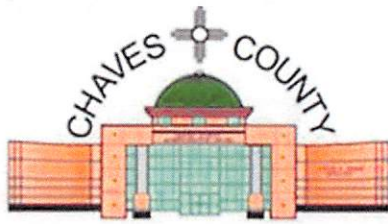




Put water in aeration  
Spots







# PLANNING & ZONING STAFF SUMMARY REPORT

MEETING DATE: May 3, 2022

CASE # Z 2022-06

<b>REVIEWING BOARD</b>	<b>PLANNING &amp; ZONING COMMISSION</b>
<b>ACTION REQUESTED:</b>	Zone Change from Zone A- Agriculture to Zone D- Industrial in Area I
<b>LAND OWNER AND AGENTS:</b>	JHTC Investments  Jim Mitchell
<b>LOCATION:</b>	5 & 31 E. Chickasaw Road  A portion of land in the S/2 SE/4 being east of US 285 in Section 33, T.13S, R.25E.
<b>ITEM SUMMARY</b>	JHTC Investments wishes to operate an office and asphalt facility on this site.
<b>SUPPORTING DOCUMENTS</b>	Staff Review, Application, Development & Site Plan, Vicinity Map

**SUMMARY BY:** Louis Jaramillo–Planning & Zoning Director

# **STAFF'S REPORT**

## **CASE # Z 2022-06**

JHTC Investments wishes to construct a new asphalt plant and office at 31 E. Chickasaw Road. JHTC is currently located at 73 E. Chickasaw Rd where they are leasing the property from Kerr Trust. The proposed area is located adjacent to the intersection of Chickasaw Rd. and US 285 on the north side of Chickasaw Rd. Access to the property is possible from Chickasaw Rd. and US 285, with NMDOT approval. Chickasaw road is a County maintained road with approximately 40 feet of right-of-way at this location.

The proposed area is vacant land with the exception of an abandon gravel pit that was used in the improvement of US 285. The property is currently zoned A-Agriculture along with the surrounding properties. The property to the east is currently being leased and used by Central Valley Electric for a substation with transmission lines that run north and south from the substation. Also, CVE has received a variance to the 5-acre minimum lot size for a new substation to be located across the street.

The proposed site is within the recommended Industrial corridor area along US 285 as noted in the 2016 Comprehensive Master. The site is not in a flood hazard area based on the 2009 FIRM maps.

Staff is in support of the zone change with the following Conditions of Approval:

1. That all State and Federal regulations be met and maintained; and
2. That the driveway apron along Chickasaw Rd. be constructed, and maintained, of concrete or asphalt; and
3. JHTC Investment comply with NMDOT regulations.
4. That JHTC Investments coordinate with the County Road Department and NMDOT to install any traffic signs necessary for the health, safety and welfare of the citizens of Chaves County traveling along Chickasaw Road and US 285; and
5. That all light structures comply with the NM Night Sky Protection Act; and
6. That no derelict vehicles or junk be stored on the property.

**Findings of Fact:**

- 1. The 2016 Chaves County Comprehensive Master Plan supports industrial uses along the Highway 285 corridor with limits and restrictions to farming, ranching and residential homes.**
- 2. Conditions of approval will limit negative impacts on surrounding properties.**
- 3. Owners within 100 feet have been notified by certified mail as required by the Chaves County Zoning Ordinance #7 and State Statute. Staff has not received letters or phone calls from neighbors, at the time of this writing.**
- 4. This case has been advertised 3 days prior to this meeting as required by the Chaves County Zoning Ordinance #7 and State Statute.**





# CHAVES COUNTY/ETZ ZONING ORDINANCE

## APPLICATION TO **REZONE** PROPERTY

Case Number: 22022-06 Date Received: 4-4-22 Fee: 350<sup>00</sup>

Name of Property Owner: JHTC Investments, LLC Phone Number: 505-896-9428  
 Mailing Address: 6616 Gulton Ct. NE Ste 90  
 Name of Applicant: Jim Mitchell  
 Mailing Address: 6616 Gulton Ct. NE Ste 90 City: Albuquerque Zip: 87109  
 Home Phone Number: 505-250-7673 Business Phone Number: 505-896-9428  
 Applicant Status:  Owner  Agent  Tenant  Other \_\_\_\_\_

Site Address: 5431 E. Chickasaw Rd Dexter  ETZ  Chaves County  
 Property Legal Description: Township 13 South, Range 25 East, Section 33 - See attached for full description  
 UPN: \_\_\_\_\_  
 Present Land Use: Agriculture  
 Intended Land Use: Office/Shop and Hot Plant Operation  
 Present Zoning: Residential Requested Zoning: Industrial Size of Development in Acres: 40 Acres  
 Reason for Request (Attach sheets if more space is needed):  
JHTC Investments, LLC is requesting the zone change in order to build a new shop for equipment repair, along with attached office, and a asphalt hot plant.  
The expansion would allow our operation to repair equipment locally. Our current shop and office is located in Hobbs, NM. The existing asphalt hot plant was located approximately 1710' from requested location. Copy of Deed Attached:

I ACKNOWLEDGE THAT I HAVE BEEN INFORMED OF THE DATES, TIMES, AND LOCATIONS OF THE PUBLIC MEETINGS WHICH I OR MY AGENT MUST ATTEND IN ORDER TO FULFILL THE REQUIREMENTS OF THIS APPLICATION.

Jim Mitchell Date: 3/28/22  
 Owner's Signature

10/01/14 April 4 - for May 3<sup>rd</sup> PEZ Commission

# JHTC 285 YARD

US 285 AND CHICKASAW ROAD

## Legend

 Location

 New Hot Plant Location

 J&H Services Hot Plant Pre

US Hwy 285

559

Google Earth

1000 ft



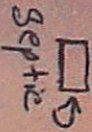
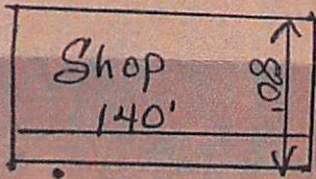
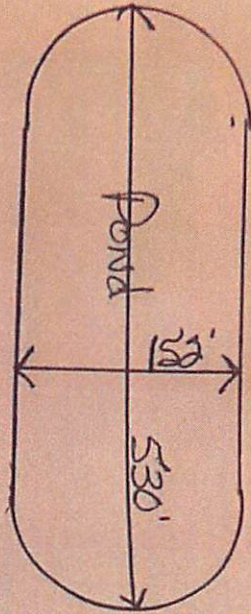
Hwy 285

1282'

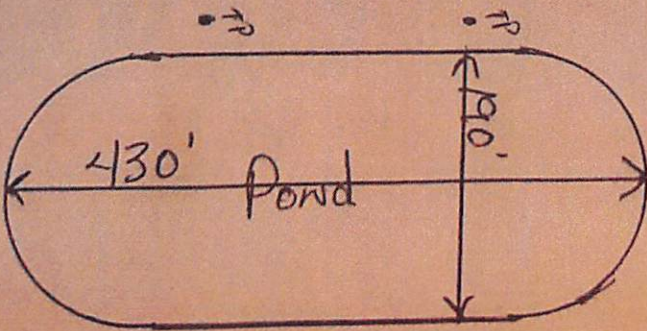
1300'

Entrance  
EXIT.

321'



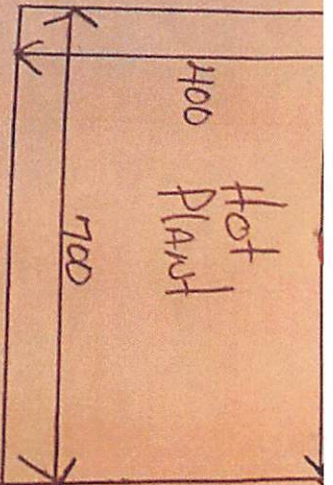
TR



TR

TR

Water Well



TR

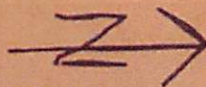
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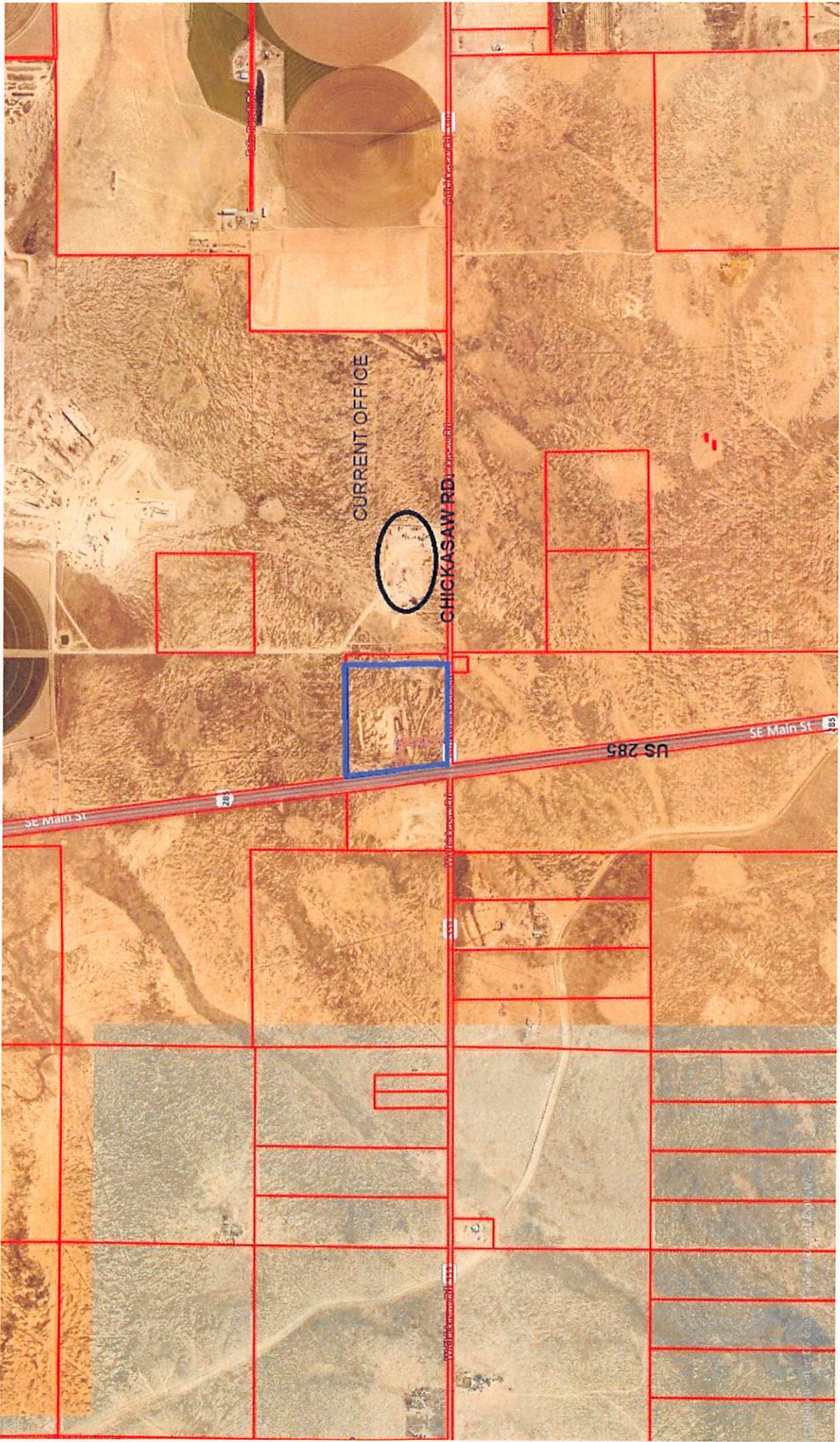
100'

125'

1185'

Fence





**CHAVES COUNTY ~~NEW MEXICO~~**  
**ZONING ORDINANCE NO. 7**

**ARTICLE I**  
**GENERAL STATEMENTS**

**Section 1 TITLE**

This Ordinance shall be ~~known as the~~ ~~called the~~ "Chaves County, ~~New Mexico~~ Zoning Ordinance."

**Section 2 ZONING AUTHORITY OF COUNTY**

- A.** ~~Section 3-21-1, N.M.S.A., 1978, designates the County of Chaves as a Zoning Authority and sets forth its authority. This Ordinance is enacted to establish and carry into effect several powers, duties, and privileges conferred upon the Chaves County Board of Commissioners (Board), in, under, and by an Act of the New Mexico State Legislature, known as Sections 3-21-1 through 3-21-14, both inclusive, New Mexico Statutes Annotated, (1978) being laws 1965, ch. 300. together with acts amendatory thereof and supplementary thereto, including the designation of the Chaves County Board of Commissioners (Board) as the Zoning Authority.~~
- B.** Any person aggrieved by a decision of the Board or any officer, department, or bureau of the Board may appeal the decision pursuant to the provisions set forth in Section 39-1-1 NMSA 1978.

**Section 3 PURPOSES**

- A.** Purpose The purpose of this Ordinance is to promote health, safety, morals, and the general welfare and to regulate and restrict the following:
1. height, number of stories and size of buildings and other structures;
  2. percentage of a lot that may be occupied;
  3. size of yards, courts, and other open space;
  4. density of population; and
  5. location and use of buildings, structures, and land for trade, industry, residence, or other purposes.
- B.** For Said Purposes Shall **The Zoning Authority shall:**
1. divide the territory under Chaves County jurisdiction into districts of such manner, shape, area, and form as is necessary to carry out the purposes of **this Ordinance**. Sections 3-21-1 through 3-21-14 N.M.S.A., 1978 Compilation;

2. regulate or restrict the erection, construction, reconstruction, alteration, or use of buildings, structures, or land in each district. All such regulations shall be uniform for each class or kinds of buildings within each district, but regulation in one district may differ from regulation in another district;
3. provide for the administration and interpretation of said regulations; and
4. provide, subject to the restrictions of Section 3-21-6 N.M.S.A., 1978, for the manner in which zoning regulations, restrictions, and boundaries of districts are:
  - a. determined, established, and enforced; and
  - b. amended, supplemented, or repealed.

**C. Conformance to Comprehensive Plan**

1. This Ordinance is in accordance with recommendations ~~set forth in~~ ~~of~~ the latest Chaves County 1973 Comprehensive ~~Master Plan Land Use Planning and Zoning Report and the Chaves County 1984 Land Use Policies Plan, an update thereto,~~ and is designed to:
  - a. lessen congestion in the streets or public ways;
  - b. secure safety from fire, flood waters, panic, and other dangers;
  - c. promote health and the general welfare;
  - d. provide adequate light and air;
  - e. prevent the overcrowding of land;
  - f. avoid undue concentrations of population;
  - g. facilitate adequate provision for transportation, water, sewerage, schools, parks, and other public requirements; and
  - h. control and abate the unsightly use of buildings or land.
2. Reasonable consideration shall be given, among other things, to the character of the zoning areas and districts and their peculiar suitability for particular uses, and to conserving the value of buildings and land and encouraging the most appropriate use of land throughout the jurisdiction.

**Section 4 JURISDICTION**

- A. This Ordinance applies to all of the territory within Chaves County that is not within the Zoning jurisdiction of the following municipalities:
  1. The municipal limits of Roswell, New Mexico and extraterritorial limits of the Roswell-Chaves County Extraterritorial Zoning Ordinance as shown by the official maps ~~thereof, which shall change only by Joint Powers Agreement between the Board of Chaves County Commissioners and the Roswell City Council;~~
  2. Municipal limits of Dexter, New Mexico, to change as the municipal limit changes;

3. Municipal limits of Hagerman, New Mexico, to change as the municipal limit changes; and
4. Municipal limits of Lake Arthur, New Mexico, to change as the municipal limit changes.

**Section 5** ~~ADMINISTRATION~~ ~~ZONING ORDINANCE~~ ~~MODE OF DETERMINATION,~~  
~~ESTABLISHMENT,~~ ~~OFFICIAL ZONING MAP, ENFORCEMENT,~~  
~~AMENDMENT,~~ ~~SUPPLEMENTATION, REPEAL OR APPEAL~~

**A. Determination**

The provisions of the Chaves County, ~~New Mexico~~ Zoning Ordinance shall be determined by the Chaves County Planning and Zoning Commission and recommended for adoption by the Board. ~~of Chaves County Commissioners.~~

**B. Establishment**

~~This Ordinance is enacted to establish and carry into effect the several powers, duties, and privileges conferred upon Chaves County, in, under, and by an Act of the New Mexico State Legislature, known as Sections 3-21-1 through 3-21-14, both inclusive, New Mexico Statutes Annotated, (1978) being laws 1965, ch. 300. together with acts amendatory thereof and supplementary thereto, including the designation of the County as a Zoning Authority.~~

**B. Planning and Zoning Commission**

Per State Statute 4-57-1 and 3-21-7.B NMSA, the Board shall establish a Planning Commission. The Planning Commission shall act as the Zoning Commission and shall be known as the Chaves County Planning and Zoning Commission. (Commission)

1. The Commission shall consist of five residents of Chaves County. Members shall be appointed by the Board for a term of six (6) years. Three members shall begin their terms in January following even-numbered years and two members shall begin their terms in January following odd-numbered years.
2. Commission members shall be appointed by a majority vote of the Board. A Commission member may be removed at any time during their term of office by a majority vote of the Board. Removal and/or appointments of members, including vacancies, shall be made by the Board at a regularly scheduled meeting of their choosing.
3. Commission members shall endeavor to attend all regular and special meetings of the Commission. The Secretary of the Commission shall provide the Board with a yearly attendance report of all Commission members.
4. The Commission shall elect a Chairperson, Vice Chairperson, and Secretary from its membership by a simple majority at the first regular meeting of the year.
5. The Commission shall establish a monthly meeting date, time and place, by Resolution, at the first regular meeting of the year.
6. The Commission shall provide a recommendation report to the Board on applications for zone changes, variances, special use permits, amendments, supplement and other planning and zoning matters as required by the Board.

### **C. Official Zoning Map**

1. The official Chaves County Zoning Maps, together with all explanatory matter thereon, are hereby adopted by reference and declared to be an official record and a part of these Zoning Regulations.
2. Said maps shall be identified as such by the signature of the Chairman of the Board of Chaves County Commissioners and attested by the County Clerk.
3. Whenever amendments or changes are made in zoning district boundaries, such amendments or changes shall be made promptly on the official Zoning Maps.
4. Regardless of the existence of purported copies of the official zoning maps, which may from time to time be made or published, the official zoning maps shall be that set located in the office of the County Clerk of Chaves County, New Mexico, and which shall be the final authority as to the current zoning status of all lands and buildings in the area of jurisdiction.
5. In the event that the official zoning maps become damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and amendments thereto, the Chaves County Commissioners may by resolution adopt new official zoning maps which shall supersede the prior official zoning maps. The new official zoning maps may correct drafting or other errors or omissions in the prior official zoning maps, but no such corrections shall have the effect of amending the original Zoning Regulations or any subsequent amendments thereof.
6. This Ordinance together with the official zoning maps shall be filed in the office of the County Clerk and shall be available for examination by any citizen.

### **D. Enforcement – Authority**

- ~~1. This Ordinance shall be enforced by the Board of Chaves County Commissioners as the Zoning Authority. REPETITIVE~~
2. ~~In addition,~~ If any building or structure is erected, constructed, reconstructed, altered, converted, or maintained; or any building, structure, or land is used in violation of ~~Sections 3-21-1 through 3-21-14 N.M.S.A., 1978 Compilation~~ or this Ordinance, the Zoning Authority may institute any appropriate action or proceedings to:
  - a. prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
  - b. restrain, correct, or abate the violation;
  - c. prevent the occupancy of such building, structure, or land; or
  - d. prevent any illegal act, conduct, business, or use in or about such premises.
- ~~3. This Ordinance together with the official zoning maps shall be filed in the office of the County Clerk and shall be available for examination by any citizen. MOVED~~



**E. Enforcement – Jurisdiction**

This Ordinance may be enforced by prosecution for violations in any court of competent jurisdiction of Chaves County.

**F. Enforcement – Penalties**

Any person(s), trust, company, firm or corporation violating any of the provisions of this Ordinance, after ten (10) days written notice of violation mailed to the last known address of the property owner, shall be punished by a fine not exceeding three hundred dollars (\$300) or imprisonment in the county jail not to exceed ninety (90) days or both such fine and imprisonment. [Each day's violation shall be a separate offense.]

**G. Enforcement – Officers**

It is the duty of the District Attorney, the Chaves County Sheriff's Department, Deputy Sheriffs, Constable, and other Chaves County law enforcement officers, including the Chaves County Planning and Zoning Director and Code Enforcement Officer to:

1. enforce the provisions of this Ordinance;
2. diligently file a complaint or information alleging a violation if circumstances would indicate that action to a reasonably prudent person; and
3. cooperate with the District Attorney or other prosecutors in all reasonable ways.

**H. Amendment, supplementation or repeal**

1. **Initiation.** Petitions to amend, supplement, or repeal this Ordinance may be initiated by the Board of Chaves County Commissioners, the Chaves County Planning and Zoning Commission, or by a real property owner in the area to be included in the proposed amendment.
2. **Application.** Any application to amend, supplement, or repeal this Ordinance for change to the text or maps of the Chaves County Planning and Zoning Ordinance shall be made to the Chaves County Planning and Zoning Commission through the Planning and Zoning Department Ordinance Administration Officer, on forms prescribed, at least thirty (30) seven (7) calendar days before a regular Planning and Zoning Commission meeting at which plans for a public hearing will be made.
3. **Public Hearing.** This Ordinance may become effective, amended, supplemented, or repealed only after a recommendation report from the Planning and Zoning Commission and a public hearing before the Board at which all parties in interest and citizens shall have an opportunity to be heard. Notice of the date, time and place of the Board's public hearing and a title and general summary of the proposed amendment, supplement, or repeal shall be published in the local newspaper and other County media services at least fifteen (15) days prior to the date of the hearing within the jurisdiction of the Board Zoning Authority.

4. Proposed amendment, supplement, or repeal of this Ordinance shall require approval from a majority of all members of the Board upon a roll call vote per State Statute 4-37-6 NMSA.
5. Copies of the proposed amendments or supplements shall be made available in the Chaves County Clerk's office during normal and regular business hour and on the Chaves County website. Copies may be acquired at a payment of reasonable charge.
6. This Ordinance shall not take effect until at least thirty (30) days after being recorded in the Chaves County Clerk's Office, except when it is declared by the Board that it is necessary for the public health, safety and welfare of the County that the changes take effect when it is recorded in the Chaves County Clerk's Office, or an amendment to the County zoning map, after being considered and recommended by the Planning and Zoning Commission.

#### **I. Zone Change and Special Use Permits**

1. Whenever a **zone change** ~~change in zoning~~ or a **special use permit** is proposed ~~for an area of one block or less~~, notice of the Board's public hearing shall be mailed by certified mail, return receipt requested, to the owners as shown by the records of the County Assessor, of lots or land within the area proposed to be changed or **special use permit** ~~by a zoning regulation~~, and within one hundred (100) feet, excluding public right-of-way, of the area proposed to be ~~changed or receive a special use permit~~ **changed by zoning ordinance**.
2. **Protests.** If the owners of twenty percent (20%) or more of the ~~area of the lots and~~ land included in the area proposed to be **zone** changed or **receive a special use permit** ~~by a zoning ordinance~~, or within one hundred (100) feet, excluding public right-of-way, of the area proposed to be changed or **receive a special use permit** ~~by a zoning ordinance~~ protest in writing ~~prior to the public hearing the proposed change in the zoning ordinance~~, then the proposed **zone** change or **special use permit** ~~in zoning~~ shall ~~not become effective unless the change is require~~ approval by a **majority two-thirds (2/3)** vote of all ~~of the~~ members of the Board ~~of Chaves County Commissioners~~.
3. **Requirements.** ~~Where applicable,~~ The application ~~to amend, supplement, or repeal~~ shall include an accurate site plan showing location and dimensions of all existing and proposed improvements to the property and any related information required by the **Chaves County Planning and Zoning Director** ~~Ordinance Administration Officer~~. The application shall be signed by a real property owner in the area included in the application unless initiated by the Board ~~of Chaves County Commissioners~~ or the Planning and Zoning Commission. A copy of the deed or contract to the property shall accompany the application. ~~If additional real property is included other than that owned by the applicant, a petition in favor of amendment signed by real property owners representing seventy-five percent (75%) of the land area included in the application shall accompany the application.~~ Following the date established for public hearing on any proposed **zone change or special use permit** ~~amendment~~, the Planning and Zoning Commission may refuse to accept another application for the same **zone change or special use permit** ~~amendment~~ for a period of one **fiscal** year.
4. **Fees, Non-Returnable.** (Not applicable to Authorities or Commissions.) The Board ~~of Chaves County Commissioners~~ shall adopt by resolution a fee schedule, from time to time as necessary, setting forth the fees that shall apply to the ~~Chaves County New Mexico Zoning Ordinance~~ after receiving a recommendation on such change by the Planning and Zoning Commission. The fee schedule shall be attached as an appendix to the ~~Chaves County New Mexico Zoning Ordinance~~. The Chaves County **Planning and Zoning Director** ~~Enforcement~~

Officer shall assure that all applicants requesting a **zone** change or **special use permit** to the **Ordinance** shall receive a copy of the most current fee **schedule** as resolved by the Board of **Chaves County Commissioners**.

5. **Planning and Zoning Commission Reports.** A report of the results of the hearing before the Planning and Zoning Commission on all applications ~~to amend, supplement or repeal~~ shall be forwarded to the Board of **Chaves County Commissioners**, along with their recommendation. The recommendation shall be either for approval, for conditional approval, or for disapproval. ~~and~~ The report shall contain a brief summary of the reasoning behind the recommendations, and any conditions of approval.
6. **The Board's of Chaves County Commissioners' Action.** The Board of **Chaves County Commissioners** shall not take action on the application ~~to amend, supplement, or repeal~~, until the report and recommendation from the Planning and Zoning Commission has been received.

**J. Appeals to the Board **Zoning Authority** – Grounds – Stay of Proceedings.**

~~a. The zoning authority shall provide by resolution the procedure to be followed in considering appeals allowed by this section.~~

1. Any aggrieved persons or any officer, department, board, or bureau of the **Board zoning authority** affected by a decision of an administrative officer, commission, or committee in the enforcement of ~~Sections 3-21-1 through 3-21-14 N.M.S.A., 1978 Compilation, or this Ordinance, resolution, rule, or regulation adopted pursuant to these sections~~ may appeal the **decision** to the **Board zoning authority** **within fourteen (14) days of the decision**. An appeal shall stay all proceedings in furtherance of the action appealed unless the **administrative officer Ordinance Enforcement Officer**, commission, or committee from whom the appeal is taken, certifies that by reason of facts stated in the certificate, a stay would cause imminent peril of life or property. Upon certification, the proceedings shall not be stayed except by order of district court after notice to the **administrative officer official**, commission, or committee from whom the appeal is taken and due cause shown.
2. When an appeal alleges that there is error in any order, requirement, decision, or determination by an administrative official, commission, or committee in the enforcement of ~~Sections 3-21-1 through 3-21-14 N.M.S.A., 1978 Compilation, or any this Ordinance, resolution, rule, or regulation adopted pursuant to these sections~~, the Board of **Chaves County Commissioners** by a **majority two-thirds** vote of all its members may:
  - a. authorize, in appropriate cases and subject to appropriate conditions and safeguards, special exceptions to the terms of ~~the zoning this Ordinance or resolution~~;
    - (1) which are not contrary to the public interest;
    - (2) where, owing to special conditions, a literal enforcement of ~~the zoning this Ordinance~~ will result in **an** unnecessary hardship; and
    - (3) so that the spirit of ~~the zoning this Ordinance~~ is observed, and substantial justice done; or
  - b. in conformity with **this Ordinance Sections 3-21-1 through 3-21-14 N.M.S.A., 1978 Compilation**;

- (1) reverse any order, requirement, decision, or determination of an administrative official, commission, or committee;
  - (2) decide in favor of the appellant; or
  - (3) make any change in any order, requirement, decision, or determination of an administrative official, commission, or committee.
3. Any person aggrieved by a decision of the Board or any officer, department, or bureau of the Board may appeal the decision pursuant to the provisions set forth in Section 39-1-1 NMSA 1978.

**K. Variances.**

1. Every property owner within the jurisdiction of this ~~Chaves County, New Mexico Zoning Ordinance~~ shall have the right to apply to the Board ~~of Chaves County Commissioners~~ for a variance from the ~~Chaves County, New Mexico Zoning Ordinance~~ when the property owner can show an exceptional situation or condition relating to the property such that the strict enforcement of this ~~zoning Ordinance~~ would constitute an unreasonable hardship upon the owner of such property.
2. Prior to granting any variance from this ~~Chaves County, New Mexico Zoning Ordinance~~, the Board ~~of Chaves County Commissioners~~ shall hold a public meeting and shall determine that:
  - a. the granting of the variance will not be injurious to the public health, safety, morals, and general welfare of the community;
  - b. the use or value of the area adjacent to the property ~~included in the variance~~ will not be affected in a substantially adverse manner;
  - c. the need for the variance arises from some condition peculiar to the property involved and such condition is not due to the general conditions of the neighborhood **and is not for monitor gains and/or to resolve a self-imposed hardship**;
  - d. the strict application of the terms of this Ordinance from which the variance is sought would result in a peculiar, **and** exceptional and undue hardship upon the owner of such property; and
  - e. that the granting of the variance would be within the spirit, intent, purpose, and general plan of this ~~Chaves County, New Mexico Zoning Ordinance~~.
3. Absent of showing extreme hardship or a complete loss of ~~any~~ financial benefit in the property, the Board ~~of Chaves County Commissioners~~ shall not approve a request for a variance where the applicant purchased the property after the effective date of this ~~Chaves County, New Mexico Zoning Ordinance~~ and the condition requiring **for** the variance was in existence at the time of the purchase.

**Section 6 ORDINANCE ENFORCEMENT OFFICER**

**A. Establishment and Organization**

1. The position of the Ordinance Enforcement Officer was established by the Board ~~of Chaves County Commissioners~~ on March 14, 1978 by Resolution No. 66-29.

2. The Ordinance Enforcement Officer shall be appointed by and serve at the pleasure of the Board ~~of Chaves County Commissioners~~.

#### **B. Duties**

1. The Ordinance Enforcement Officer's duties shall include, but not be limited to, seeing that the requirements of ~~this Chaves County~~ Ordinance, regulations, master plans, land use plans, or land use permit systems are carried out and enforced.
2. The Ordinance Enforcement Officer who shall also be known and referred to as "~~Code Enforcement Ordinance~~ Officer", shall maintain an office from which to supply the public with information about the various regulations, ordinances, etc.
3. Said Officer shall issue Land Use Permits, make inspections, and carry out other duties of the office as directed by the Board ~~of Chaves County Commissioners~~. A copy of each permit issued shall be furnished to the Chaves County Tax Assessor.
- ~~4. On matters requiring the action of the Planning and Zoning Commission, where they are required to review specific findings before taking action on the application or proposal, said Officer shall notify the applicant of the result of the findings and the date, time and place of the hearing at least five (5) days in advance of the hearing date. The applicant shall be advised of the result of the hearing.~~
4. Rules for carrying into effect the provisions of this Ordinance must be consistent with this Ordinance, and subject to review and approval of the Board ~~of Chaves County Commissioners~~.

#### **C. Authority**

1. Said Officer, or authorized representatives, shall have the authority to enter upon the premises for the purposes of inspection, provided, however, that no building shall be entered without the consent of the owner or occupant or unless properly authorized.
2. In event any buildings or structure is erected, constructed, reconstructed, altered, converted, or maintained, or any buildings, structure, or land is used in violation of this Ordinance, said officer, in addition to other remedies, may, at the direction of the Board ~~of Chaves County Commissioners~~, institute any appropriate action or proceedings to prevent such unlawful action to restrain, correct, or abate such violation; to prevent the occupation of such building, structure or land; or to prevent any illegal act, conduct, business, or use in or about such premises.
- ~~3. Before acting on any request, the Ordinance Enforcement Officer, or Chaves County Planning and Zoning Commission may request an opinion from any person or agency concerned with the proposed request to determine if the request conforms with the Zoning Ordinance. The requested opinions may also include comments on other factors which bear on the public interest.~~

### **Section 7 INTERPRETATIONS AND CONFLICTS**

- A. The regulations of this Ordinance are held to include the minimum standards necessary to carry out the purposes of this Ordinance. This Ordinance is not intended to interfere with, abrogate, or

annul any easement, covenant, or other agreement between parties or other valid ordinances. Where this Ordinance imposes a greater restriction than is imposed by other rules, regulations, easements, covenants, agreements, or ordinances, the provisions of this Ordinance control.

- B.** If any other statute, regulation, or other local ordinance, resolution, or regulation adopted under authority of Sections 3-21-1 through 3-21-14 N.M.S.A., 1978 is applicable to the same premises, the provision shall govern which requires:
1. the greater width or size of yards, courts, or other open spaces;
  2. the lower height of building or a less number of stories;
  3. the greater percentage of lot or land to be left unoccupied; or
  4. imposes other higher standards.

**Section 8 SEVERABILITY**

If any section, subsection, paragraph, sentence, clause, phrase, provision, or part or portion of any section, subsection, paragraph, sentence, clause, phrase, or provision of this Ordinance is, for any reason, held to be unconstitutional, invalid, or void, the remaining portions shall not be affected, since it is the express intent of the Chaves County Commissioners to pass each section, subsection, paragraph, sentence, clause, phrase, or provision, and every part thereof, separately and independently of every other part.