

A Report
of the
Development Potential
for the
Schwartz Ranch
Tres Piedras, New Mexico

Prepared by

David B. DiCicco
Architect Planner, LLC
120 Bertha Street
Taos, New Mexico 87571

Schwartz Ranch Development Potential

Introduction

This is a report of the development potential for the Schwartz Ranch. The report is divided into three main sections. The first section is a brief overview of the Ranch and its environs. The second section contains a discussion of general development options possible thereon, that require either no permits or a simple building permit. The third section describes a variety of development projects that can be applied to the ranch that would require Special Use Permits or Subdivision approval by Taos County and/or the State of New Mexico. The report ends with several appendices containing discussions of the various regulations affecting development in Taos County as well as a description of the soil types found on the ranch.

Section 1- Ranch Description:

The Schwartz Ranch is located a mile north of Tres Piedras, New Mexico on US Highway 285. The nearest full service town is Taos, New Mexico, some 30 miles to the Southeast. To the east across the Rio Grande del Norte rise the Sangre de Cristo Mountains and to the West, the land rises more gently into the Carson National Forest. The Ranch is located at 8,000 feet above sea level on the Western edge of the high prairie that lies on the mesas on either side of the Rio Grande. Clean, clear, dry air, mild summers and brisk winters define the Ranches vibrant 4 season climate.

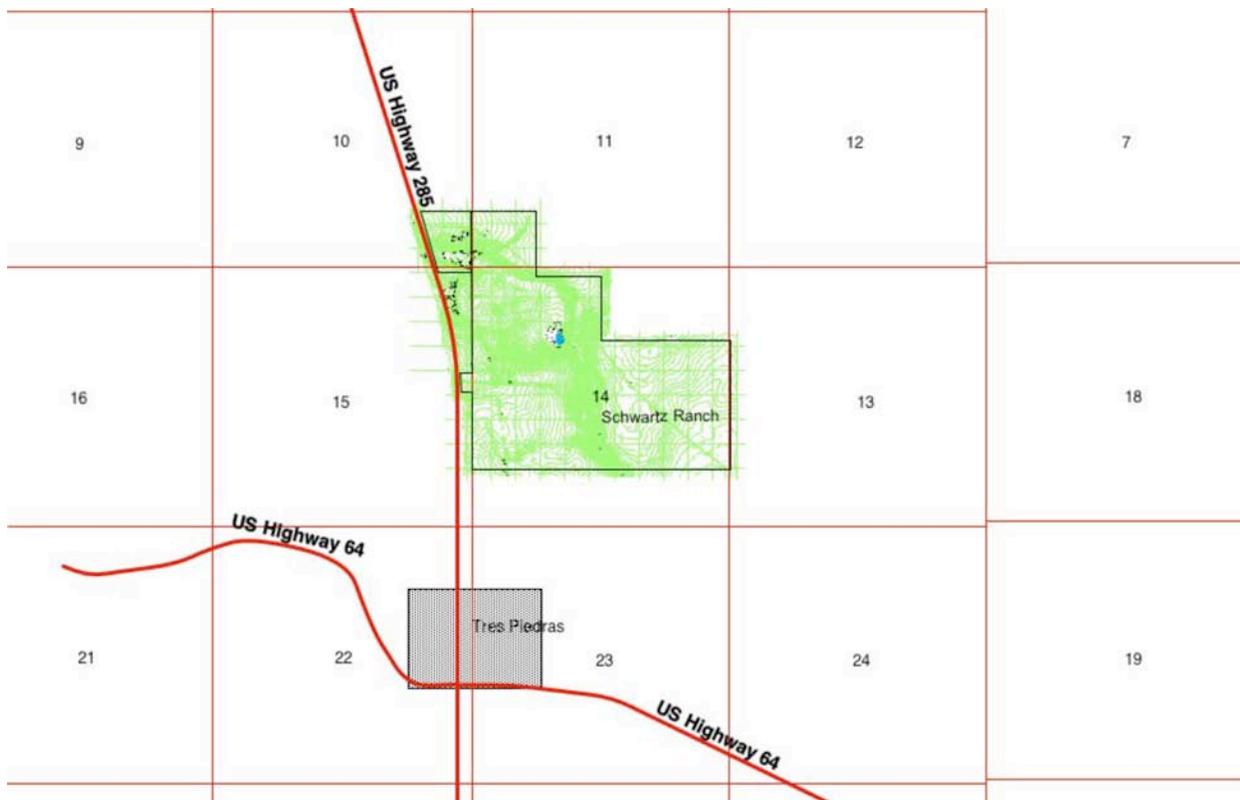


Figure 1 Ranch Location North of Tres Piedras, New Mexico

The Schwartz Ranch is comprised of two separate contiguous pieces of land: 1) The largest is 441.757 acres (Noted as parcel A on Figure 2); Within Parcel A is a five acre parcel, herein noted as Parcel A-1 that is taxed separately and currently contains a special use zoning permit for commercial use. On the Northwest corner of Parcel A is a 25 acre parcel, Parcel B, adjacent

to US Highway 285. The fact that these two parcels are separately surveyed is important when considering the development potential of the property. For a full discussion of the separate parcel issue see Appendix 1. The Ranch encompasses a total land area of 466.757 acres or 20,331,935 square feet.

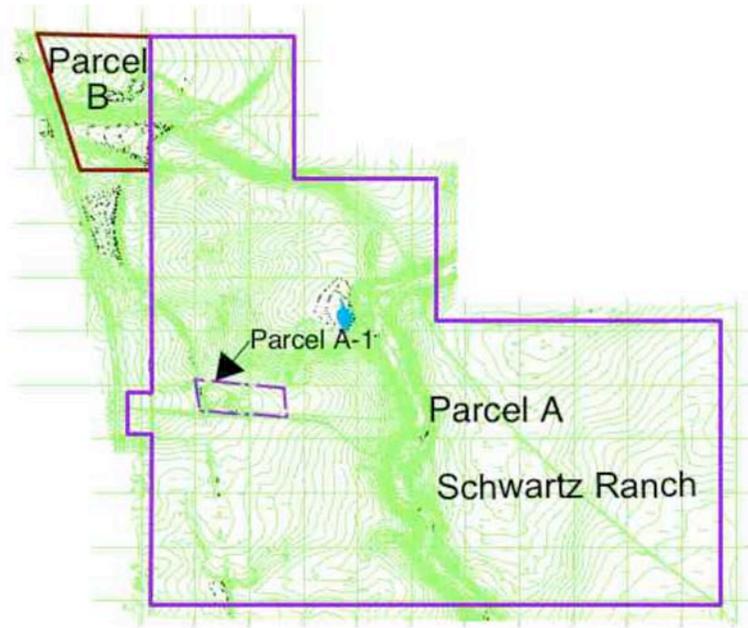


Figure 2 Parcels

Figure 3 below shows the ownership of the lands surrounding the Ranch. The most accessible public lands are the BLM lands bordering the Ranch on the Northeast corner. The Forest Service property to the West is split by US 285. In the past, the current owner approached the USFS regarding trading for this piece since it is not really contiguous to the remainder of the Carson National Forest. Although the transaction was never completed, the trade remains a possibility. The remainder of the bordering lands are privately owned. The parcel to the south is the most likely piece that could be available to expand the Ranch.

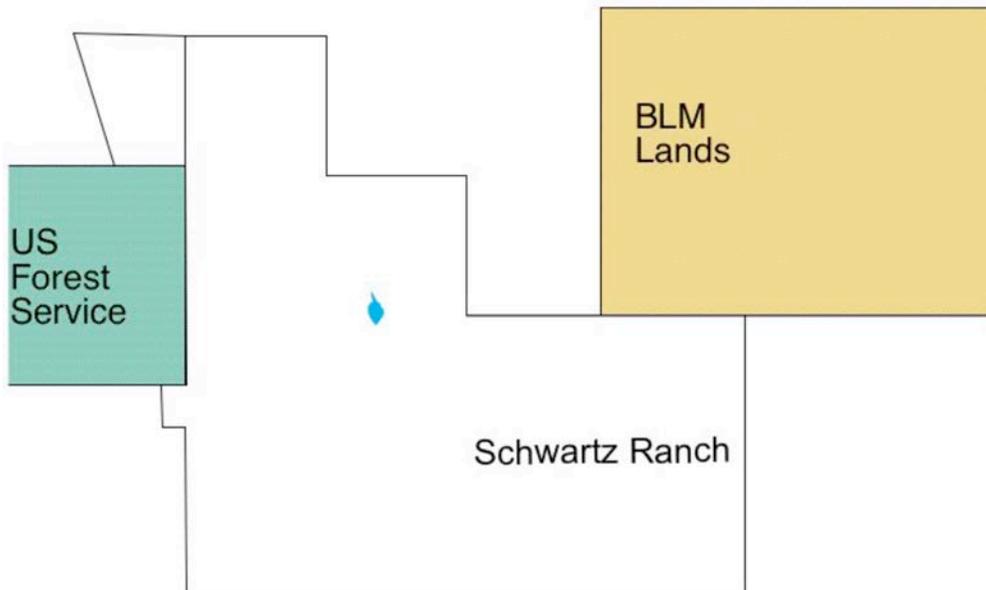


Figure 3 Neighboring Lands

The Ranch is on the high prairie (averaging 8,000 feet above sea level) and contains several outstanding natural and geologic features. The most prevalent, the Arroyo Aguaje de la Petaca, runs north south through the center of the property and occasionally runs with substantial amounts of runoff water. During all seasons, the Petaca is noted for its depth, its spectacular rock formations and the variety of vegetation and animal life that flourishes along its bottom.

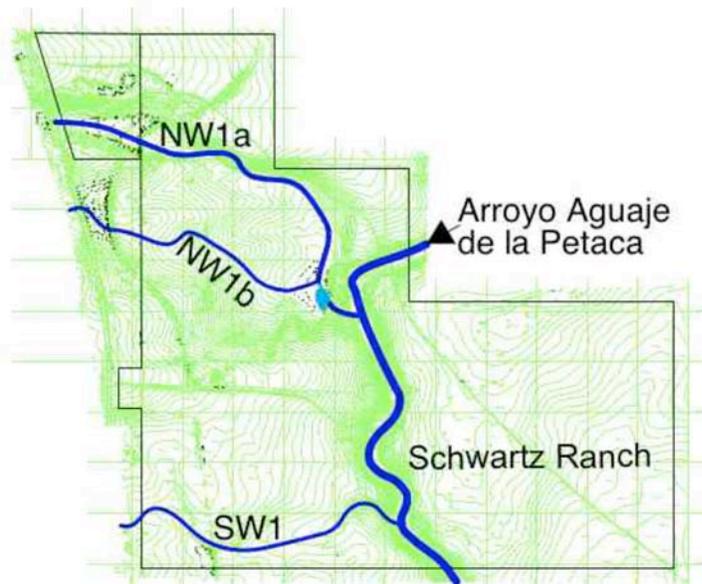


Figure 4 Drainages

There is also a drainage entering the Northwest corner of the property that drains two areas west of US 285 (Drainages NW1a and NW1b on Figure 4). There is an existing reservoir that is thoroughly described on the Ranch's web site, www.schwartzranch.com. Entering the property along the southwest edge of the property is a third smaller drainage, SW1, that crosses the southern portion of the ranch before entering the Petaca. Later in this report, we will discuss water harvesting strategies that could dramatically increase moisture retention and agricultural potential within these drainages.

Parcel B and the most Northern portion of Parcel A contain a ponderosa pine forest. The remainder of the ranch area outside the drainage bottoms is high prairie grasslands that have become mostly covered by a mixture of native grasses and sage brush with a scattering of pinon and juniper.

While not actually on the property, a granite outcropping, at 8,210 feet elevation, just south of the main buildings on the ranch provides a close visual reference point.

Infra Structure

Utilities and Roads: There are two access points into the Ranch from US 285; one is the main access to the Ranch buildings and the other is toward the northern end of Parcel B. Those access points are approved by the State of New Mexico. The Parcel B access needs to be developed but remains permitted.

All areas of the Ranch are accessible by internal roadways and two bridges across the Petaca. The old Chili Line railroad bed still remains on the western side of the Ranch. The level, graded and compacted roadbed provides another raised roadway from the southern property line to the north. A small length of the roadway is outside the western ranch boundary and runs through Forest Service property.

The ranch is served by Tres Piedras Mutual Domestic Water to two points on the ranch. One water line (Service # 130) goes to the Guest House and Main Building. Service #131, a 2" line, runs north along the western property line to the center of Parcel B. The Ranch also has two wells. The South well (350' deep) fills a 10,000 gallon water storage tank that serves the

irrigation system and pond in the compound area. The South well is very productive and appears to be tapped into a substantial underground water flow at a depth of 350 feet. This well was pump-tested for 24 hours at 30 gallons per minute and could easily be shared between up to 6 houses. The well in the compound is 750 deep and produces non-potable water only.

Kit Carson Electric Cooperative and Qwest serve both Parcels A and B with electricity and telephone service respectively.

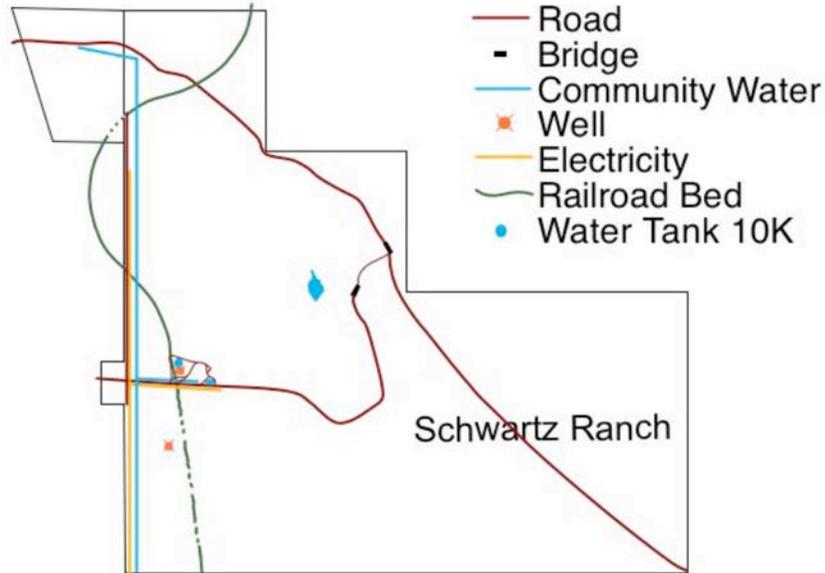


Figure 5 Utility and Service Infrastructure

Buildings

The Ranch building complex, known as the Compound, is located on just over 4 acres just east of US 285 in Parcel A. The compound holds facilities or multi residential areas and commercial uses. See Figure 6.



Figure 6 The Compound Viewed from the West

Main Building

The 5,500 sq. ft. main building (Figure 9) was redesigned as a congregate living space in 1999. The northern rooms are designated for the caretaker of the business, while the southern rooms were geared towards communal living. The communal living space includes wind-protected front patio, reception area, office, sleeping and recreation areas, two separate common bathrooms, laundry/utility room, and kitchen. The main house's passive/active solar radiant heating system is backed up by propane and wood. A master of concrete post-and-beam and pumice-crete construction crafted the main building in a southwestern style with many creative innovations.

The commercial building is ADA accessible with fire alarms and exit lights. The building adheres to Taos County commercial code. The main building meets hotel/motel standards. It has an International Building Code occupancy for 19 people.

The north apartment (caretaker) includes living area, office space/bedroom, ADA bathroom and recently remodeled kitchen, outdoor BBQ and patio.

Guest House

The 1,350 sq. ft. passive solar pumice guest house has both gas and wood-fired back up heating.



Figure 7 Passive Solar Guest House

Workshop Area

The 1 1/2 acre workshop area is separated from the main compound and the remainder of the Ranch by wood and wire fencing. The 3,600 square foot workshop has been home of numerous cottage industries. The workshop area contains construction equipment such as back hoe, forklift, 8 yd. cement mixer, 14 yd. dump truck, small crane truck, and band saw sawmill. Two Rio Grande railroad cars protect many shop tools and a planer, drill press, compressor, welder, and saws of all types. All this equipment, old and new, works for use on the ranch land in its development. The workshop area also contains many vigas (roof rafters), milled lumber and concrete forms for construction purposes. See Figure 8.



Figure 8 Work Yard

Pond, Wetland and Waterfall

The 40,000 gallon pond, wetland and waterfall located next to the main house creates an oasis enjoyed by the visitors to the Ranch. See Figure 9.



Figure 9 Pond and Main BUilding

Corral

This corral has been home to many horses. The land was once home to a riding stable of 15 horses and a beautiful mule.

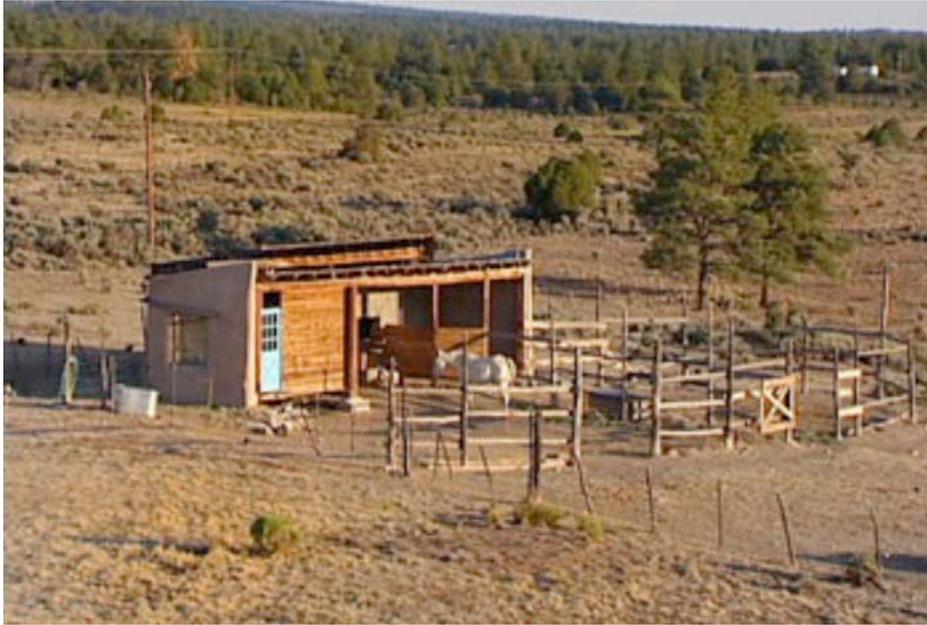


Figure 10 The Corral

Water Tower

The Water Tower has a 10,000 gallon tank filled from the South well. The water from the tower is used for agricultural & construction needs.



Figure 11 10,000 Gallon Water Tank

Section 2- General Development Options:

Following is discussion of development rights the Ranch contains by right. Those are development options that require either no permit or a simple building permit. These types of development rights do not require a zoning permit or subdivision approval granted by the Planning Commission and/or County Commission through a public hearing process.

Agricultural Uses

Under Taos County regulations, agriculture, which is broadly defined, is a permissible land use without any kind of permit. The subdivision regulations even allow the division of agricultural lands at a rate of one 35 acre parcel per year as long as it was used for agriculture for the previous three years or any parcel used for agriculture as long as it remains agricultural. The regulatory test for agricultural use is not the actual use as much it is that the land has the potential for agricultural production. A residence that is part of a farm is also considered part of the agricultural use although buildings require a building permit.

Agriculture is, in itself, a great use for the land. The Taos County Soil and Water Conservation District County Soil Survey shows the soil types for the Ranch as shown in Figure 12

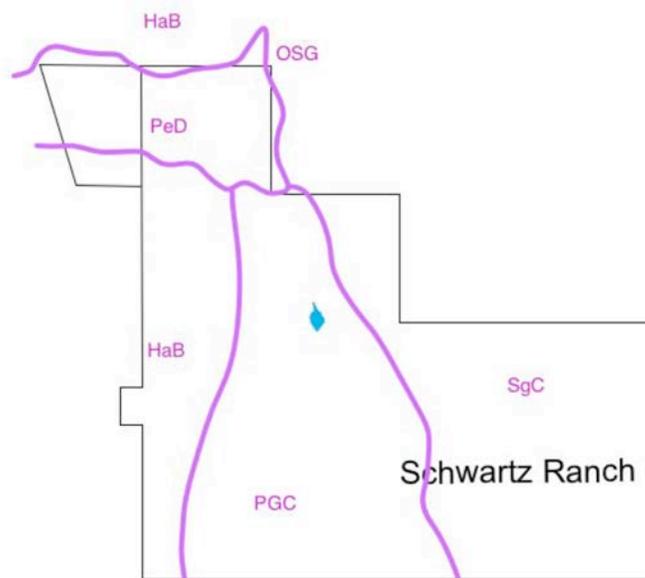


Figure 12 Soil Types Map

The soils on the ranch are conducive to growing a variety of range crops within the restraints of annual precipitation. Those crops include:

<u>Type</u>	<u>Crops</u>
HaB	Grasses (Crested Wheat, Broams, Buffalo Grass, Blue Gramma), Legumes (alfalfa, beans, etc.) & Wild Herbaceous Plants
PeD	Wild Herbaceous Plants, Coniferous Plants & Shrubs
PGC	Wild Herbaceous Plants, Coniferous Plants & Shrubs
SgC	Wild Herbaceous Plants & Shrubs

If we add aggressive water harvesting practices to the arroyo areas, we can radically increase the amount of precipitation that stays on the ranch for more intensive agriculture. Water harvesting has the potential to dramatically increase the variety of crops that could be cultivated in the drainage bottoms.

Water Harvesting

Although most of us think of roof catchment when we think of water harvesting, there are many more options to collect water directly on the landscape. These options include natural drainage ways and also the roads that cross the property.

The Ranch contains three natural drainage ways that have the tremendous potential to add substantially to the amount of surface and ground water available for agriculture. Those drainages enter the Ranch from the west, through the highway. One (drainage A on figure 4 drains Tom Bryan Canyon and the other two drain smaller areas, one on the North end of the Ranch and the other on the South (Drainages B & C respectively on Figure 13. Drainages A and B contain a reservoir at their confluence and approximately 300 yards from the highway.

Since Drainages A, B and C all come through culverts under US 285, we can consider them to be sourced on the Ranch. Since the Petaca flows from through the Ranch from far up stream, it will be difficult, but not impossible to apply some of the simpler more effective water harvesting techniques.

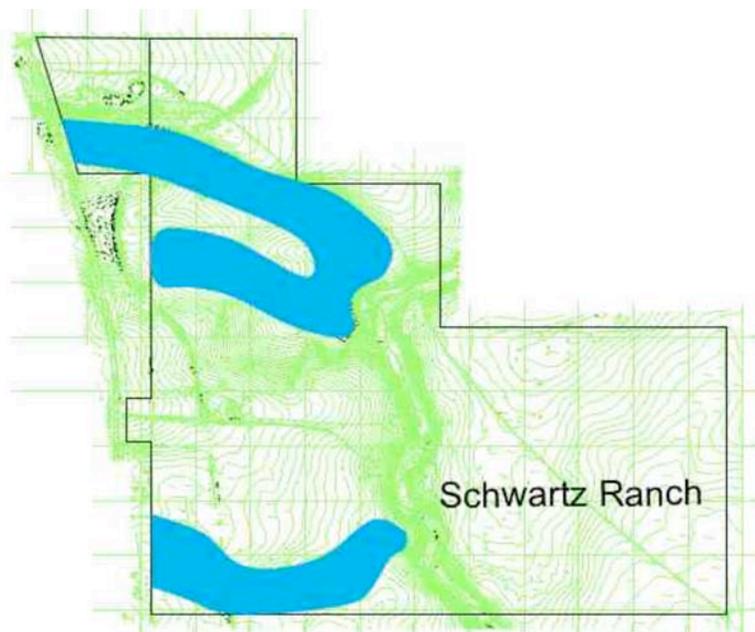


Figure 13 Surface Water Drainages Available for Water Harvesting

The most effective form of water harvesting is the check dam. Starting at the top of the drainage, where it enters the property, the harvester builds check dams at regular intervals along the drainage. The spacing of the dams depends on the slope of the drainage along the flow line; the more shallow the drain line slope, the wider the dam spacing. The dams may be built with what ever material is available. Generally, they are one rock high extending upstream 4-6 feet. It is important that the dam spreads the outflow along its entire top and that the outflow falls on a rock base that extends 4-6 feet downstream from the dam to prevent head cutting below the dam. The dams can be easily built in a few hours using rocks available on the site. The dams slow the flow of water through the drainage. Slowing the flow produces several results:

1. Sediment settles upstream from the dam. These sediment patches support plant growth like grasses and, if properly managed, can produce corn or other crops requiring more water;
2. Slower water flow greatly reduces or eliminates erosion and loss of soil and plants;
3. Slowing the water allows it to soak into the ground where it will stay on the ranch. In some areas that use check dams, the ground water table has stabilized and risen.

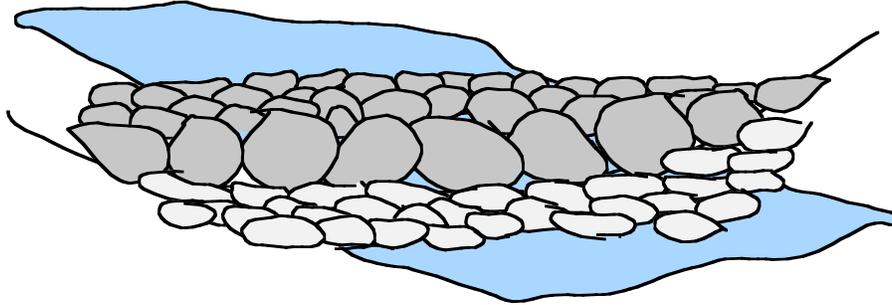


Figure 14 Simple Rock Check Dam

Water harvesting from dirt or gravel roads is also possible by:

1. crowning the road to prevent water from ponding on the road surface;
2. constructing flat bottomed bar ditches along both sides of the road;
3. placing lots of gentle out flows from the bar ditches to the surrounding land.

Controlling the water flow from roads produces the same results as the check dams in drainages. The bar ditch outflows can help to create wetter areas that build ground cover and hold water on the Ranch. It will also help reduce or even prevent the road from eroding the land.

Water Catchment from Buildings

All the building roofs on the Ranch can be used to catch and collect water. Using the annual precipitation amounts of 9-12", one could theoretically collect between 5.6 and 7.5 gallons of water per square foot of roof area per year. A 1,000 sf roof could provide 5,000 - 7,000 gallons of water annually. Although it is difficult to collect every drop of water that lands on a roof, most of the water is recoverable. One of the best and easiest way to use roof catchment is for watering higher water use food producing plants closer to the buildings. These may include fruit trees planted along the east and west sides of the building to provide shade in summer and fruit to eat.

Development Options Requiring Building Permits:

All buildings and some kinds of land development require building permits as required under the New Mexico Building Code which is based on the 2006 International Building Codes. Building permit applications in Taos County must also include a zoning clearance form that is an additional form, with accompanying documentation, filed with the building permit application. The Planning Department staff approve building permits .

Single Family Residential Uses

There is already an existing residential use in conjunction with an existing special use permit (discussed below) on parcel A. Without getting any permits except residential building permits, the remaining parcel could also have one residential use for a total of two. See Figure 15.

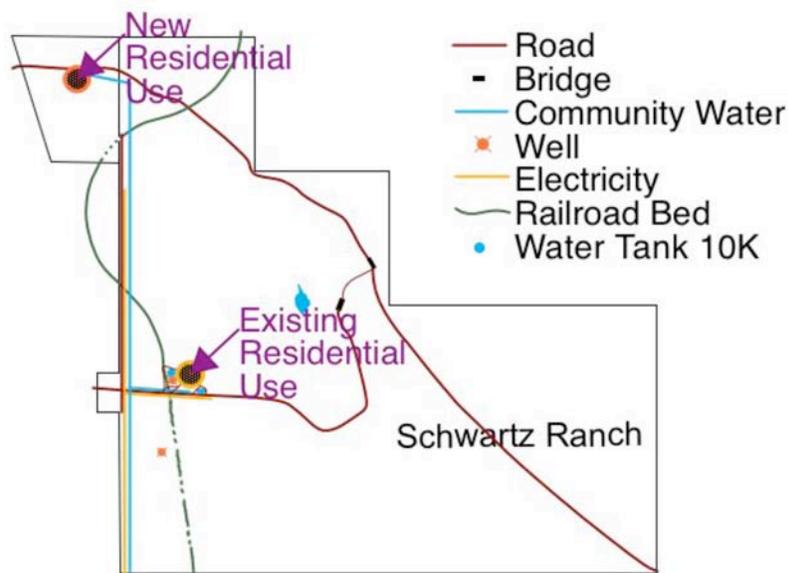


Figure 15: Residential Uses with Building Permits Only

Under the State and County Subdivision laws there are several residential development alternatives that would require only administrative review.

- A. As stated above there could be two residential uses one on each of the two parcels noted in Section 1.
- B. It is also possible to build two homes on each parcel; one for the owner and another to rent or to use as a guest house. The existing residential use already takes advantage of that option through the existing Special Use Permit.
- C. Within each parcel, additional residences could be built and sold at a rate of one every five years. One could develop an overall long-range development plan for either or both parcels that would allow for a predetermined number of parcels with homes to be sold every five years. This can be a slow process but, it avoids some expensive and public application processes. This option would be best suited for a few homes (3-5) rather than a larger number mainly due to the time required. See Figure 16. The homes are shown in areas of the Ranch that have electricity and

community water already in the area.

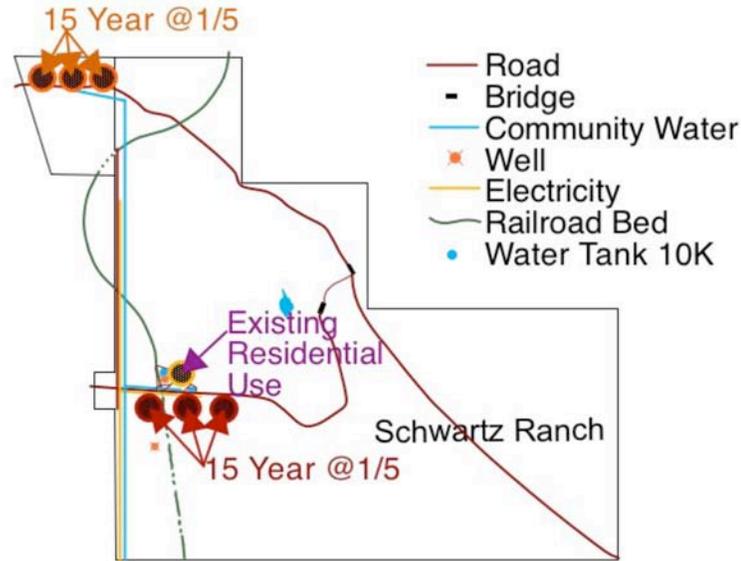


Figure 16: One Residential Parcel Every 5 Years

- D. As stated above in the Agricultural Uses Section, the Ranch could sell 35 acre agricultural parcels at a rate of one per year. Each of those parcels could contain a home as long as the purpose of the parcel reminded agricultural. Figure 17 shows 6 such parcels that could be created in a 6-year time frame. The number of 35 acre parcels could be increased to 7 within the same 6-year time frame if the owner adjusted the lot line between Parcels A and B to increase the size of Parcel B to 70 acres, thus reducing Parcel A to 416 acres. Figure 17 shows a possible arrangement of 6 agricultural parcels located to take full advantage of existing infrastructure.

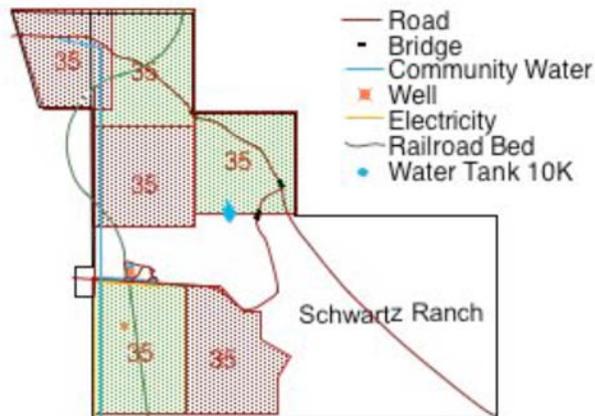


Figure 17: Showing Possible 35-Acre Agricultural Parcels

The development options discussed in C and D above require the owner to obtain an exception from the State and County subdivision regulations. Such “exceptions” are administratively granted but require documentation and proof of compliance with exception criteria. For a detailed discussion of using other subdivision exceptions, please see Appendix 2.

Cottage Industries:

Currently, Taos County Land Use Regulations allow cottage industries without a Special Land Use (Zoning) permit. A cottage industry must be:

1. located in a generally residential area;
2. function without altering the residential character of the neighborhood;
3. does not negatively impact the public health, safety or general welfare;
4. employ no more than 5 people who aren't members of the immediate family;
5. clearly incidental or secondary to the residential use.

These criteria provide considerable latitude for owners of residential properties to open small businesses at their homes. A development that encouraged cottage industries could in fact offer live-work parcels that could encourage a wide variety of people to locate even in a remote area. With the advent of satellite internet and telephone services, many types of services could be provided from such a development.

Development Options Requiring Land Use (Zoning) or Subdivision Approval:

Land Use Permits, General:

Any land use other than single family residential, agricultural or cottage industry (see Appendix 1 for complete description) requires approval of the Taos County Planning Commission. The current Land Use Regulation grants Special Use Permits to commercial, multifamily, industrial and major developments. The Ranch already holds a Special Use Permit Commercial Use for the Compound area so that it can function as a motel/guest ranch. It is important to note that the Special Use-Commercial Use application and approval process is relatively straight forward. Although the process includes public hearings, the approval criteria are easily met as long as the development does not exceed 5 acres in size, 20,000 SF or is valued at less than \$2,000,000.

Land Use Permit Options:

Because of the availability of infrastructure, utilities and highway access, the Ranch lends itself to several commercial or multifamily development options. See Figure 18.

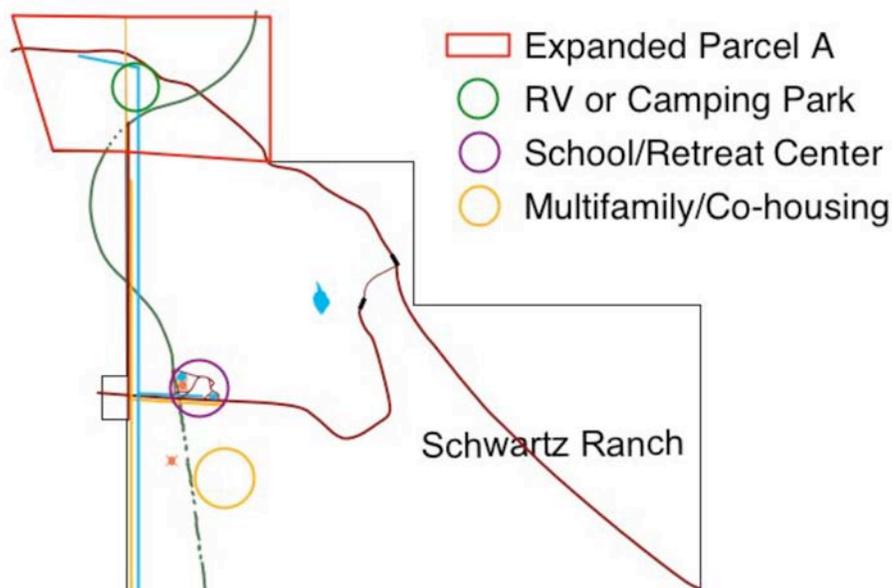


Figure 18 Uses Requiring a Special Use Permit-Commercial Use

RV Park/Campground:

Parcel B would be a great location for an RV park or some sort of camping area. The parcel contains a ponderosa forest, highway access, water and electricity. The parcel could be expanded, through the lot line adjustment process, to the east to border the BLM lands. The actual area of the RV park or campground could not exceed 5 acres, an area roughly the size of the green circle on Figure 18.

Special Interest School:

The compound area could be converted to a special interest school such as an astronomy center. It already holds a Special Use Permit that would have to be modified to accept the different use. The Sangre de Cristo Mountains are far enough away and the higher ground to the west is gently rising enough to provide excellent star field visibility. Combined with the altitude, great horizon and clear air, the Ranch is a perfect place for an astronomy school or retreat.

Retreat Center:

Any number of corporations, church groups or another organizations could consider the Ranch for a corporate or recreational retreat center. The existing facilities, available infrastructure and proximity to public lands make a great starting point for a wide variety of relaxation activities. Using the existing Compound does not require running any new utilities, although, depending on the intensity of the planned use, some upgrading may be required.

Multifamily Residential Development:

This development option includes condominiums and cohousing projects. The area south of the compound would be a great place for a cohousing or condominium development. There is an existing productive potable water well, electricity and the old Chili Line rail bed that could be used for an entrance road from the existing Compound drive. Both these development types require much less regulatory compliance than a subdivision because the land is held in common and not subdivided. To stay within the regular Special Use Permit approval process, the cohousing development would have to be limited to less than 5 acres (this is only the actual building area and does not include any designated open space that is part of the cohousing or condominium project). The total building area could not exceed 20,000 square feet or be valued at more than \$2,000,000.00. Up to 6 homes may share a standard residential well. A six unit cohousing project would be easily achievable. By adding wells or purchasing surface water rights, more homes could be added to the development. A development of 10-12 houses is very conceivable. See Appendix 2 for details of condominium development.

Developments Requiring Major Development Land Use Permits.

These types of developments are those that exceed 5 acres in size, 20,000 square feet of buildings or are valued at more than \$2,000,000.00 and do not involve subdividing the land into individual fee-simple lots. In the 13 years Taos County has enforced the Land Use Regulations there have not been any Major Development Land Use applications. This is due in part to the economy of and relatively sparse population in the area. The other factor could also be the extremely stringent regulatory process for obtaining approval of a Major Development. The applications require substantially more documentation than that required for a regular Special Use-Commercial Use permit. This is not to say that it is an impossible process.

The best kinds of projects for using the major development approval path would be large cohousing projects of more than 12 units or retreat centers with extensive buildings and planned use lands that would occupy more than the Compound area. The areas indicated for these kinds of uses are shown on figure 19 were chosen because of their proximity to infrastructure, utilities and access from US 285. More could be developed

with a greater investment in additional infrastructure.

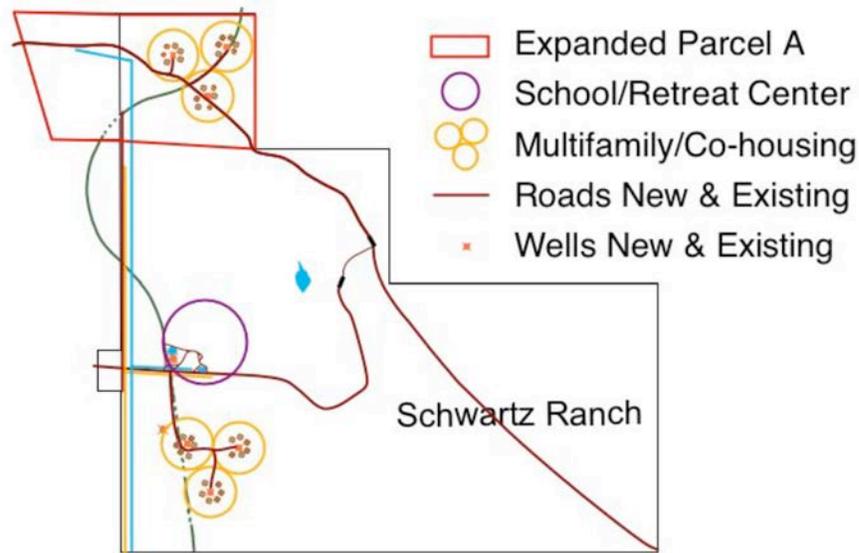


Figure 19 Special Use Permits - Major Development

Subdivision Projects:

Taos County and the State of New Mexico regulate subdividing land. Taos County is the coordinator of the regulatory process with several state agencies reviewing and recommending actions on individual subdivision applications. For a detailed discussion of Subdivision Regulations and considerations, please see Appendix 2.

Subdivisions fall into two basic categories: those requiring administrative approval (Summary Subdivisions), and; those requiring public hearings and Planning Commission and County Commission approvals.

Summary Subdivisions:

There are two types of summary subdivisions:

1. type three subdivisions of 2-5 lots of less than 10 acres each, and;
2. all type five subdivisions up to 24 lots of more than 10 acres each.

Figure 20 illustrates a five lot, Type 3 Summary Subdivision of 7.5-acre lots in expanded Parcel B. The five lots would consume 37.5 of the approximately 65-acre expanded parcel B. The lots could be expanded to be larger or the remainder of the land could be held in common by the five lot owners. There are, obviously, many other possible layouts for 5 lots. These lots could be serviced by the Tres Piedras Mutual Domestic Water System or individual wells. No geohydrology study is required. The road access from US 285 along the existing road would have to be upgraded to a county Type 'C' road and each lot would have to be serviced by electricity and telephone.

Figure 20 also illustrates a type Five Summary Subdivision in Parcel A. Please note that these diagrams are for the purpose of showing the amount of land consumed by these types of subdivisions. Other subdivision types are possible but, require much more extensive engineering and very prolonged public approval processes. It is not uncommon for non-summary subdivisions to take several years to obtain approval.

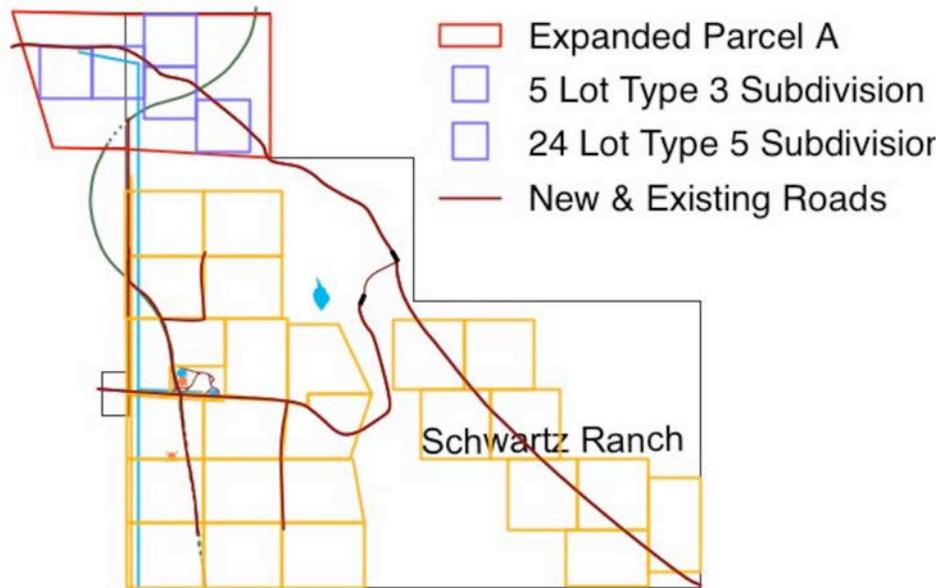


Figure 20 Summary Subdivisions

Conservation Easements

A conservation easement is a tax shelter mechanism designed to preserve sensitive lands from development in perpetuity. The idea is to remove some lands from development by placing a nonuse easement on the land. The land under a conservation easement may still be farmed but, no buildings can ever be built thereon.

The areas on the Schwartz Ranch that are prime areas for conservation easements would be the Petaca and the other drainage areas on the Ranch as described above. Placing land in a conservation easement can provide the owner with substantial tax credits that can be applied to Federal Tax liabilities for several years.

The Taos Land Trust is one agency in the Ranch's area that assists land owners in establishing conservation easements.

Conclusion:

As this report illustrates, the Schwartz Ranch is a property rich in use and development potential. The existing infrastructure, utilities, buildings and access roads from US 285 make development and more intense uses easier to develop. For more information regarding the Schwartz Ranch please visit www.schwartzranch.com.

This report was prepared by:

David B. DiCicco
Architect Planner, LLC
120 Bertha Street
Taos, NM 87571

P 575-737-5080

Mr. DiCicco has been a registered architect since 1977 and was the Taos County Planning Director from July 1995 through September 1999. He holds a Bachelor of Architecture degree and a Master of Community and Regional Planning. He currently has an architecture and planning practice in Taos County that specializes in development planning.

APPENDIX 1

A DETAILED DISCUSSION OF TAOS COUNTY LAND USE REGULATIONS

The Taos County Land Use Regulations require a Special Use Permit for the following uses:

“Major Development - A large retail, commercial, industrial or mixed use development which has the potential to impact the neighborhood or area for which it is proposed. A major development is any such use that uses more than five (5) acres of land or will contain more than 20,000 square feet of gross space or is valued at more than two million dollars (\$2,000,000) in construction and improvements. A major development is not a single family residential use, a wholly residential subdivision or an agricultural use.”

“Commercial Uses - Any activity or use which involves the manufacture or sale of property, the sale of goods or services, and/or any activity which is designed to generate revenues, and which is not a cottage industry.”

“Wetland Development - An area that is inundated or saturated by fresh water, surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. May also attract various types of birds.”

“Multi Family Development - Residential apartments, residential condominiums, or any building designed for or occupied by two (2) or more families, including but not limited to three (3) or more stand alone single family dwellings on one (1) parcel of land that is not a subdivision.”

“Any expansion of a previously approved special use.”

“Any expansion of a use that requires a special use permit under this Ordinance but, has not received such permit because the use began prior to the effective date of the Taos County Land Use Regulations 1997-4 or for any other reason.”

To fully understand the implications of Ordinance 2005-10 (2007-4) we need to understand what the ordinance means by the term ‘development.’

“Development - The making of any material change in the use or appearance of any structure or lands the performance of any building or terrain modification, including, without limitation:

1. Construction, reconstruction, alteration, repair addition to or location of a structure;
2. Use of land or a structure for commercial, industrial, agricultural or residential purposes;
3. Installation of water, sewer or other sanitation utility facilities;
4. Construction of roads, streets, or driveways;”

As you can see from the ‘development’ definition, virtually everything is considered as development. The only things missing from the list are alternative energy generating facilities.

To our knowledge, all special use permit applications since July 1995 fall into the Commercial Use and Steep Slope categories. No one has applied for a major development special use permit because the major development application criteria are too poorly defined in the Ordinance.

APPENDIX 2
A DETAILED DISCUSSION OF THE TAOS COUNTY AND STATE OF NEW MEXICO SUBDIVISION REGULATIONS

Taos County Subdivision Regulations

Taos County's most recent Subdivision Regulations, Ordinance 2005-8, basically follow the state subdivision act, chapter 47 of state statutes. Ordinance 2005-8 also takes into account state statutes that enable counties to regulate development guidance planning, building construction, flood plane management, zoning, historic district zoning, airport zoning, streets, cultural properties, condominiums, sanitation facilities, water use and water facilities and affordable housing. The stated purposes of Ordinance 2005-8 run the gamut from general health safety and welfare to protecting property values. Although the 'purpose' section broadly proclaims public advocacy the regulatory reality is this ordinance encourages sprawl and non-sustainable development strategies. It does so by making large lot subdivisions easier to approve than smaller more compact developments.

State and local laws define 'subdivision' as:

"The division of a surface area of land, including land within a previously approved subdivision, into two or more parcels for the purpose of sale, lease or other conveyance or for building development, whether immediate or future."

Both Ordinance 2005-8 and state law exempt 13 types of land division from regulation. We include the exceptions here because they are very useful in some types of development planning. Those exemptions are:

1. the sale, lease or other conveyance of any parcel that is thirty-five acres or larger in size within any twelve-month period, provided that the land has been used primarily and continuously for agricultural purposes, in accordance with Section 7-36-20 NMSA for the preceding three years: (Note, Section 7-36-20 deals with the method for valuing land as agricultural for the purposes of taxation. The test seems to be that the land has the capacity to produce agricultural products. The real test is to look at the tax bill and see how the county assessor notes the land's use.)
2. the sale or lease of apartments, offices, stores or similar space within a building
3. the division of land within the boundaries of a municipality;
4. the division of land in which only gas, oil, mineral or water rights are severed from the surface of ownership of the land;
5. the division of land created by court order where the order creates no more than one parcel per party;
6. the division of land for grazing or farming activities provided the land continues to be used for grazing or farming activities;
7. the division of land resulting only in the alteration of parcel boundaries where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased;
8. the division of land to create burial plots in a cemetery;
9. the division of land to create a parcel that is sold or donated as a gift to an

immediate family member; however, this exception shall be limited to allow the seller or donor to sell or give no more than one parcel per tract of land per immediate family member;" defined as "...husband, wife, father, stepfather, mother, step mother, brother, step brother, sister, step sister, son, stepson, daughter, stepdaughter, grandson, step grandson, granddaughter, step granddaughter, nephew and niece, whether related by natural birth or legal adoption.

10. the division of land created to provide security for mortgages, liens, or deeds of trust; provided that the division of land is not the result of a seller-financed transaction;
11. the sale, lease or other conveyance of land that creates no parcel smaller than one-hundred forty acres;
12. the division of land to create a parcel that is donated to any trust or nonprofit corporation granted exemption from federal income tax, as described in 501(c)(3) of the United States Internal Revenue Code of 1986, as amended; school, college or other institution with a defined curriculum and a student body and faculty that conducts classes on a regular basis; or to any church or group organized for the purpose of divine worship[, religious teaching or other specifically religious activity; or
13. the sale, lease or other conveyance of a single parcel from a tract of land, except from a tract within a previously approved subdivision, within any five-year period; provided that a second or subsequent sale, lease or other conveyance from the same tract of land within five years of the first sale, lease or other conveyance shall be subject to the provisions of the New Mexico Subdivision Act; providing further that a survey shall be filed with the County Clerk indicating the five-year holding period for both the original tract and the newly created tract, which holding period shall preclude the use of this exemption to further divide either the original or newly crated tract."

2005-8 and state statute classify subdivision by type based on the size and number of the lots therein.

Type One: 500 or more lots with each lot being less than 10 acres;

Type Two: 25-499 lots each of which is less than 10 acres in size;

Type Three: 2-24 lots each of which is less than 10 acres in size;

Type Four: 25 or more lots each of which is 10 acres or more in size;

Type Five: 2-24 lots each of which is 10 acres or more in size.

Within the five subdivision types there are two basic subtypes of subdivisions, summary subdivisions and regular subdivisions. Summary subdivisions are those type three subdivisions of 2-5 lots and all type five subdivisions. Taos County has a state enabled "expedited, administrative review" process for approval of summary subdivisions that is much less stringent than for approval of the other subdivision types.

The regulations require subdivision applicants to address water, liquid waste disposal, solid waste, terrain management, fire protection and roads. All these items require engineering by New Mexico Licensed Professional Engineers.

A significant subject relating to subdivisions is the concept of 'merger.' Merger means the contiguous lands owned by an individual and purchased at different times and from different sellers were viewed as a single piece of land for the purpose of land use regulation. In the past few years, the New Mexico Legislature and Governor adopted a statute prohibiting counties from using parcel merger if certain conditions exist.

In the case of the Schwartz property, the ranch is comprised of two parcels. A 441.757 acre parcel, Parcel A and, a 24.99 acre parcel, Parcel B. The 441.757 parcel is shown on the County Tax tract map as a single tax tract although it is actually taxed as several separate pieces of land. The majority of the land is taxed as agricultural. Approximately 5 acres within Parcel A are taxed at slightly higher levels than agriculture.

The 25 acre parcel at the northwest corner of the ranch is clearly a separate parcel. Separate parcels can be treated as individual properties for consideration of subdividing and using the exceptions listed above.

State Of New Mexico Statutes and Regulations

In addition to the statutes that enable counties to plan and regulate zoning and subdivisions, the state also establishes statutory requirements for land development. These statutes include building codes, state and federal highway access requirements, water rights regulation and liquid and solid waste disposal regulations. It is important to remember that the New Mexico courts strictly construe land use laws and regulations.

Office of The State Engineer

The OSE regulates access to the state's water supply. There are two sources of water on the Schwartz Ranch, the Tres Piedras Mutual Domestic Water System and ground water.

Ground water is available using 72-12-1 domestic wells. Domestic Wells for single family homes, government, commercial and nonprofit facility uses, where water is incidental to the use, may draw up to 1 acre foot or 325,829 gallons per year from a 72-12-1 domestic well. Domestic wells for shared use between several homes may draw up to 3 acre feet or 977,487 gallons per year. Each single house on a shared well is still limited to 1 acre foot per year. Taos County regulations limit the number of homes on one shared well to 6 homes.

New Mexico Condominium Act

In New Mexico condominiums do not have to be multiple units in a building. Stand alone single family homes on the same piece of property may also be sold as condominiums. This type of condominium has great potential to facilitate cohousing developments, cottage communities and clustered housing developments where developers and buyers wish to cluster housing to maintain larger open space and to save resources by clustering the development on a smaller portion of land.

Instead of selling a piece of land on which the buyer then builds a house, the condominium sells a Reserved Development Right which is the right to build a home on a commonly owned piece of property. The area of the commonly owned land around each home designated for the particular use of each home is called a Limited Common Use Area. The remainder of the land in the condominium is called Common Use Area. It is important to know that in a condominium, individual parcels of land ARE NOT sold.

New Mexico Environment Department

The New Mexico Environment Department regulates liquid waste (sewage), solid waste (garbage) ground water quality and air quality.

Liquid Waste

NMED currently allows residential and commercial uses, where water is incidental to the use, to use septic systems for liquid waste disposal. The current daily effluent discharge is set at 500 gallons per acre. In residential uses, the daily effluent discharge is calculated using the number of bedrooms. Each of the first two bedrooms discharge 150 gallons per day and each bedroom thereafter discharges 75 gallons per day. Therefore, a three bedroom home uses 375 gallons per day. A one-acre lot would support a 4 bedroom home using a standard septic system producing 450 gallons of effluent discharge per day.