



LUD Use Only

Time Filed: 2:55 p
 Fee paid: \$ 200
 Receipt attached:

(date stamp)

Received by
 Heather Lambson
 7/8/2024 2:55 pm
 Heather Lambson

**VERIFIED APPEAL
 PETITION**

****Two originals of this form must be filed. The Land Use Department Director or his/her designee will enter the date and time of receipt and initial both originals. See Section 14-3.17(D) SFCC 2001 for the procedure.****

Appellant Information

Name: FERRAN PROPERTIES, LLC

Address: 7617 BACA LANE
 Street Address: SANTA FE Suite/Unit #: K1 M 87807
 City: SANTA FE State: NM ZIP Code: 87507

Phone: (505) 780 2993 E-mail Address: chuckhdms@mac.com

Additional Appellant Names: _____

Correspondence Directed to: Appellant Agent Both

Agent Authorization (if applicable)

I/We: LED CHARLES FERRAN, MANAGER OF FERRAN PROPERTIES, LLC
 authorize KARE N. SUMMERS to act as my/our agent to execute this application.

Signed: [Signature] Date: 7-2-2024

Signed: _____ Date: _____

Subject of Appeal

Project Name: APPEAL OF DENIAL OF COMPLAINT - LUD Decision

Applicant or Owner Name: FERRAN PROPERTIES, LLC

Location of Subject Site: 7625 BACA LANE SEWM 87507

Case Number: _____ Permit Number (if applicable): _____

Final Action Appealed:

Issuance of Building Permit Other Final Determination of LUD Director

Final Action of Board or Commission (specify): Planning Commission Board of Adjustment BCD-DRC HDRB

Basis of Standing (see Section 14-3.17(B) SFCC 2001):

FERRAN PROPERTIES, LLC, OWNS PROPERTY NEXT TO 7625 BACA LANE

Basis for Appeal: The facts were incorrectly determined Ordinances/laws were violated and/or misrepresented

Description of the final action appealed from, and date on which final action was taken:

SEE EXHIBIT A

Check here if you have attached a copy of the final action that is being appealed.

Description of Harm

Describe the harm that would result to you from the action appealed from (attach additional pages if necessary):

SEE EXHIBIT A

Explain the Basis for Appeal

Please detail the basis for Appeal here (be specific):

SEE EXHIBIT A

Signature and Verification

I hereby certify that the documents submitted for review and consideration by the City of Santa Fe have been prepared to meet the minimum standards outlined in the Land Development Code, Chapter 14 SFCC 2001. Failure to meet these standards may result in the rejection or postponement of my application. I also certify that I have met with the City's Current Planning staff to verify that the attached proposal is in compliance with the City's zoning requirements.

Appellant Signature: [Signature] Date: 7/2/2024
Agent Signature: [Signature] Date: 7/2/2024

State of New Mexico)
) ss.
County of Santa Fe)

I/We Leo Charles Ferral being first duly sworn, depose and say: I/We have read the foregoing appeal petition and know the contents thereof and that the same are true to my/our own knowledge.

Appellant's
[Signature]
Signature

Signature

LEO CHARLES FERRAL
Print Name

Print Name

Subscribed and sworn to before me this 2 day of July, 2024

STATE OF NEW MEXICO
NOTARIAL OFFICER
KARL H. SOMMER
NEW MEXICO
STATE BAR # 4846

[Signature]
NOTARY PUBLIC
My commission expires _____

EXHIBIT A
TO VERIFIED APPEAL OF FERRAN PROPERTIES, LLC

The following are the responses required to be included with the Verified Appeal Petition filed on July 5, 2024, by Ferran Properties, LLC, a New Mexico limited company (“Appellant”):

Description of the final action from, and date on which final action was taken:

Appellant takes this appeal from the “final action” of the Planning and Land Use Department Director Jason Kluck dated June 26, 2024, which final action declined to take any enforcement action against Mr. G’s Auto Sales, LLC, aka Mr. G’s Pro Tow (Mr. G’s). A copy of the final action is attached hereto as Attachment No. 1. The final action arising out of a complaint that Mr. G’s is creating a public nuisance under the SFCC 1987 10-9 (et seq.) and the request to declare Mr. G’s operations an illegally expanded and illegal non-conforming use under the Extraterritorial Zoning Ordinance, the ELUA Ordinance No. the Extraterritorial Land Use Authority Ordinance 2009-01 (“SPPAZO”), and SFCC 1987 § 14-10 (et seq.)

Describe the harm that would result to you from the action appealed from (attach additional pages if necessary).

Appellant owns the property located at 1716 Baca Lane, Santa Fe, New Mexico. Mr. G’s illegal operation located at 7625 Baca Lane includes the parking of junk vehicles, the storage of equipment and junk vehicles, the storage and parking of equipment within Baca Lane, which is a roadway subject to a public easement, and the general conduct of Mr. G’s business outside the boundaries of Mr. G’s property. This illegal use of Baca Lane interferes with access to Appellant’s property, Appellant’s use of Baca Lane, and the ability of emergency vehicles to reach and service Appellant’s property. Mr. G’s illegal use has caused and continues to cause physical damage Appellant’s property, including without limitation, damage to Appellant’s fencing around its property. Furthermore, as detailed below, Mr. G’s use constitutes a nuisance by allowing an illegally non-conforming use to continue to operate.

Please detail the basis for Appeal here (be specific):

A. Mr. G’s Operates an Illegally Non-Conforming Business

Appellant’s property and Mr. G’s property are located within the “Baca Industrial Park”. When the Baca Industrial Park was created in 1994, the property lay outside the municipal city limits of the City of Santa Fe and was subject to the joint planning and zoning regulations of the Extraterritorial Zoning Ordinance (the “EZO”), and the platting subdivision regulations of the County of Santa Fe. Pursuant to those zoning and platting regulations, the then-owner of the property, Richard Baca, applied for and obtained a final subdivision plat and final development plan entitled “Baca Industrial Park” and “Final Development Plan”, recorded in the records of the Santa Fe County Clerk on February 23, 1995, as Document No. 859539, in Plat Book 297, Pages 005-006. (the “Final Plat and Development Plan” or the “Final Plat” or “Final Plan”) The Final Plat and Development Plan zoned the property for certain approved uses and created

“Baca Lane” – a privately owned and maintained road subject to “public use”. The Final Plan provided the following restriction and requirements:

DEVELOPMENT OF INDIVIDUAL LOTS

THE OWNER OF EACH LOT MUST PREPARE A DEVELOPMENT PLAN INDICATING THE TYPE OF USE, BUILDING LAYOUT, TRAFFIC CIRCULATION AND CONFORMANCE WITH THE STANDARDS OF THIS DEVELOPMENT PLAN. THIS DEVELOPMENT PLAN WILL BE SUBMITTED TO SANTA FE COUNTY LAND USE ADMINISTRATION FOR REVIEW AND APPROVAL BEFORE CONSTRUCT/ON MAY COMMENCE ON ANY LOT.

Hence, the EZO required every use in the Baca Industrial Park to fall within the approved use list in Final Plan and required every owner to obtain a development plan approval for each and every use proposed within the Baca Industrial Park

On March 30, 1999, Mr. G’s Pro-Tow LLC purchased Lot 4 within the Baca Industrial Park. On June 6, 1999, Mr. G’s Pro-Tow, LLC, obtained Development Permit No. 99-3111 allowing for the conduct an “office and automobile towing and storage yard” use on Lot 4. No other permit were obtained by Mr. G’s for any additional uses on Lot 4. Between 1999 and 2009, Mr. Gutierrez expanded (without the required permits) the commercial uses of the property to include a recycling center, scrap metal business, and auto-crushing/dismantling business. On September 17, 2009, the property was zoned I-1 pursuant to Extraterritorial Land Use Authority Ordinance 2009-01, which zoning is still in effect. A recycling center is not an allowed use in the I-1 zone. No permit was obtained from the City for the use. Mr. G’s has been operating an illegally expanded business since 2009, which includes automobile crushing, scrap metal recycling, and automobile dismantling. Mr. G’s conducts these illegal activities within Baca Lane – both on Mr. G’s Lot 4 and within Baca Lane.

The illegally expanded commercial operation do not constitute a legally non-conforming use under SFCC 1987 10-1(A) and 14-12.1. The final action misapplies these sections of the applicable land use regulation contain in SFCC 1987, and the resulting final action means that the illegal activities of Mr. G’s will continue unabated to the extreme harm and detriment of Appellant.

B. Mr. G’s Operation Constitutes a Public Nuisance

Mr. G’s illegal activities as described herein create a “public nuisance” (as defined in SFCC 1987 § 10-9), because they threaten harm to the public comfort, health, peace, well-being or safety and Mr. G’s is knowingly creating, performing, or maintaining anything affecting any number of citizens without lawful authority that is both (1) injurious to public health, safety, or well-being, and (2) interferes with the exercise and enjoyment of public rights, including the right to use public or private property.



City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:

Signe I. Lindell, Mayor Pro Tem, District 1
Alma G. Castro, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Lee Garcia, District 3
Pilar F.H. Faulkner, District 3
Jamie Cassutt, District 4
Amanda Chavez, District 4

06/21/2024

Karl Sommer
125 Lincoln Ave. Suite 221
P. O. Box 2476
Santa Fe, New Mexico 87504-2476
Office Phone: (505) 989-3800
Cell Phone: (505) 577-0492
Fax: (505) 288-3601
karls@sommerkarnes.com

Re: Request to confirm legal non-conforming status of Mr. G's located at 7625 Baca Lane, Santa Fe, New Mexico

Dear Mr. Sommer,

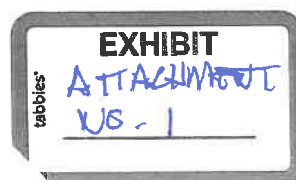
Per your request this morning, I am confirming that Mr. G's Auto Sales, LLC, aka Mr. G's Pro Tow (Mr. G's), located at 7625 Baca Lane is a licensed business with legal non-conforming status for wrecker/towing service and auto salvage/recycling uses, and that no enforcement action will be taken regarding these current uses.

Analysis of the zoning and use status of the property at 7625 Baca Lane, Santa Fe, New Mexico:

Under the City's current zoning regulations, automobile salvage (including wrecking yards, junkyards and salvage operations) is permitted in general industrial (I-2) zoning districts, but is not a permitted use in light industrial (I-1) zoning districts. (See SFCC 1987 14-6.1, Table of Permitted Uses.) Consequently, use of land in an I-1 zoned area for auto salvage is designated as Nonconforming. The subject property lies within the I-1 zoning district.

Mr. G's has been in continuous operation at the current location as a State licensed auto dismantler since the year 2000. The Development Plan for the subject property recorded on March 31st, 1994 lists "Industrial Operation and Use" and "Auto, Truck, and Boat Service and Repair" as allowed uses within the Baca Industrial Park where the subject property resides.

Joe Catanach, Senior Technical Review Specialist with the Santa Fe County Land Use department issued a letter on June 12th, 2006 to the NMTRD, MVD affirming that "wrecker service and auto recycler" were



June 21, 2024

Re: Request to confirm legal non-conforming status of Mr. G's located at 7625 Baca Lane, Santa Fe, New Mexico

Page 2 of 2

included as allowed uses on the subject property, and that those uses were in conformance with County zoning regulations and the approved development plan.

The property had been under continual use and operation as an auto salvage facility when it was annexed into the City of Santa Fe in 2013, and was previously subject to Ordinance 2009-01, Subdivision, Platting, Planning and Zoning Rules, ("SPPAZO") which conferred zoning rights upon the subject property as granted by Santa Fe County.

Therefore, Mr. G's Auto Sales, LLC ("Mr. G's), located at 7625 Baca Lane, a Towing and Scrap Metal Auto Recycling establishment, having held a standard business license with the City of Santa Fe since 2012 for its current operation, in addition to the reasons outlined above, is deemed subject to the regulations of SFCC 1987 14-10.1: Nonconformities, and is currently designated with a legally nonconforming use status under those regulations.

Sincerely,

Jason M. Kluck

Planning and Land Use Department Director
City of Santa Fe, Planning and Land Use Department
200 Lincoln Avenue
Santa Fe, NM 87504
O: (505)955-6729
C: (505)795-2347
E: jmkluck@santafenm.gov

Cc: Rebecca Mnuk-Herrmann, Assistant City Attorney
Heather Lamboy, Assistant Land Use Director, Planning
Thomas Graham, Assistant Land Use Director, Development

From: [Karl H. Sommer](#)
To: [LAMBOY, HEATHER L.](#)
Subject: Fwd: Payment Confirmation - Santa Fe, NM
Date: Monday, July 8, 2024 4:06:00 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Sent from my iPhone

Begin forwarded message:

From: noreply@mygovpay.com
Date: July 8, 2024 at 3:59:04 PM MDT
To: "Karl H. Sommer" <karls@sommerkarnes.com>
Subject: Payment Confirmation - Santa Fe, NM



Santa Fe, NM

Payment Confirmation

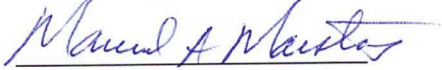
Payment Date	Monday, July 8, 2024			
Order Number	57790			
Line Items				
Invoice #	Item Description	Quantity	Unit Price	Total Price
INV-00083691	NONE	1	\$200.00	\$200.00
Item Total				\$200.00
Order Total				\$200.00

Thank you for your payment,

Santa Fe, NM

Proof of Service

I, Manny Maestas, Manager/Owner of ASAP Priority Legal Courier Service, do hereby state under oath that I served the Verified Petition of Appeal (Reference No. 2024-008666-APPL on Invoice No. INV-00083691) in the Case No. 2024-008666-APPL Brian Gutierrez, owner of Mr. G's Pro Tow, LLC, at 7625 Baca Lane, Santa Fe, New Mexico 87507, the 9 day of July 2024, at approximately 5:02 a.m./p.m.



Manny Maestas
Manager/Owner
ASAP Priority Legal Courier Service

Subscribed and sworn to before me on this 9 day of July 2024, by Manny Maestas, Manager/Owner of ASAP Priority Legal Courier Service.



Notarial Officer

STATE OF NEW MEXICO
NOTARY PUBLIC
PATRICIA MAESTAS
Commission # 1039169
My Comm. Exp. 11/21/25

Service™
REGISTERED MAIL® RECEIPT
 Only

For more information, visit our website at www.usps.com®.

OFFICIAL USE

Check box, add fee as appropriate)
 Priority Mail® \$ _____
 Registered Mail® \$ _____
 Registered Mail Restricted Delivery \$ _____
 Signature Confirmation™ \$ _____
 Signature Confirmation Restricted Delivery \$ _____

Fernando
7/9/20 Postmark Here

Brian Gutierrez
 7625 Baca Lane
 Santa Fe, NM 87507

2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0000 3426 8066

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery
Chandler Beharai

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service-Type Priority Mail Express®
 Adult Signature Registered Mail™
 Adult Signature Restricted Delivery Registered Mail Restricted Delivery
 Certified Mail® Signature Confirmation™
 Certified Mail Restricted Delivery Signature Confirmation Restricted Delivery
 Collect on Delivery
 Collect on Delivery Restricted Delivery

Book 1624 pages 376-380

SANTA FE COUNTY - DEVELOPMENT REVIEW DIVISION DEVELOPMENT PERMIT APPLICATION

DP # 99-3111 APPLICANT PLEASE FILL OUT FRONT PAGE ONLY APPLICATION DATE 4-2-99

APPLICANT INFORMATION

OWNER NAME: MR. G'S PRO-TOW L.L.C (Brian Patrick Gutierrez - member)
(LAST) (FIRST) (MIDDLE)
MAILING ADDRESS: P.O. Box 16679 Santa Fe NM 87506
STREET OR P.O. NUMBER CITY STATE ZIP
HOME PHONE (505) 989-1111 WORK PHONE (505) 474-6969
AGENT / CONTRACTOR NAME: _____
AGENT / CONTRACTOR ADDRESS: _____
STREET OR P.O. NUMBER CITY STATE
AGENT HOME PHONE () _____ AGENT WORK PHONE () _____

PROJECT INFORMATION

DESCRIPTION: OFFICE AND AUTOMOBILE STORAGE YARD (TOWING SERVICE)

DEV. PLAN

PROPERTY INFORMATION

NAME OF PREVIOUS OWNER: RICHARD BACA
PREVIOUS DEED RECORDED AS - Deed Book 1624 Page 376-380
PREVIOUS PLAT RECORDED AS - Plat Book 297 Page 005-006
COUNTY RURAL ADDRESS: 7625 BACA LANE
This address is available from the Santa Fe County Rural Addressing Dept. 988-6310
LEGAL DESCRIPTION - Township 16 N Range 8 E Section: 11 01 02 03
ACREAGE .46 NUMBER OF PROPOSED LOTS _____ NUMBER OF EXISTING DWELLING UNITS 1
SUBDIVISION BACA INDUSTRIAL PARK SECURITY / CARPORT / OFFICE
Grant/Claim _____ UNIT _____ TRACT _____ Block: _____ Lot: 4

***** All of the above information is true and accurate to the best of my knowledge *****

Applicant signature: Brian Patrick Gutierrez member Date: 06-04-99

COUNTY ASSESSOR CERTIFICATION

PROPERTY LOCATION ID: 58902064
UPC: _____
HENCEFORTH, LAND WILL CONTINUE TO BE ASSESSED UNDER THE ABOVE LOCATION ID WITH ADDITIONAL/NEW LOCATION ID NUMBERS IF/AS NEEDED.
ASSESSED PRIOR TO 19 _____ CERTIFIED THIS _____ DAY OF _____, 19 _____
ASSESSOR ASSIGNED REPRESENTATIVE _____ DATE: _____

COUNTY TREASURER CERTIFICATION

TAXES PAID TO DATE: _____
TAXES NOT PAID FOR: _____ AMOUNT DUE: \$ _____
TREASURER ASSIGNED REPRESENTATIVE _____ DATE: _____

PROJECT TYPE: DLND PLAT RECORDED AS: Plat book 297 Page 005
REVIEWED BY: [Signature] DATE: 6-9-99

PERMITS ISSUED MUST BE KEPT ON DEVELOPMENT SITE

REQUIRED SUBMITTALS AND ZONING CHECKLIST (for office use only)

DP # 99-3111 APPLICANT NAME: BRIAN GUTERREZ APPLICATION DATE 4-2-99

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> MSRD | <input checked="" type="checkbox"/> SURVEY PLAT | <input checked="" type="checkbox"/> SITE PLAN | <input checked="" type="checkbox"/> PROOF OF TAXES |
| <input checked="" type="checkbox"/> WARRANTY DEED | <input checked="" type="checkbox"/> SIGNAGE PLAN | <input type="checkbox"/> DRAINAGE PLAN | <input type="checkbox"/> WATER METER PROOF |
| <input checked="" type="checkbox"/> TERRAIN PLAN | <input checked="" type="checkbox"/> SEPTIC PERMIT | <input type="checkbox"/> WELL PERMIT | <input type="checkbox"/> PRE-CODE DEED |
| <input checked="" type="checkbox"/> VICINITY MAP | <input checked="" type="checkbox"/> PROOF OF OWNERSHIP | <input type="checkbox"/> POSTING CERTIFIC | <input type="checkbox"/> PREVIOUS APPROV PLAT |
| <input type="checkbox"/> ARCHAEOLOGICAL SURVEY | <input type="checkbox"/> GEOHYDROLOGY REPORT | <input type="checkbox"/> TRAFFIC STUDY AND IMPACT SURVEY | <input checked="" type="checkbox"/> FIRE PROTECTION PLAN |
| <input type="checkbox"/> LANDSCAPING PLAN | <input checked="" type="checkbox"/> LIGHTING PLAN | <input type="checkbox"/> | <input type="checkbox"/> |

PROJECT INFORMATION (CHECK ALL THAT APPLY)

JURISDICTION: CO / EZ2 / EZ5 ARCH. DISTRICT: LOW / MED / HIGH HYDROLOGIC ZONE: B / F / M / H
 URBAN AREA: YES / NO COMM. DISTR.: 1 / 2 / 3 / 4 / 5 TRAD. COMM. MAP#: N/A
 METRO AREA: YES / NO FLOOD ZONE: A / AE / X HISTORIC ZONE: YES / NO
 HIGHWAY: YES / NO PANEL NO. CULTURAL DISTR.: YES / NO

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> SUBDIVISION TYPE I | <input type="checkbox"/> ZONING | <input type="checkbox"/> MINING | <input type="checkbox"/> RESIDENTIAL |
| <input type="checkbox"/> SUBDIVISION TYPE II | <input checked="" type="checkbox"/> DEVELOPMENT PLAN | <input type="checkbox"/> LARGE SCALE RESID. | <input type="checkbox"/> MOBILE HOME PARK |
| <input type="checkbox"/> SUBDIVISION TYPE III | <input type="checkbox"/> MASTER PLAN | <input type="checkbox"/> COMM SERV. FACIL. | <input type="checkbox"/> DIVISION OF LAND |
| <input type="checkbox"/> SUBDIVISION TYPE IV | <input type="checkbox"/> COMMERCIAL | <input type="checkbox"/> OTHER DEVELOPMENT | <input type="checkbox"/> FAMILY TRANSFER |
| <input type="checkbox"/> VARIANCE | <input checked="" type="checkbox"/> INDUSTRIAL | <input type="checkbox"/> SPECIAL EXCEPTION | <input type="checkbox"/> BOUNDARY SURVEY |
| <input type="checkbox"/> APPEAL | <input type="checkbox"/> MIXED USE | <input type="checkbox"/> NON-CONFORMING USE | <input type="checkbox"/> BURIAL PLAT. |
| <input type="checkbox"/> PRELIMINARY | <input type="checkbox"/> LOT LINE ADJUSTMENT | <input type="checkbox"/> LOT CONSOLIDATION | <input type="checkbox"/> EASEMENT SURVEY |
| <input type="checkbox"/> FINAL | <input type="checkbox"/> PLAT AMENDMENT | <input type="checkbox"/> EXPANSION NON-CONF. | <input type="checkbox"/> EASEMENT VACATION |

WATER RESTRICTIONS REQUIRED: YES NO COMMUNITY WATER SYSTEM NAME SANGRE DE CRISTO

CONFORMS TO DENSITY REQUIREMENTS: spc

MEETS CODE REQUIREMENTS: spc

REVIEWED BY: [Signature] DATE SUBMITTALS COMPLETE: 6-9-99

APPLICATION STATUS: APPROVED COMMUNITY REVIEW DATE:

STAFF COMMENTS: (UW COMPLIANCE WITH DEV. PLAN STANDARDS
@ IN ACCORDANCE WITH APPROVED MASTER PLAN

Date development approval issued: [Signature] (6-9-99) DEV. REVIEW SPECIALIST III SF COUNTY

