

MINUTES OF THE
SANTA FE COUNTY
PLANNING COMMISSION

Santa Fe, New Mexico

February 20, 2025

1. This meeting of the Santa Fe County Planning Commission was called to order by Chair Erik Aaboe on the above-cited date at approximately 4:00 p.m.

A. & B. Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Erik Aaboe, Chair
Carl Trujillo, Vice Chair
Steve Brugger
J.J. Gonzales
Jeremy Mier
Dan Pava
Wendy Pierard

Member(s) Absent:

None

Staff Present:

Jordan Yutzy, Building & Development Manager
Roger Prucino, Assistant County Attorney
Alexandra Ladd, Land Use Administrator
Maggie Valdez, Building & Development Review Specialist
Brianna Ortega, Building & Development Review Specialist
Marie Martinez, Building & Development Review Specialist
Kenneth Quintana, Building & Development Review Specialist

2. **Approval of Agenda**

A. **Amendments**

B. **Tabled or Withdrawn Items**

SFC CLERK RECORDED 04/04/2025

Mr. Yutzy requested that item 3.A. under the Consent Agenda be heard as New Business, item A. There was not a unanimous approval of this matter and therefore is not part of the Consent Agenda.

Member Trujillo moved to approve the agenda as amended. Member Pierard seconded and the motion passed by unanimous [7-0] voice vote.

2. Approval of Minutes

A. January 16, 2025 – Special Meeting

Member Pierard moved to approve the minutes of the January 16, 2025 meeting. Member Mier seconded. The motion passed by unanimous [7-0] voice vote.

3. Consent Agenda

Item moved to 4.A.

4. New Business

A. CASE # 24-5120 Annette Montoya, Variance of Density Annette F. Montoya, Applicant, along with tenants in common, Anita Montoya, Joanna M. Anya, Paula L. Abbott and Anthony V. Montoya is requesting a variance of the SLDC Chapter 8, Table 8-10: Dimensional Standards – RES-E (Residential Estate), to allow 1 dwelling unit per 2 acres in order to split the existing one (1) 8-acre parcel into four (4) 2-acre parcels. The 8-acre property lies within the Residential Estate (RES-E) zoning district. Chapter 8, Table 8-10: Dimensional Standards - RES-E (Residential Estate), illustrates the allowed density at 1 dwelling unit per 2.5 acres for this zoning district. The property is located at 16 Vereda A Tesoro within Section 9, Township 17 North, Range 9 East (Commission District 1) SDA-2. Parcel ID # 910009632 Marie L. Martinez, Case Manager APPROVED (5-2) voice vote. [Exhibit 1: Staff report]

CHAIR AABOE: Staff do you want to present on this item?

MR. YUTZY: There's really nothing to present. I gave you a handout copy. This morning there were some minor changes requested by the legal department and so that is the final order with legal approval. The vote was 5 to 2 on the final order and we are asking that you approve the final order as written.

CHAIR AABOE: Thank you very much. May I get a motion to approve the final order in the form of the handout we just received for case number 24- 5120?

MEMBER TRUJILLO: Mr. Chair, can I just ask what were the changes or what did Legal recommend?

MR. PRUCINO: There was very little of substance, Commissioner Trujillo. Mostly non-substantive and clarifications quite honestly.

MEMBER PIERARD: Okay, nothing changed. Nothing major.

MR. PRUCINO: Nothing that you would consider of substance; that's correct.

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Member Pierard moved to approve the Final Order for Case 24-5120. Her motion was seconded by Member Pava and passed by unanimous [7-0] voice vote.

B. Case # 24-5310 Christine Strieker (VAR) Variance. Christine Strieker, applicant requests a Variance of Chapter 8, Table 8-9: Dimensional standards Residential Fringe (RES-F) to allow two primary residences on a parcel of land consisting of 5.033 + acres. The subject property lies within the RES-F zoning district which allows for 1 dwelling per 5 acres. The property is located at 23 Saddle Rd (Commission District 4), SDA- 2. Case Manager, Maggie Valdez

[Ms. Valdez read the case caption and provided here report as shown below]

MAGGIE VALDEZ: Good afternoon, Mr. Chair and Planning Commission. My name is Maggie Valdez. I'm a Development Review Specialist Senior. Today, I come before you with case #24-5310.

Christine Strieker, Applicant, requests a Variance of Chapter 8, Table 8-9: Dimensional Standards Residential Fringe, RES-F, to allow three primary residences on a parcel of land consisting of 5.033 acres. The subject property lies within the RES-F zoning district which allows for one dwelling per 5 acres. The property is located at 23 Saddle Rd. SDA-2, Commission District 4.

History: The property currently has a single-family residence which the Applicant resides in, and the residence is connected to sunlit hills water and contains its own septic system. The property also contains an unpermitted two-story duplex which the Applicant utilizes as her two short term rentals. The duplex has its own septic system and utilizes Sunlit Hills Water. The first story of the duplex has already been granted temporary approval for a short-term rental. The first story and second story of the two-story duplex are both 648 square feet, heated. Each level of the two-story duplex contains a kitchen area, one bedroom area, one living area, and one bathroom.

Summary: The Applicant is requesting a variance of Table 8-9: dimensional standards to allow a residence and a two-story duplex that consist of two separate apartments on the property for a total square footage of 1,400. The single-family home is 1,309 square feet, and the property lies within the Residential Fringe Zoning District, RES-F, within the Sunlit Hills area. The RES-F district may be comprised of a variety of residential lot size clustered housing and community open space and can include limited agriculture use accessory to residential use.

The Applicants state: This is a request to allow two guesthouses in a separate two-story residence at our property at 23 Saddle Road, Santa Fe, New Mexico. The building is already there and nothing new will be constructed. The residence has two guesthouses one on the top and one on the bottom.

In response to 49.74, the Applicant has addressed the variance criteria as follows and staff has responded to the applicant's comments. Building and Development Services staff has conducted a site inspection on the property. Building and Development Service staff have reviewed the variance application for compliance with permanent requirements and found that the facts presented do not support the request for a variance to allow three

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dwelling units on 5.33 acres. Specifically staff found that the structure was constructed without permits. If the applicants would have consulted with staff prior to building the structure, staff would advised the applicant of the density requirements thus of avoiding this situation entirely.

Hearing Officer recommendation: On January 9th 2025 this request was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer memorialized findings of fact and conclusion of law. A recommended order on this request, the Hearing Officer, based on the evidence presented, recommends that the application be denied subject to maintaining the density requirements of the SLDC is important in observing the spirit of the code and increasing the density allowed.

Recommendations: Staff recommends denial of the variance request to allow an existing unpermitted structure dwelling. The Applicant's request for a variance does not meet the criteria of variance set forth in the SLDC. If the Planning Commission recommends approval of this variance to allow an existing Accessory Dwelling, staff recommend the following – Mr. Chair, Commissioners, may I enter the conditions into the record?

CHAIR AABOE: Yes, you may.

Conditions:

1. The Applicant shall obtain after the fact permits for Primary Residence, 2 Sheds, and Accessory Dwelling.
2. The Applicant shall obtain a Business License from Santa Fe County.
3. No further dwellings or accessory structures shall be permitted.
4. The Applicant shall obtain a Short-Term Rental Permit.

MS. VALDEZ: This report and the exhibits listed below are hereby submitted as part of the hearing record. Mr. Chair, Commission, I stand for questions.

CHAIR AABOE: Thank you very much, appreciate it. Commissioners do you have any questions? Carl.

MEMBER TRUJILLO: Mr. Chair. Ms Valdez, thanks for the presentation. So, if I understand this correctly the main house for the main residence was built with a permit and the two-story structure with the two apartments or short-term rentals was built without a permit; is that correct?

MS. VALDEZ: Yes, sir.

MEMBER TRUJILLO: And is there was there a date established as far as when that second structure was built?

MS. VALDEZ: Sir, when we looked at all of that stuff we couldn't find no permits for that area. Ms. Strieker bought the home and the apartment with the garage the way it was at the time. So when she wanted to apply for a rental we couldn't do it because we saw that you know it's not allowed in that area. So when I pulled permits and stuff we couldn't find the permit for that area. There was nothing permitted. A lot in that area, a lot of it wasn't even permitted. We couldn't find anything. I don't know how to – maybe if I could get some help from somebody because it was back –

MR. YUTZY: Chair, Commissioners I believe that the structure did not start off life as a duplex. I believe that it started off as a garage and maybe like a loft, a storage area, and then it was converted at some point in time. So the original structure

might have had a permit but the renovations to it were not permitted that we can locate and that's what brought it in. She came in to get it in compliance with the STR and according to the SLDC ADUs are not allowed to be two stories so therefore her only option is to get density variance allowing another primary structure that is two stories tall.

MEMBER TRUJILLO: So, Mr. Chair, Ms. Valdez, so if so if I read it correctly she has been approved for a short-term rental on the bottom, one level of the two levels; is that correct?

MR. YUTZY: I believe that is correct.

MS. VALDEZ: Yes, sir.

MEMBER TRUJILLO: Okay and so, Mr. Chair and Ms. Valdez, maybe it's a question for the applicant but it sounds like she purchased the property, I don't know the year, but I'll ask her the year of when she purchased the property. Thank you.

MS. VALDEZ: Yes, sir. Thank you.

CHAIR AABOE: Do any other Commissioners have questions? Steve.

MEMBER BRUGGER: Thank you, Mr. Chair. A question for Ms. Valdez. As Mr. Yutzy had mentioned, there is a height limitation for code 10.4.2.3 for an accessory dwelling unit, if I understand correctly shouldn't exceed one story in height.

MS. VALDEZ: Yes, sir.

MEMBER BRUGGER: And this structure is two stories. So I'm just curious, and you may not be able to answer this, why the accessory dwelling unit was approved initially?

MR. YUTZY: Chair, Commissioners I do not believe that it was approved as an accessory dwelling unit. I believe it was approved as possibly a garage with a loft over the top that was not a livable space and then at some point in time was converted into livable space as an ADU which wasn't a legal conversion because at the time that the permit was pulled they would have been told that it exceeds the height limit of ADUs.

MEMBER BRUGGER: Okay. So the temporary approval that was granted for the short-term Rental; how temporary is that?

MR. YUTZY: It usually goes for about a year. We work with them while they are trying to get in compliance. The temporary licenses are issued to who are going through the process to come into compliance.

MEMBER BRUGGER: Okay. And in your view, that structure being two story isn't an impediment to that unit being in compliance.

MR. YUTZY: I do not see it as an impediment, no.

MEMBER BRUGGER: Okay, thank you.

CHAIR AABOE: Any further any other questions from Commission?

MEMBER GONZALES: I've got a question, Mr. Chair. You know I read in the in the material that residence, the main resident is about 1,300 square feet. And then counting the two apartments or the duplex, that is over 1,300 square feet. So is that a code violation there? According to that area on the accessible dwelling units can't be more than the primary residence. Is that what I read in the in the book?

MR. YUTZY: Chair, Commissioners, that's the reason they're coming for a density variance is the density variance allows them to have another door dwelling unit where the square footage is not regulated, yes. The regulations for an auxiliary dwelling unit/ADU are 50 percent of the main dwelling square footage up to, I believe it's 1,500

square feet.

MEMBER GONZALES: And the other question I had is I read that they have three dwelling units on that property counting the duplex. A duplex counts for two and then the primary residence so is that what they're asking for us to approve; three units? Or can we just say only two units are allowed and comply with the code?

MR. YUTZY: So it would be two dwelling units, additional dwelling units, on the property for a total of three dwelling units on the property.

MEMBER GONZALES: And the two stories is in violation. They're not allowed to have a two-story.

MR. YUTZY: Under the ADU standards that's the reason they are coming for the variance for density bonus to allow them another, essentially, primary dwelling unit, yes.

MEMBER GONZALES: And what do they do? Can they still have three units or do they have to – does the two story structure does that have to be reverted to one unit?

MR. YUTZY: If the variance is approved the way it is proposed you would allow her to have two dwelling units for a total of three on the property. So the main house and then the duplex would be two units for a total of three units on the property.

MEMBER GONZALES: And also the density; the accessory dwelling units is equal to the size of the primary residence. That's also what they're trying to be coming for?

MR. YUTZY: They're not really coming for a variance on that. That is an ADU requirement. They're not coming trying to get this permitted as an ADU. They're trying to get it permitted as a dwelling unit. It's not coming as an auxiliary dwelling unit. It's coming as a density variance to allow another home essentially on the property.

MEMBER GONZALES: Okay, not an accessory but another residence on the property equal to the primary?

MR. YUTZY: Yes, yes.

MEMBER GONZALES: Okay, I understand that now. It's a little clearer

MEMBER PIERARD: I have a question.

CHAIR AABOE: Yes, Wendy.

MEMBER PIERARD: I have a question on that. So if we said that there can only be two dwelling units so would that mean that the second story would have to be converted outside of a dwelling unit into something else?

MR. YUTZY: If you approved it as two units, then, yes, one of the stories would have to go because that that is considered a third dwelling unit.

MEMBER PIERARD: So that's the issue, the dwelling unit?

MR. YUTZY: Yes, yes.

MEMBER PIERARD: It could be something else right?

MR. YUTZY: Yes.

MEMBER PIERARD: Thanks.

MEMBER TRUJILLO: So, Mr. Chair, on that point, what prevents an individual to come in and say that the main house is this two-story home and the accessory dwelling is the smaller one, the smaller unit? Is there anything in code that prevents that? I mean at that point they would be –

MR. YUTZY: It would be the square footage. So in order for that to work you would have to have the two-story one would have to be double her square footage and so the square footages don't line up.

MEMBER TRUJILLO: But either with this variance as we here to judge it today, it's not going to meet that meet that anyhow.

MR. YUTZY: We have several applicants who come in and they have one home and they want to build a larger home on their property and so their original home actually will convert into the ADU for their property because their new home is big enough and the original home is under the square footage allotment.

MEMBER TRUJILLO: Okay.

CHAIR AABOE: Any additional questions for staff.

MEMBER BRUGGER: Mr. Chair, if I may. You may have explained it correctly; I'm just trying to process it. So this request is for approval of a density variance for an accessory dwelling unit; is it not or is it just a separate house?

MR. YUTZY: It's a variance for a density – it's a density variance to allow two additional dwelling units. In most instances, ADUs do not require a density bonus or density variance because they're allowed by right if you can meet the setbacks and requirements of the ADU. This one is unable to so she is coming forward asking for a density variance because she wants to put essentially a second primary dwelling unit on her property. Well, two additional dwelling units because it's a duplex.

MEMBER BRUGGER: Okay, thank you. So if they were to move forward, then would another lot need to be created then for the second –

MR. YUTZY: No, no, Chair, Commissioners, no.

MEMBER BRUGGER: Thank you.

CHAIR AABOE: Any other questions? Oh, yes, Dan.

MEMBER PAVA: Thank you, Mr. Chair. A question for staff, Ms. Valdez, or staff. Is another way of looking at this to be able to say that this could be a, we're not advertising it this way, but this could be a variance for a second accessory dwelling unit on the property.

MR. YUTZY: I would sit there and say no because it doesn't meet the requirements of an ADU. If it wasn't two stories then, yes, we could possibly go that route. I see your logic but with it being two stories it doesn't meet the requirements of the ADU under the SLDC. So we can't look at this case that way but if she had a single-story duplex and wanted that, then, yes, I think that we could sit there and say that but with it being two stories no.

MEMBER PAVA: Thank you for that clarification. So a follow up or further question, what if we were to consider that the primary residence on the property was the ADU, albeit too large under the code because it's more than half the size. It would be more than half the size of the two-story duplex. And what if the two-story the duplex which is the accessory unit was considered the primary unit on the property? And I mean we must have situations where people actually live in, owners live in the ADU and rent out the other single unit. Any comments about that or what's staff 's thought about that?

MR. YUTZY: Chair, Commissioners, the way that would work currently her single family home is 1,309 square feet so the minimum square footage of the ADU

that she's asking for a variance on would have to be 2,618 square feet in order for her to fall into that category.

MEMBER PAVA: I'm just trying to wrap my head around other permutations of how this could be viewed before we proceed.

MR. YUTZY: And that was -- every avenue was looked at in doing this case to see if there was essentially an easier way of doing it and without removing the second story and not utilizing that the only option would be for a density variance to allow the additional dwelling units because of the two-story structure.

MEMBER PAVA: Thank you, Mr. Yutzy. Having been in the position of staff trying to assist an applicant in the past I appreciate the efforts that County staff has been making in this request. Thank you.

MR. PRUCINO: Mr. Chair, if I might add.

CHAIR AABOE: Please.

MR. PRUCINO: Addressing an issue that Commissioner Pava has raised and I think everyone is thinking of, as Jordan said, staff has worked with the applicant and has tried to figure out what might be the best approach and how best to present this application. And now that it has been finalized and presented to you the Commission's duty at this point is simply to you rule on the application as it's presented. Certainly if the application were to be denied suggestions could be made for what to come back with. But it would not be appropriate to approve some form of application that actually isn't being presented to the Commission today.

CHAIR AABOE: Thank you very much for that clarification. I do have a question. If this variance request were to be denied, the buildings still exist and what is the disposition expected by the County for those? What is an alternative for the owner of the property if this application were to be denied? Thank you.

MR. YUTZY: Chair, Commissioners, if the application was denied one option for the property owner could be to remove all plumbing and fixtures from the upper floor and use it as storage where it's not livable space. And then at that point in time we could consider the fact that the first floor is an allowable ADU because under the square footage compared to the main home and then the second story would just be a storage area.

CHAIR AABOE: Thanks. I think the square footage doesn't quite work out the 1,309 divided by two is a little bit less than the, what, the 800 and some odd square feet.

MR. YUTZY: We're about 40 square feet off. We could find something to make it work.

CHAIR AABOE: Okay, I appreciate that. Any further questions from the Commissioners for staff? The applicant, would the applicant like to come up and make a presentation?

[Duly sworn, Christine Strieker, testified as follows]

CHRISTINE STRIEKER: Thank you. Christine Strieker, 23 Saddle Wood, Santa Fe, New Mexico 87508.

CHAIR AABOE: Thank you, please give us your presentation, thank you.

MS. STRIEKER: We bought our house on 2022. And we bought it the way it was nothing new has been added onto it. We had two two-story buildings and we

wanted to rent the one, the guest house is for short-term rental. I applied for the permit. I was given the upstairs one to be rented which I'm doing right now. It's the only source of income that we have. I'm asking you guys to help us. You know, the bottom one is all ready to go. It has everything it needs to go and we would like to rent that one too and that's why I'm here for you guys.

CHAIR AABOE: Thanks very much. Are there any questions from the Commissioners for the applicant? Commissioner Gonzales.

MEMBER GONZALES: Yes, good afternoon. What I'm concerned about is when you looked at that property with a realtor I'm assuming you went through a realtor to buy it; what did that realtor tell you? Did they do anything tell you that you could have three rentals on that property or what did they say?

MS. STRIEKER: No, no, they say we can have two rentals which was upstairs and downstairs for the guest house – guest houses. But we did not think that we are going to rent our main house because we are going to live in the main house so we never ask them about that.

MEMBER GONZALES: Now did anybody say that, did anybody do any research on that like get title insurance or a warranty deed that said this is what you had on the property that you could enjoy and that could use it no anything like that?

MS. STRIEKER: No. No, and we didn't it because at that moment it was very hard to find a home and we had already sold our home in Colorado and we were just lucky to find that one.

MEMBER GONZALES: And when you looked at the home and the person you bought it from what did they tell you?

MS. STRIEKER: We had the guest houses.

MEMBER GONZALES: That's what they said?

MS. STRIEKER: That what, yeah, that's what we saw and I think somebody was renting it too because he had beds and plumbing and everything kitchen, bedroom area, bathroom area, living room area.

MEMBER GONZALES: Did they tell you you could use it as two separate rentals?

MS. STRIEKER: They didn't say that we you know we didn't talk to the owner. We just bought the place, you know, assuming that we will rent it as a two guest houses.

MEMBER GONZALES: And did you ever go back to the realtor and tell him that this was a problem for you.

MS. STRIEKER: No, I didn't because I didn't think it was a problem. I came straight to, you know, County and asked for permission to rent it as a short-term rental.

MEMBER GONZALES: You know we've had these cases come before us and it seems that the realtor is the one that misleads people to say that they can use these as rentals and then the owner is in a situation like you are then they have any recourse to come to try to get it a variance approved and that's a very difficult thing for us to do.

MS. STRIEKER: I agree.

MEMBER GONZALES: I have a problem with the two stories and having two rentals on your property, you know, that situation. Well, thank you very much.

MS. STRIEKER: Thank you.

CHAIR AABOE: Thank you, Commissioner. Any other questions, Steve.

MEMBER BRUGGER: Thank you, Mr. Chair. Thank you, Ms. Strieker. To clarify, what are you using? You said short-term rental.

MS. STRIEKER: Correct

MEMBER BRUGGER: Does that mean six-month leases or 30-month leases or what are you doing now for the one unit that you have and then what do propose to do for the second unit if approved?

MS. STRIEKER: I rent it as Airbnb and it's 28 days the longest I can rent it so far. And that's what I'm asking you guys to give me permission to rent my bottom one because that's the only really source of income we have.

MEMBER BRUGGER: Thank you.

MS. STRIEKER: You're welcome.

CHAIR AABOE: Vice chair

MEMBER TRUJILLO: Thank you, Mr. Chairman. So Ms. Strieker, so when you purchased the property in 2022, was it advertised as a home? Because you know you look online or whether you see it online or wherever you get your advertisement from was it listed as a home and two guest homes when you went to purchase the home?

MS. STRIEKER: It was just listed as a home.

MEMBER TRUJILLO: Okay. And since the time that you purchased in 2022 have you done any modifications to it? Did you add anything to a second story or whatever to make it more functional?

MS. STRIEKER: No, no. It's exactly the way I bought it. Nothing we haven't add anything. Everything which was – is there was there.

MEMBER TRUJILLO: Okay, thank you, Mr. Chair.

MEMBER PIERARD: So when you, you were saying that when you purchased the property it was advertised as a house and guest house.

MS. STRIEKER: No. Well, you know, it was a home but they did mention that you also have a guest house.

MEMBER PIERARD: Okay, thank you.

CHAIR AABOE: This is a question for staff. In many of these proceedings we will get Correspondence from affected neighbors and I'm not sure if that is something that has happened or is required in this type of case; thank you.

MS. VALDEZ: No, sir. She hasn't had no complaints. There's been no letters. There's been nothing. She did hang the notice board up. She posted in the paper like she was suppose to and there hasn't been no complaints.

CHAIR AABOE: Thank you very much.

MS. VALDEZ: Yes, sir.

CHAIR AABOE: Any further questions from Commissioners? Any discussion? Vice Chair.

MEMBER TRUJILLO: Mr. Chairman, I mean, again, we get a case here where somebody buys property and as Commissioner Gonzales mentioned – the realtors

are trying to make a sale and there's nothing, no law on the books as far as certain types of disclosures and you know a lot of them – they're not well informed and I don't want to speak for all of them but the new code – and so what happens is people get misled like this and so it puts them in all in a tough situation. It's hard because you come here in good faith to buy something in good faith and then you find something very different and so it's a it's a hard case is what I'm trying to say, thank you.

CHAIR AABOE: I agree. I've been on this hobby horse before and I might recommend to Director Ladd that the County put out some outreach information to hit some realtors over the head, no not hit them over the head, but to inform some realtors of the requirements and that they are letting down their potential customers if they don't go through and check with development review.

MR. YUTZY: Mr. Chair, I would just remind you that we need to do the public hearing before we get too far into discussion.

CHAIR AABOE: Got it. Thank you. So yes this is a public hearing. Are there any members of the public either in the room or online who would like to speak?

MR. YUTZY: There's currently nobody online indicating they wish to speak.

CHAIR AABOE: And I don't see anybody intending to speak here. So let's close the public hearing and thank you for the reminder.

MEMBER GONZALES: Mr. Chair, I have a couple of questions. What I'm concerned about is that this two-story structure is unpermitted and the County says you have to get an after the fact permit. And I'm concerned that the safety of the public. You know to get an after the fact permit, you know, you have to go through CID. If the County approves the development then it has to go through the CID. And I find it very difficult to go and check the electrical and check the plumbing and there's no safety requirements there that it was inspected before it was it was built. That's what I'm concerned about and also concerned about that she would use them as rentals. You know that's the thing you have members of the public that you don't know that come and they expect to be in a very safe environment and after the fact unpermitted structure is not the safest for people to be renting. If she was going to live in it, you know, that is one thing but to have members of the public that you don't know that come for a short-term rental that is my problem with this and also two stories you know. I want to it, if we approve this, it should be a -- not a short-term rental but a regular house, a residence for long term. But she already has a short-term rental agreement; is that what she's kind of approved for?

MR. YUTZY: Yes, Chair, Commissioners, yes, she has a permit to rent the upstairs unit as a short-term rental.

MEMBER GONZALES: Okay, thank you. Those are my comments.

MEMBER PIERARD: We've already heard a lot of these. Every time someone comes in for the short-term rental certification, how many times has this happened? So what I'm concerned about is us being consistent as a board on these because they all they're all the same but all a little different. So this is going to keep happening as people come in for these certifications.

MEMBER TRUJILLO: Yeah, and, Mr. Chair, I think and this question for staff so if somebody comes in for an after the fact permit, I don't believe that CID will take that case because they will not -- because they didn't have the reason for inspecting it

from finish to start, it's actually the County that is the one issuing the ATF. So there's no they will not come in and give an occupancy permit for that; is that correct?

MR. YUTZY: That is my understanding. The CID is very restrictive on what they'll inspect for after the fact. It depends on the structure and the use and it usually I a lot of work on the property owner. It's opening walls up. It's potholing around the foundation. It's getting the sewer line scoped. It's a lot of work that CID doesn't enforce. So it depends on the usage. But we've noticed with most residential after the fact permits that CID is not doing inspections or issuing a certificate of occupancy or anything.

MEMBER TRUJILLO: So, Mr. Chair, so Ms. Strieker has already approved for the main home and one accessory dwelling to be used as short-term rental. But as we talked earlier the remedy the Chairman asked, they said that she's have to she'd have to turn the upstairs into to storage but it currently sounds that's what she's using as the short-term rental.

MR. YUTZY: So one option would be to turn the bottom into storage and remove the livable fixtures out of there.

MEMBER TRUJILLO: Thank you.

MEMBER BRUGGER: Mr. Chair. I just want to add onto what Commissioner Gonzales had mentioned that if this were to be presented as an accessory dwelling unit request which I guess it's Not, then it wouldn't meet the requirements of code due to the height limitations and the square footage limitations. If it's being presented as two homes on one lot, then it's just a matter of a density variance which would have to meet and not be negative to the public purpose and be an extraordinary condition.

And although what was disclosed to you, Ms. Strieker, at the time of the sale is really fortunate at least in my mind it doesn't represent extraordinary condition that furthers a public interest. Thank you.

CHAIR AABOE: Commissioner Pava.

MEMBER PAVA: So this is a quasi judicial hearing and this can be appealed to – if we deny this, could Ms. Strieker appeal this to the County Commission?

MR. YUTZY: Chairman, Commissioners, yes. Any decision made on behalf of the Planning Commission can be appealed to the Board of County Commissioners.

MEMBER PAVA: Which would be a good place to air my fellow commissioner's concerns about the real estate community's inability to comprehend the Sustainable Land Development Code. Thank you.

CHAIR AABOE: Any other Commissioners? Thanks very much. Again, I want to talk about the future if this case, this variance request were to be denied. I just want to elaborate a little bit more. So if this were to be denied, the building currently exists. There is a temporary short-term rental permit that evidently needs to be either re-uped every year or that was a one-time until issues with the property were resolved; how does that work?

MR. YUTZY: It is issued for one year. If they are still going through the process and it's not a delay on their end that they haven't finished the process, we will renew it for you know 3 months, 6 months. But since she has gone through the process if the variance is denied her short-term rental permit will not be renewed.

CHAIR AABOE: Okay, and in that case, she has a home and she has a two-story structure that is built the way it's built whether it's safe or not, it's built the way it's built. But it would not be possible for anyone to live in that structure. The plumbing fixture and things would need to be removed from both top and bottom so that it would turn into an auxiliary structure rather than an ADU. I'm just trying to game out what the future would be if we were to deny this application.

MEMBER PIERARD: So I didn't understand it that way. I thought that if we would deny it then one of the two stories would have to be converted to something other than a dwelling unit.

MR. YUTZY: If it was denied one of the two stories would have to go away. Staff would work with her to allow her to keep one of the stories –

CHAIR AABOE: Excuse me. One of the two stories would have to go away means the plumbing and the plumbing fixtures would need to be removed from them because they wouldn't actually go away.

MR. YUTZY: Yes, yes. They could not be livable space.

CHAIR AABOE: Okay so it would so if and I'm sorry for diving in but we're trying to understand and this is a difficult situation. So if I'm an Airbnb user and I'm able to rent the top or the bottom story of this place with a non-livable space in it there couldn't be a gym in there or something like that. What are the limitations on the use of that space with the plumbing removed? And I'm sorry to go down these rabbit holes but they keep digging these rabbit holes for us.

MR. YUTZY: Chair, Commissioners, I am envisioning a storage space.

CHAIR AABOE: Thank you. Commissioners, does anyone have a motion?

MEMBER PIERARD: Okay, I motion to approve the variance for case 24-5310. Which would allow two primary residences on the parcel for three – the variance is to allow three dwelling units on the parcel. That is the motion.

MEMBER TRUJILLO: I'll second it.

CHAIR AABOE: We have a motion and a second. Is there any discussion? I'm imagining that we should take a roll call vote on this.

MR. YUTZY: Chair, before you take a vote. Can we add subject to conditions?

CHAIR AABOE: Does the mover and the seconder agree to all the staff conditions are included in that motion?

MEMBER PIERARD: Yes, all of the staff conditions will be included.

MEMBER TRUJILLO: Yes.

CHAIR AABOE: Thank you. Roll call vote.

The motion passed by majority [4-3] roll call vote as follows:

Steve Brugger	No
Carl Trujillo	Yes
J.J. Gonzales	No
Jeremy Mier	No
Dan Pava	Yes
Wendy Pierard	Yes
Erik Aaboe, Chair	Yes

CHAIR AABOE: Motion passes. And if I could, I just want to get back on that hobby horse and really urge some kind of outreach to the real estate community or to any online portals just to say, Hey you thinking of buying, it's fun to live here, check with development review and they'll tell you how fun it is to live in this particular property because these things keep happening time after time. It's difficult for all involved. Thank you very much.

ALEXANDRA LADD: Mr. Chair, members of Commission, I have started that conversation with some folks in the real estate community. I think our interactive zoning map makes it a lot easier for realtors to look up basic information about parcels and we didn't have that the time that a lot of these transactions were happening as well.

CHAIR AABOE: Thank you very much. Thank you.

C. Case #24-5260 Loreta Martinez- Cargo Variance Loreta Martinez-Cargo, Applicant, request a Variance of Chapter 8, Section 8.6.3 Table 8-7: Dimensional standards Rural Fringe (RUR-F) to create a Two (2) lot residential subdivision on a parcel of land consisting of 49.11 acres +. The subject property lies within the Rural Fringe zoning district which allows for 1 single family residence per 20 acres. The property is located at 7679 B Old Santa Fe Trail. SDA-2, (Commission District 4) Parcel ID # 405240832. Case Manager Brianna Ortega.

Ms. Brianna Ortega read the case caption and provided staff's report.

MS. ORTEGA: Good afternoon members of the Planning Commission. My name is Brianna Ortega and I am a development review specialist. The Applicant's sister, Maria Martinez, is the owner of the property as indicated by Warranty Deed recorded in the records of the Santa Fe County Clerk on March 2, 2021, recorded as Instrument Number 1945312. Maria Martinez, has granted permission to her sister Loreta Martinez-Cargo to apply for the variance.

The property is accessed off Old Santa Fe Trail. The Applicant is seeking to divide the property into a two-lot residential subdivision, where the applicant is able to get a 3- acre tract and the rest be kept preserved for wildlife. The Applicant is also requesting a variance of density to allow one dwelling unit per proposed lot to be created.

The Property is split between Rural Fringe and Residential Estate. Chapter 8, Section 8.6.3 of the SLDC requires a minimum lot size of one dwelling per 20 acres base density. Chapter 8 Section 8.6.6 of the SLDC requires a minimum of one dwelling per 2.5 acres base density.

There is no permit for the existing residence on the property and it will need an after the fact permit, as well as an additional variance for density, since it is a two-story dwelling. Santa Fe County staff has conducted a site inspection on the property. As part of the conditions of approval, the Applicant will be required to obtain an after-the fact permit for the two-story residence.

The Applicant's response to the variance review criteria is as follows: the Applicant has addressed the variance criteria and staff has responded to the application

comments. Building and Development staff has reviewed this project for compliance with pertinent SLDC requirements and has found that facts presented support request for a variance to create a two-lot residential subdivision on a parcel of land consisting of 49.11 acres. The application satisfies the submittal requirements set forth in the SLDC inclusive of the variance criteria set forth in Chapter 8, Section 8.6.7.

Staff recommendation: the SLDC Zoning has divided this property into two separate density requirements because it is split between two zoning districts. The required density for rural fringe on the northern part of the property is 1 dwelling per 20 acres. As for the southern part of the property which is in residential estate, is one dwelling per 2.5 acres base density. If the entire parcel as a whole was in Residential Estate the applicant would be able to split the property administratively.

Staff believes the Applicant has satisfied the criteria for granting of the requested variance due to split zoning within the parcel and recommends approval of the variance requests. Building and Development Services staff has conducted a site inspection on this property.

On January 9, 2025, this request was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer memorialized findings of fact and conclusions of law in a Recommended Order on this request. The Recommendation of staff and the recommendation of the Hearing Officer, based on the evidence presented, is for approval of the request to allow a variance of density.

Mr. Chair, may I enter the conditions into the record?

CHAIR AABOE: Yes, you may.

Conditions:

1. No further divisions will be allowed.
2. No Additional dwellings will be allowed on these lots.
3. After the Fact permitting for the home will be approved prior to the Variance approval.

MS. ORTEGA: Thank you and this report and the exhibits listed are hereby submitted as part of the hearing record. Members of the Planning Commission, I stand for questions.

CHAIR AABOE: Thank you very much for the presentation.

Commissioner.

MEMBER PIERARD: On this part of the parcel that's they say is going to be for wildlife s a conservation easement going to placed on this property or other sort of easement that would ensure that there would be no development on the property?

MR. YUTZY: Mr. Chair, Commissioners part of the SLDC is open space requirement so you can never develop all of your lot. So that would be one thing for them they could do a conservation easement they could look at doing possible TDRs. But there is an open space requirement as part of the SLDC to ensure that it – it varies from 30 to 50 percent.

CHAIR AABOE: Any other questions? Commissioner Brugger.

MEMBER BRUGGER: Thanks, Mr. Chair. Just following up on the last comment. Then if the applicant/owner came in 20 years down the road with a large lot proposed lot split or minor subdivision, would that be possible?

MR. YUTZY: Chair, Commissioners, one of the conditions of approval is other dwelling units allowed on these properties.

MEMBER BRUGGER: Thank you.

CHAIR AABOE: And no further divisions, I believe.

MEMBER PIERARD: I just have a follow up on the conservation easement. Isn't there some sort of tax break if someone puts their property in an easement?

MR. PRUCINO: I think the answer to that is yes and that's about as much detail as I could give you on the subject.

MEMBER PIERARD: I think there is.

MR. PRUCINO: But if the owners wanted to pursue that, I think certain benefits could accrue to them if something was more formal than just notes on an approved plat, if they were to create a conservation easement or a TDR agreement.

MEMBER PIERARD: Yeah if I remember right there is a some sort of tax break on that.

CHAIR AABOE: Thank you. Any other Commissioners with questions? Commissioner Pava.

MEMBER PAVA: Thank you, Mr. Chair. Questions for staff thank you for the good presentation. The pictures show that there's so there's one dwelling unit on the property and it's two stories; do I have do I understand that?

MS. ORTEGA: Yes, Mr. Chair. Yes, Mr. Commissioner.

MEMBER PAVA: And there's no accessory dwelling unit involved here.

MS. ORTEGA: No.

MEMBER PAVA: And the fact that the building is two stories. is it compliant with the SLDC height restrictions; there's no issue about height here?

MR. YUTZY: Mr. Chair, Commissioners, no there's no concern about height. I think the fact it was two stories was in a report was just to give you some more details about the property.

MEMBER PAVA: Yeah, it's a nice looking structure. Okay, the history on this unit in this case is Staff researched and could find no building permits.

MS. ORTEGA: Yeah, there's no permits on it. The applicant's father created/built the home before he passed and he created it just for the applicant.

MEMBER PAVA: I understand that the uh the property goes back quite a ways with the family.

MS. ORTEGA: Yes.

MEMBER PAVA: Yeah, quite, quite a ways. Okay, thank you that's the end of my questions.

CHAIR AABOE: Thank you any other Commissioners have questions for staff?

MEMBER GONZALES: I've got a question. You know, I read on the thing that there's Rural Fringe and then Residential Estate there was split zoning on the property. So what is going to apply on this property in the entirety? Are you going to let it be Rural Fringe or Residential Estate?

MR. YUTZY: Chair, Commissioners, that's one of the reasons for the variance. The only really way to clean that up would be a zoning map change because the zoning doesn't follow a property line and so the easiest route for this is to ask for the

variance. They could have asked for a zoning change and said that the property was not zoned correctly it should be one or the other, which might have allowed these. But under the SLDC it is very difficult to do a zone change and so this was the easier option.

MEMBER GONZALES: So it's still going to be split zoning.

MR. YUTZY: That is correct. Until the time that a zoning map is cleaned up but this area will be marked for a future cleanup of zoning map.

MEMBER GONZALES: Okay, so in the future when it becomes Residential Estate can they build more houses on that or this variance granting precludes that?

MR. YUTZY: This variance will preclude that because of the conditions of approval.

MEMBER GONZALES: And the other question I have I think is for the applicant as far as how old the house is. You know some of these houses are old they didn't have permits in those days. But I'll ask that to the applicant.

CHAIR AABOE: Thank you. Commissioner Brugger.

MEMBER BRUGGER: Question for staff. In the fire department report it states that fire apparatus access roads shall be provided and maintained; the question is what do we have now and what would the applicant have to do if this were approved?

MR. YUTZY: Chair, Planning Commission, usually that involves making sure the road is wide enough a minimum of I believe it's 14 feet. That it is an all-weather surface at an 80,000 pound fire truck can drive down. And depending on the length of it they could require turnarounds or passing lanes on it.

MEMBER BRUGGER: Thank you.

[Duly sworn, Loreta Martinez Cargo testified as follows:]

LORETA MARTINEZ CARGO: Loreta Martinez Cargo, 27 Little Island Road, Santa Fe, New Mexico, 87505.

CHAIR AABOE: Thank you very much please proceed

MS. MARTINEZ CARGO: Commissioner Gonzales has a question.

MEMBER GONZALES: Oh, yes, I had a question. How old is that residence on the property?

MS. MARTINEZ CARGO: it's 13 or 14 years old.

MEMBER GONZALES: Fourteen years old.

MS. MARTINEZ CARGO: Yes.

MEMBER GONZALES: And who built that?

MS. MARTINEZ CARGO: My father did.

MEMBER GONZALES: Did he have permits for that that you know of?

MS. MARTINEZ CARGO: Well, he was told when he got the license or the permit to dig a well at the office where he got that permit they told him he could build a residence on the property so he built it. He understood that was his permit and it wasn't until we went and got the three acres surveyed by Scott McCloy and went to get that turned in that we found out that everything was a mess and my father's been gone it'll be five years now in April.

MEMBER GONZALES: Well, thank you very much.

MS. MARTINEZ CARGO: And as in reference to the conservation questions, our intent as a family is to keep this land as wild as possible. That was our father's dream. This land has been in our family for many generations. It was from my

great-grandparents and it's just been ours. We've lived there all our lives.

MEMBER PIERARD: That's really nice that he wanted that to happen. You might want to look at the New Mexico Land Conservancy because you can get Federal and tax benefits by putting that land into conservancy which is basically what you want to do.

MS. MARTINEZ CARGO: Yes, absolutely. Thank you for that suggestion, I appreciate

CHAIR AABOE: Vice Chair.

MEMBER TRUJILLO: Mr. Chair, I just, if we approve this variance part of the conditions is that no other there' be no further divisions that would be allowed. And I don't know according to these two different zoning areas if that would ever be a possibility but you understand the conditions of this.

MS. MARTINEZ CARGO: Yes, sir. We actually have spoken to the County about making that part of the agreement that we make with you.

MEMBER TRUJILLO: Great thank you that's all.

CHAIR AABOE: Any other questions from Commissioners?
Commissioner Brugger.

MEMBER BRUGGER: Thank you, Mr. Chair. Ms. Martinez, I just wanted to ask and you've reviewed the conditions of approval as presented by staff that if this were to be approved that there would be after the fact permitting of the structure.

MS. MARTINEZ CARGO: Yes, and I have applied for that. And so it is supposed to be approved as well.

MEMBER BRUGGER: And then the Fire Department conditions it may have some financial obligation on your part to comply with those conditions so you're aware of that. And you would accept that?

MS. MARTINEZ CARGO: Yes, and I did speak to somebody at the Fire Department he said as long as it was a 14-foot wide driveway and an emergency vehicle could make a safe turn around in the area that it would be permitted. So we do have it's a roundabout driveway there's plenty of area for -- I mean UPS trucks everything comes in there and can turn around and get out. So we should be in compliance with that as well.

MEMBER BRUGGER: Thank you.

CHAIR AABOE: Other questions from the Commissioners? Thank you, ma'am. This is a public hearing is there anyone in the audience or online who is interested in speaking either for or against this request?

MR. YUTZY: Chairman, there's nobody online indicating they wish to speak.

CHAIR AABOE: Thanks. Commissioners, may I have a motion?
Commissioner Pava.

MEMBER PAVA: Motion to approve Case 24-5260 with the conditions stipulated in the staff report.

CHAIR AABOE: Thank you. May I have a second.

MEMBER BRUGGER: I'll second that motion.

The motion passed by unanimous [7-0] voice vote.

C. Case # 24-5280 Reyes Huerta (VAR) Variance. Reyes Huerta, Applicant, Vigil Design (Annette Vigil), Agent request a Variance of Chapter 9, Table 9-8-7: Dimensional standards Residential Estate (RES-E) setbacks to allow an accessory structure to encroach within the 50-foot rear setback. The subject property lies within the Residential Estate (RES-E) zoning district within the La Cienega/ La Cieneguilla Community Overlay District which allows for 1 single family residence per 2.5 acres. The property is located at 47 Sunset Road (Commission District 3), SDA-2. Case Manager, Maggie Valdez

[Ms. Valdez introduced herself, read the case caption and provided staff report as follows]

MS. VALDEZ: The Applicants constructed a 30 foot x 70 foot square foot accessory structure that encroached 31 feet into the 50-foot setback without obtaining a development permit from Santa Fe County. The structure does not meet the setback requirements outlined in the Sustainable Land Development Code.

Summary: The Applicant is requesting a variance of Table 9-8-7-C, Setback, to allow a 30 foot x 70 square foot existing accessory structure to encroach on the required 50-foot rear setback. The property lies within the Residential Estate Zoning District RES-E within the La Cienega/ La Cieneguilla Community Overlay District.

The Applicants states, I am asking for a variance for a 30 foot x 70 foot accessory structure that I placed on my property that was not permitted. The area it is on is the only reasonable place to put it due to terrain constraints. If the setbacks variance for the accessory structure is not approved, and we had to tear it down would create a financial burden due to material and timeliness of completing accessory structure.

Building and Development Services staff has conducted a site inspection on this property. Building and Development Services staff reviewed the variance application for compliance with pertinent SLDC requirements and found that the facts presented do not support the request for a variance to allow the accessory structure to encroach into the required setback. Specifically, staff found that there are other buildable areas on the property, and the structure was constructed without permits. The Applicants could have consulted with staff prior to constructing the structure, and staff would have advised the applicants of the setback requirements, thus avoiding this situation entirely. The submittal requirements set forth in the SLDC, inclusive of the Variance criteria set forth in Chapter 9 Section 9.8, Table 9-87.

Hearing Officer meeting: On the January 9, 2025, Hearing Officer's hearing, an individual testified in opposition of the request for the accessory structure 50-foot' setback. The individual believes the garage is intended for commercial activity similar to an automotive repair shop. Another individual spoke in favor stating that a garage will allow him to store his vehicles out of sight. The testimony of this individual is stated in the minutes recorded on January 9, 2025, with the Santa Fe County Clerk's Office

Hearing Officer Recommendation: On January 9, 2025, this request was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer memorialized findings of fact and conclusion of law in a Recommended Order on this request. The Hearing Officer, based on the evidence presented, recommends that the

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application be denied, subject to application does not satisfy the requirements of Chapter 4.9.7.

Recommendation: staff recommends denial of the variance request to allow an existing unpermitted accessory structure to encroach into the required 50-foot setback. The Applicants request for a variance does not meet the criteria for variances set forth in the SLDC. If the Planning Commission recommends approval of this Variance Permit, staff recommends the following conditions. Mr. Chair, Commission, may I enter the conditions into the record?

CHAIR AABOE: Yes, you may.

Conditions:

- I. The Applicant shall obtain a after the fact Development Permit from Santa Fe County for the construction of the existing structure.
2. The Applicant will close off existing driveway and enter at the East side of Sunrise Rd.
3. No further accessory structures shall be allowed on the property.
4. The Applicant will need to follow the Sustainable Design Standards and code requirements found in chapter 7, of the SLDC.
5. The applicant shall obtain a building permit from CID.
6. The applicant shall clean up any debris left behind.

MS. VALDEZ: Thank you. This report and the exhibits listed below are hereby submitted as part of the hearing record. Mr. Chair, Commission, I stand for questions.

CHAIR AABOE: Thank you very much, Ms. Valdez. Commissioners do you have any questions?

MEMBER GONZALES: I've got a question, Mr. Chair.

CHAIR AABOE: Commissioner Gonzales.

MEMBER GONZALES: I saw that the structure is like 2,100 square feet. Is there a requirement that an accessory structure not be like twice as big as the residence on the property? I thought the resident property was about 1,400 square feet. Is there a where you can have a huge accessory? Are there any limits on that?

MR. VALDEZ: The only problem, Mr. Gonzales, that was on the property was just the encroaching of the 50-foot rear setback. I wish I could answer a little bit more but I did not go out to the site to actually look at it.

MR. YUTZY: Chair, Commissioners there's no restrictions on the size of an accessory structure. Only the accessory dwelling units are limited. You can have a 5,000 foot garage and a 1,000 square foot home.

MEMBER GONZALES: Okay that's what I was concerned about. That is an area where there's a lot of congestion.

MR. YUTZY: Yes, when it comes to accessory structures the only requirement of the SDC is that there has to be a primary residence before you can build an accessory structure.

MEMBER GONZALES: Okay, and the other concern I have is "unpermitted" structure you know, that is a huge, seems to be a very large building and it seems to be like a commercial because I saw the diagrams. It was a metal building and it

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seems to have engineering plans and stuff and I was wondering what the situation was on that.

MS. VALDEZ: Mr. Gonzales, right now, whatever I presented is all I know. The only thing I know about it is it's just an accessory structure for Mr. Huerta to park his cars or for whatever else he needs. I'm sorry.

MEMBER GONZALES: I'll ask the applicant those questions.

CHAIR AABOE: Thank you. Does any other Commissioner have questions? Commissioner Brugger.

MEMBER BRUGGER: Thank you, Ms. Valdez. I have a couple of questions. You may not have gone to do a site inspection but I think I read somewhere in the staff report that that in staff's estimation there was another area on the site where this facility could have been placed that wouldn't have been violating the setback requirement; is that true?

MS. VALDEZ: Yes, sir. Mr. Lovato went out to the site and yes he did state that there would have been another area for them to go ahead and place the structure, sir.

MEMBER BRUGGER: Okay. One other question if I may. Is an automobile storage facility a permitted use in this zone?

MS. VALDEZ: I can't answer that question right now for you, sir. Maybe Mr. Yutzy can.

MR. YUTZY: Chair, Commissioners, automobile storage this is for personal use and so it would be allowed. If you if you're asking can he run an automobile business out of there, I would have to look that up for you.

MEMBER BRUGGER: Thank you.

CHAIR AABOE: Any other questions Commissioners? I have a few. Ms. Valdez, how did the County become aware of this? Was there a complaint or –

MS. VALDEZ: Yes, sir. My understanding was that code enforcement was called out to the area.

CHAIR AABOE: Thanks and after determining that a permit was not issued, it looks like there was a stop work order and the roof is not completed. Is that still what it looks like? The photographs look like it was not finished.

MS. VALDEZ: Yes, sir that's correct. He hasn't uh done anything else to the structure.

CHAIR AABOE: Okay, thank you very much. Any other questions of staff? Oh, Jeremy.

MEMBER MIER: Is there a slab for the carport that's already been poured?

MS. VALDEZ: I can't answer that question, sir. I didn't go out to the site. I apologize.

CHAIR AABOE: I think if you look at Exhibit C, it appears there is a slab. Any other questions of staff? Commissioner Brugger.

MEMBER BRUGGER: Thank you, Mr. Chair. Are there other similar accessory structures of this size in this area, immediate area?

MS. VALDEZ: Yes, sir. I would say so.

MR. YUTZY: Mr. Chair, Commissioners, yes, it appears that there looks like there is actually a tennis court across the street from this house.

MEMBER BRUGGER: An abandoned tennis court.

MR. YUTZY: Yes.

CHAIR AABOE: Any other questions. Thank you, Ms. Valdez. Is the applicant here?

MS. VALDEZ: I think they were going to be calling in.

CHAIR AABOE: Okay, is the applicant available online?

MR. YUTZY: Mr. Chair, there is currently nobody online.

CHAIR AABOE: Okay is there anyone here from the public, this is a public hearing, is there anyone here from the public who would like to speak in favor of or in opposition to this request? Hearing none let's close the public hearing portion. Commissioners?

MEMBER PAVA: Motion for denial in Case 24-5280.

CHAIR AABOE: Is there a second.

MEMBER TRUJILLO: Second.

CHAIR AABOE: Motion from Commissioner Pava and second from Vice Chair Trujillo. Yes, Commissioner Gonzales.

MEMBER GONZALES: What I read in the presentation was, we had several letters of opposition to this and the people that wrote these letters they mentioned that they had built accessory structures and that they had to go through the building process in order to get them approved. And they mentioned that they could have built in a certain location but when staff went out there, staff told them that you had better move it to another location and it would have cost them extra money. So I think there were two or three letters that said they build accessory structures with permits and they complied with County regulations and some of the other letters said that they were very concerned about a building without a permit. That was the situation on that. So that's the only points that I want to make is that residents there even though they are not here today, they did send in letters. With that, that's my comment.

MEMBER PIERARD: I did have one other question.

CHAIR AABOE: Yes, Commissioner.

MEMBER PIERARD: I did have one extra question. Were the two driveways the new driveway that that he created into this area, was that, would that be if it was approved, they couldn't use that driveway.

MS. VALDEZ: Yes, ma'am. The other one would have been closed off and then the driveway that you're looking at would be the one that they're accessing and that was brought up by roads from Mr. Martinez.

CHAIR AABOE: Vice Chair Trujillo.

MEMBER TRUJILLO: Mr. Chair, just a question here for staff, because I see here that it appears to me that in this area, the zoning area allows 2.5 acres or the zoning is for 2.5 acres in this particular area for a home and an accessory dwelling or an accessory structure. Is it 2.5 acres in this area?

MS. VALDEZ: Yes, sir.

MEMBER TRUJILLO: It is?

MS. VALDEZ: Yes, sir.

MEMBER TRUJILLO: So it appears to me here after looking at this property that it's currently 1.25 acres so they must have purchased the property before the

Sustainable Land Development Code was put into place. So had they come in for a permit they were probably going to be denied wouldn't it be or is there a limit on the accessory structures?

MR. YUTZY: Chair, Commissioners, as long as they can meet the setbacks they are not denied. We do not deny for ADUs or accessory structures if you can meet the setbacks and requirements for the structures.

MEMBER TRUJILLO: Even if your property is less than the required.

MR. YUTZY: That is correct. The property size only accounts for the number of dwelling units allowed on the property.

MEMBER TRUJILLO: So if they had come in they would have been granted a permit as long as they met the setbacks?

MR. YUTZY: That is correct.

MEMBER TRUJILLO: Thank you.

CHAIR AABOE: I have a question. It's the question I always ask. If this variance is denied the half-built structure currently exists; what will be the disposition of that? Does the County have – is it a requirement to remove? I am just trying to understand if somebody is out of compliance and this variance is denied, what happens to that half-built three-car garage?

MR. YUTZY: So in this instance it is a little bit different than a normal one because Code Enforcement is involved. So if the variance is denied and the applicant chooses not to appeal the denial to the Board of County Commissioners, the case now will be turned back over to Code Enforcement to get compliance. Which would be they can voluntarily comply and move the structure or we will take them to court and have the structure -- an order to move the structure or we can, the County can go as far as to get injunctive relief against the property owners and the County goes and moves the structure.

CHAIR AABOE: Got it. So there is a mechanism through the district court process for enforcement of this. Okay, thank you very much.

So we have a motion and second. Is there any further discussion from Commissioners? Let's do a roll call vote please.

The motion passed by unanimous [7-0] roll call vote as follows:

- Steve Brugger Yes
- Carl Trujillo Yes
- J.J. Gonzales Yes
- Jeremy Mier Yes
- Dan Pava Yes
- Wendy Pierard Yes
- Erik Aaboe, Chair Yes

CHAIR AABOE: Thank you very much and I appreciate the work.

D. Case# 24-5300, James C. Portillo II and Miguel L Portillo, Applicants, requests a variance of Chapter 8, Section 8.6.6 Table 8-10: Dimensional standards Residential Estate to create a Two (2) lot residential subdivision on

a parcel of land consisting of 2.5 acres +. The subject property lies within the Residential Estate zoning district which allows for one-single family residence per 2.5 acres. The property is located at 11 Calle De Portillos. SDA-2, (Commission District 5) Parcel ID. # 99312545.

[Kenneth Quintana, Review Specialist, read the case caption and provided the staff report as follows:]

KENNETH QUINTANA: The Applicants met with staff to submit an application to allow the property to be split into two lots, each containing 1.25 acres each. The Applicants are requesting a variance of Chapter 8, Section 8.6.6 Table 8-10: Dimensional standards Residential Estate to create a two-lot residential subdivision.

The Applicants states that his grandparents gave him and his brother a 2.5-acre lot to split to have the ability to establish a residence each. The Applicants are planning to utilize a shared well between both lots.

The Applicants have addressed the variance criteria as detailed in the memo. Hearing Officer recommendation: On January 9, 2025, this request was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer memorialized findings of fact and conclusions of law in a Recommended Order on this request. The Hearing Officer, based on the evidence presented, recommended denial of the request to allow a variance of Chapter 8, Section 8.6.6 Table 8-10: Dimensional standards Residential Estate to create a two- lot residential subdivision.

Staff recommendation: Building and Development staff has reviewed this request for compliance with the pertinent SLDC requirements and has found that the facts presented do not support the request for a variance. The use and the impact adjacent uses and no extraordinary or exceptional conditions of the land exist. Staff recommends denial of the request for a variance of Chapter 8, Section 8.6.6 Table 8-10: Dimensional standards Residential Estate to create a two-lot residential subdivision on a parcel of land consisting of 2.5 acres.

If the Santa Fe County Planning Commission finds that the application has met the variance criteria and recommends approval of the variance, staff recommends the following conditions be imposed. Mr. Chair, may I enter these conditions into the record.

CHAIR AABOE: Yes, you may.

Conditions:

1. Applicant shall comply with Fire Marshall Conditions of Approval.
2. Once these lots have been Platted, no further divisions will be allowed.
3. Accessory Dwelling Units on these lots shall be prohibited and noted on final plat.

MR. QUINTANA: Thank you, Mr. Chair. I stand for any questions.

CHAIR AABOE: Thank you. Commissioner Gonzales.

MEMBER GONZALES: I've got a question for Kenneth. Have you been out to the property to do a site inspection on that?

MR. QUINTANA: Mr. Chair, Commissioner, yes, I have been out to the site for inspection during the original split of this property staff performed a site inspection of the road to ensure compliance.

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MEMBER GONZALES: Was that the access road that they constructed?

MR. QUINTANA: Mr. Chair, Commissioner that is correct.

MEMBER GONZALES: Okay. I wonder what else did you see out there? Are there any dwellings in that area on the property that was split up?

MR. QUINTANA: Mr. Chair, Commissioner, there are no existing residences on this property. No improvements other than the road itself.

MEMBER GONZALES: And when were these lots split with the grandfather to the grandkids?

MR. QUINTANA: Mr. Chair, Commissioner, there lots were created in August of 2024.

MEMBER GONZALES: Okay, and those lots were deeded to the to the applicants?

MR. QUINTANA: Mr. Chair, Commissioner, that is correct.

MEMBER GONZALES: Okay, thank you.

CHAIR AABOE: Any there questions from Commissioners for staff? Commissioner Brugger.

MEMBER BRUGGER: Thank you, Mr. Chair. Mr. Quintana, one of the exhibits we have in the staff report is a survey plat, small lot family transfer land division for Arthur and Nancy Portillo hat was done in 2000. And I guess that created, if I understand it right, the smaller lots one and two that's on the survey plat. I thought I read somewhere in the staff report that there was a small family transfer program before but there isn't now. Was I mistaken or is that –

MR. QUINTANA: Mr. Chair, Commissioner, you are correct. Under the previous ordinance prior to 2016 Ordinance there was the small lot family transfer which allowed individuals to go half the size of the zonings that they were located in. In the 2016 ordinance the family transfer did carry over; however, you have to comply with the zoning that you're located in.

MEMBER BRUGGER: Thank you.

CHAIR AABOE: Any further questions from Commissioners? Oh, yes, Commissioner Brugger, sorry.

MEMBER BRUGGER: Thank you, Mr. Chair. Have you received comments from the adjacent land owners on this application?

MR. QUINTANA: Mr. Chair, Commissioner, I have received no comments of opposition nor in favor, However, during the public hearing for the Hearing Officer there were individuals who spoke in favor for this application.

MEMBER BRUGGER: Okay. And one last question if I could. Have similar density variances -- I'm a new commissioner so I wouldn't know – have similar density variances related to family transfers been approved in this area recently?

MR. QUINTANA: Mr. Chair, Commissioner, for the area, this is the first that I have brought forward.

MEMBER BRUGGER: Okay, thank you.

CHAIR AABOE: Commissioners any other questions of staff? Thank you very much Kenneth. Is the applicant present please be sworn in.

[Duly sworn, James & Miguel Portillo were duly sworn and testified as follows:]

JAMES PORTILLO: James Portillo, 90 North Fork, Santa Fe, New Mexico, 87508.

MIGUEL PORTILLO: Miguel Christopher Portillo, Santa Fe, New Mexico, 90 North Fork, 87508.

JAMES PORTILLO: Thank you very much, Mr. Chairman and Planning Commissioners. My name is James Portillo and this is my brother Miguel Portillo. We are co-owners of our 2.5 acre lot located at 11 Calle Portillo, Santa Fe County. We were gifted this undeveloped 2.5 acre lot by our grandparents Arturo and Nancy Portillo with their plan for each of us to have an 1.25 separately owned and have the ability to establish a residence.

My grandparents bought and have owned 15 acres in this particular since approximately 1980 where my grandma still resides to this. Last year, my grandparents subdivided their remaining 7.5 acres and they generously gifted my brother and I 2.5 acres. Their intention was to keep us as a family close-knit and obtain a residency close to one another. This particular zoning code where my property lies has proved many hardships for my brother and I as co-owners who are eager to develop and have a residence of our own.

Granting this variance would enable each of us to secure individual loans and develop our own residence thereby fulfilling our grandparents vision of having their family close by. We believe granting this variance would not only benefit us but also align with the community's development goals by allowing young local residents the opportunity to stay here in Santa Fe and contribute positively to the area. Being that our parcel is co-owned the zoning code in this particular area only allows for one main house and one guest house. The guest house only being half the size of the main house. If granted this variance will allow my brother and I to individually have an adequate sized house that fits both our individual family's needs. In the same manner, if granted, this variance will enable each of us to manage our own individual electric bills which is much more practical and fair. As co-owners of this parcel having one combined electricity bill for a potential two households can lead to confusion and potential disagreements over usage and payments.

By granting this variance we can ensure a clear accountability and financial Independence for each household making it easier to budget and manage our expenses effectively. My brother and I both plan to share one water well for the combined 2.5 acres. We understand the importance of maintaining the character and integrity of the Turquoise Trail District in Santa County and are committed to ensuring that any development on our property adheres to these principles. We are more than willing to address any concerns and to ensure that our plans are in line with the County standards.

We established easement access this past year. We spent almost \$12,000 on the easement access road to be built. We put in 240 tons of basecourse for the road. We had to rent graders backhoes, dump trucks and compactors as well as spend money on fuel for these machines and water to compact the road. Granting this variance will allow us to use the road that we worked hard to put in.

I'm 20 years old and my brother is 22 and we still live with our dad and we are eager to have a place of our and this is our opportunity to do so. As we all know it's very hard to obtain a residence here in Santa Fe. A lot of homes go for 5, \$600,000 plus

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and a lot of young local residents, like us, are having to move to Albuquerque, Bernalillo and Rio Ranch. For us, we want to stay here in Santa Fe where we were born and raised and utilize the property that my grandparents gave to us to our full potential.

My grandpa died this past year and before he passed away he was able to get out to the property and see the progress that we've made and he was very pleased with that.

I also work for the Santa Fe County Fire Department as a full-time career firefighter and one of the reasons why I chose the County Fire Department was to serve the community where I grew up in. My brother is a City of Santa Fe Animal Control Officer and allowing us to stay here in Santa Fe and granting this variance will allow us to positively contribute to Santa Fe where we grew up.

To my knowledge, there hasn't been one of my neighbors out of the 20 that I had to send um notices to within 500 feet that have come forward to dispute my request and application. Also, my brother and I have no intentions of selling this property down the road. If this gets approved this property has a lot of meaning and significance to us and that is why we are fighting so hard for both of us to be able to utilize this property to its full potential that my grandparents intended it to be. This will be my forever home.

We have been compliant with everything that the County has requested of us. By granting this variance it allows us o maintain a family-oriented nature of our property while adhering to the community's development goals. By subdividing the lot we are not only preserving the historical and family significance of the land but also contributing positively to the local community allowing young residents like ourselves to stay here in Santa Fe.

In the letter that we received from Hearing Officer after the last meeting it stated the application and testimony do not set forth any extraordinary and exceptional situations or conditions of the property to justify granting the variance. Mr. Chair and Planning Commission, everything I have mentioned my brother and I both feel are very much extraordinary and exceptional conditions in this situation. Thank you for your time.

CHAIR AABOE: Thank you. Yes, Vice Chair Trujillo.

MEMBER TRUJILLO: Thank you, Mr. Chair. Thanks for that presentation you did a great job. So who is Arthur and Nancy Portillo? Who is that in relationship to you?

JAME PORTILLO: That is my grandparents.

MEMBER TRUJILLO: Okay. So he granted this easement through his property of this road that you've already placed in there and currently this parcel of land that's 2.5 acres, it's deeded to the two of you as one parcel or how is it currently deeded?

JAMES PORTILLO: Correct, we are co-owners for the 2.5 acre parcel.

MEMBER TRUJILLO: Okay, so, Mr. Chairman, if we approve this variance and this is a question for staff, if it's approved then they can then come in and deed each 1.25 acre lot under each of their name; how does this process work?

MR. YUTZY: Mr. Chair, Commissioners, that is correct. I think it would be a quick claim deed of some sort and that would change it into two owners on two separate lots.

MR. QUINTANA: Mr. Chair, Commissioner, if I may. If the variance is approved they will go through and replat this land and during the replatting phase they

will create new deeds of transfer to their each individual names however they choose by quick claim warranty deed/special warranty deed.

MEMBER TRUJILLO: Okay, thank you for that answer. Mr. Chairman, that was all of my questions.

CHAIR AABOE: Thank you any other Commissioners have questions? Commissioner Brugger.

MEMBER BRUGGER: Thank you, Mr. Chair. Mr. Portillo, if I remember right, on both sides of your subject property, your grandfather deeded lots, 2.5 acre lots, to other family members; is that correct?

JAMES PORTILLO: That's correct.

MEMBER BRUGGER: And that's still vacant land, correct?

JAMES PORTIFILLO: That's correct.

MEMBER BRUGGER: You mentioned that you had no intention of selling this property and that this will be your forever home – for just from what I understand anecdotal, some folks would worry that you would just list it with a realtor and sell it. So you're saying that that is not your intention. That you would be using this property build your own homes; is that correct?

JAMES PORTILLO: That is correct.

MEMBER BRUGGER: Any idea in your dreams when you would initiate this process?

JAMES PORTILLO: I'm hoping within the next year To establish a residence for my fiancé and I.

MIGUEL PORTILLO: Commissioner, for myself, I would be hoping within the next five years or so.

MEMBER BRUGGER: Thanks.

CHAIR AABOE: Thank you. Commissioner Gonzales.

MEMBER GONZALES: Yes, I've got a question. I read in the report that both of you live with your father.

JAMES PORTILLO: That's correct.

MEMBER GONZALES: How long have you lived with your father? All your life?

JAMES PORTILLO: Just about.

MEMBER GONZALES: Just about. Well, that's commendable that you are in this area. And how many uncles and aunts live in that area? I saw it was this was the Portillo compound or subdivision or something and all the names on the on the on the little surveys that I saw were all mostly Portillos; are there anybody else that's not a Portillo in that area?

MR. PORTILLO: There's a couple, Commissioner. But there's numerous family members as far as immediate family. My grandma still resides within 500 feet of our property as well as my father and my uncle and the lot to my left and our right that is next to us is both family-owned as well.

MEMBER GONZALES: And how long have you worked for the Fire Department?

MR. PORTILLO: I just hit three years.

MEMBER GONZALES: And Miguel, how long have you worked for the City Animal Control?

MIGUEL PORTILLO: Approximately two years, sir.

MEMBER GONZALES: How many?

MIGUEL PORTILLO: Two years.

MEMBER GONZALES: Two years.

MIGUEL PORTILLO: Yes, sir.

MEMBER GONZALES: My opinion is that we need young people like this to be in our community and you know housing expenses are and property is very expensive. Housing is very expensive. Not only that, there's a critical shortage of affordable houses in this area. And I applaud that you're trying to stay in this area and work within the Santa Fe County community. Thank you.

MR. PORTILLO: Thank you.

CHAIR AABOE: Vice Chair Trujillo.

MEMBER TRUJILLO: Mr. Chairman, I have one question for the two applicants. So if we approve this variance and the conditions – the first two, well, actually it already sounds like you already applied with the first one. And the second one would be pretty easy but the third one, more importantly to me anyways, just so that you have an understanding; it says that an accessory dwelling unit on these lots shall be prohibited and noted on the final plat. And so do under the current code it allows a home of a certain size that you build an accessory structure, I mean dwelling which has a kitchen and somebody can functionally live in it as long as it's half the square footage. Are you aware that you're giving up that right in this or do you have any objection to that?

MR. PORTILLO: I am aware of that and I don't have any plan of building a secondary dwelling for someone else to live in. It's strictly going to be for my family and I. The most I'd want to do is put a small shed or garage of some sort but that's about it.

MEMBER TRUJILLO: Okay. The reason why I say that is that I took the benefit of that in the Pojoaque Valley when I needed to have my mom or dad come live in a casita. I was able to build an accessory dwelling on that property. So I just want to let you know that you know time evolves and you never know what situation you're going to be placed in. But if you're okay with the condition I just want to let you know that. I was just wanted to hear what your thoughts were.

CHAIR AABOE: Any other Commissioners with questions?
Commissioner Pava.

MEMBER PAVA: Yeah I just want to thank the brothers for their presentation and the clarity and clarifications that you made. You presented compelling statements both in the record to the Hearing Officer and in the staff report. And I would maintain that when I look at the variance conditions that the extraordinary conditions in this particular case on this property, we have a housing affordability crisis in Santa Fe County and in the City our current new planning director knows that very well having been the affordable housing planner for the city, we all know that. We read about it every day. I don't see that this is in any way contrary to the public interest nor do I see that it is – actually I see that it is in keeping with the spirit of the Land Development Code and more specifically the Sustainable Growth Management Plan which is the resolution that provides the overarching spirit for why we do these things and that's why we're a Planning Commission. So I appreciate my Planning Commissioners colleagues'

questions on this. This is a difficult one but this is why we're here as a Planning Commission.

CHAIR AABOE: Thank you, Commissioner Pava. Yes, staff.

MR. YUTZY: Chair, Commissioners, I just want to follow up on what Commissioner Pava said, the code doesn't allow us to support variances but this would be a variance that the staff would support with the condition of no accessory dwelling units on there. Essentially, we are allowing them to put two homes on there. If they didn't split it they would be allowed two dwelling units. So it's an even split without adding additional homes to it. So if we had criteria that would allow us to support variances, this would be one that we supported.

CHAIR AABOE: Thank you very much. Any other questions of Commissioners? I have just one question. The immediately to your east is owned by Carlos and Marcos Portillo. Are those your cousins?

MR. PORTILLO: That's correct.

CHAIR AABOE: Are they in a similar situation? So – I think folks inheriting joint properties can lead to issues like you guys have faced. Do you know what their intentions are?

MR. PORTILLO: I believe they are down the road wanting to do the same thing. From what they've told me and my understanding is they don't have any intention of doing that in any near future. But they want to do so eventually down the road.

CHAIR AABOE: Okay, thanks. I just want to you know – the land of Portillos here.

MR. PORTILLO: Yeah, they're just waiting to see what happens here.

CHAIR AABOE: Thanks very much and I just do want to again echo that I appreciate you guys coming in and figuring out what the rules are to play by those rules. So thank you very much. Yes, Commissioner Brugger.

MEMBER BRUGGER: Thank you, Mr. Chair. Just one more question. So if this variance is not approved, what would both of you do with the property?

MR. PORTILLO: I would petition it and go to the BCC and present this case in front of them and if not, from my understanding, I can take it to magistrate court and continue fighting it until it'll hopefully work out in my favor, in our favor.

MEMBER BRUGGER: That sir, is an honest answer. Appreciate it. Thank you.

MR. PORTILLO: Yes, sir.

CHAIR AABOE: It's better than a game of cards. This is a public hearing and I'm wondering if there is any one in the audience or online who is interesting presenting in opposition or in favor of this request?

MR. YUTZY: Chair, there is no one online indicating that they wish to speak.

CHAIR AABOE: Thank you. Yeah, I don't see – oh, sir, you're interested in speaking. Please.

[Duly sworn, Paul Portillo, testified as follows:]

PAUL PORTILLO: 1611 Ben Hur Drive, Santa Fe, New Mexico, 87501. Good evening, Mr. Chair, Commissioners. You know I'm the nephew or the uncle to James Junior and Miguel Portillo. And you know this was something that my family has

envisioned, you know, my mom and my dad, with keeping the family together, okay. And you know and I'm sure there's probably some questions about you know one of them was, you know, the cousins to the left but, you know, this is a really, really strong knit family and like my nephew pointed out before, it's very hard to get affordable housing here in Santa Fe and that's one thing that my parents recognized and they wanted to you know help them to be able to stay here in Santa Fe closer to the family. Okay. And I think pretty much what I was going to say nephew brought that up so I don't think I need to speak anymore other than you know I respect respectfully request, you know, that you guys do approve this variance. And thank you for your time.

CHAIR AABOE: Thank you, Mr. Portillo. Anyone else wishing to speak on this? Okay, so we'll now close the public hearing and – oh, there is another person. I'm sorry.

[Duly sworn, Arthur Eugene Portillo, Jr., testified as follows:]

ARTHUR PORTILLO: I'm known as Gene Portillo, 86 North Fork, Santa Fe, New Mexico, 87508.

Good afternoon good evening, Commissioners, Commission, I just wanted to state, like I said, my nephew did state everything that we were going to say and I just wanted to reiterate that I'm a 25 year County employee and I just retired two years ago from here. I was a code enforcement officer inspector, and I know the job well and I know the County well. And our family is stuck here and we want to stay together and that's the whole reason why my parents, like he said, envisioned us to keep the property and everything together, all the family together. And it's just something that we want to, you know, grant his wish and keep everything together. And if you approve this it would just help. My sons are involved as well. That's the property that you spoke of Carlos and Marcos Portillo they have the property next to them as well and down the road they're going to -- they're not prepared to do any of that right now. They're still, you know, living with us and we help each other out. But eventually they are going to want to do something on their own. But it's still way out of the way. That's pretty much all I wanted to say. Thank you for your time and appreciate it.

CHAIR AABOE: Thank you, Mr. Portillo. Is there anyone else who would like to speak either in favor of or in opposition to this variance request? Please be sworn, thank you.

[Duly sworn, James Portillo, testified as follows:]

JAMES PORTILLO: My name is James Portillo. I live at 90 North Fork, Santa Fe, New Mexico, 87507.

Good afternoon, Commissioners, my James Portillo. I live at 90 North Fork in Santa Fe County neighbors to James and Miguel Portillo. I am in favor of the subdivision of the 2.5 acre lot. As we all know it is very costly to live and raise a family, as my son said earlier, in today's world and these young men want to reside on the property their grandparents gifted to them, as they did for me and my brothers and our families with hopes to keep us all united on one family property. Now my sons, James and Miguel, have that same opportunity to do the same with their lives and families in the future.

As we know, like I said, it's very costly to live in Santa Fe whether you buy or rent it's outrageously expensive. They have a great a great opportunity to remain in Santa Fe County where James is a first responder, as he said, and Miguel is with the

animal control for the City of Santa Fe. Rather than them moving and living elsewhere, you know, where it's more affordable they would like to stay here. Let's see. The family has worked very hard and invested a lot of money and time to get to where it's at right now with construction of the roads, the surveys, etc. The unity of our family staying together was very important to my parents especially now since my dad passed away December 20 of 2024. Our mom isn't here because she -- I'm here speaking on her behalf because she had a slight accident she's not able to move very well, but she is in favor of this variance as well in the subdivision as a grandparent who gifted this land to them, to her grandsons.

CHAIR AABOE: Thank you very much, sir. Does anyone else in the audience or online interested in speaking in favor or in opposition to this variance request? I will now close the public hearing.

And Commissioners, what is the will of the Commission?

MEMBER TRUJILLO: Mr. Chair, I just have a have a little bit of discussion here, just quickly.

I know the applicant, I know the third staff recommendation is no accessory dwelling. I just want to point out is that down in the Pojoaque Valley it was zoned at 3/4 of an acre and they do allow accessory dwellings and I put an accessory dwelling on my property for both my mom and my father because time goes on. And once you give up that right you give up that right. And so now I look at the density down there where you're residence and an accessory dwelling on 3/4 of an acre and this land is still 50 percent larger. And it doesn't influence the integrity of the neighborhood for these long-standing families and it helps our family out a lot. And so if this is a family that's really sticking together and has that intention, and it sounds like it. I feel that once you've given that up it never comes back and as they come to do these other properties at some point, and it sounds like they will, but that's just my feeling. I just wanted to share that I certainly support this variance but I do have heartburn with that number three only because I know these gentlemen are young and they look at it from solely from these eyes at this point but at one point 30 years goes very quickly and their parents have aged and maybe they need a hand or something along those lines and so that's the part I have a little heartburn with. Thank you, Mr. Chair.

CHAIR AABOE: Thank you any other comments from the Commissioners? Commissioner Mier.

MEMBER MIER: We could have a motion that removes item 3, would that be something that we could do?

CHAIR AABOE: Any other comments from Commissioners; Commissioner Brugger.

MEMBER BRUGGER: Thank you, Mr. Chair. Just a comment that this case, for me, this is tough. The testimony is compelling. The code is the code now and there's a reason that staff's recommending denial and the Hearing Officer recommended denial following that code prescribes. To me one other factor that's relevant to me is that there used to be a small lot family transfer program and if I understand correctly it went away when the SLDC was approved. So there used to be but there isn't now. And it's hard sometimes to follow all these things approval of a plan or a code as they go through. So it may not have been noticed but that's pertinent. That's all I've got.

CHAIR AABOE: Thank you, Commissioner. Any other discussion or what's the will of the Commission?

MEMBER GONZALES: Mr. Chair. On case # 24-5300, James C Portillo and Miguel Portillo, applicants, I move to approve this variance.

CHAIR AABOE: Is there a second?

MEMBER TRUJILLO: Mr. Chair, I'd like to add an amendment to that. It's a friendly amendment. And that would be staff conditions both #1 and #2.

CHAIR AABOE: So you would like to amend the motion to remove the no accessory dwelling units.

MEMBER TRUJILLO: Remove condition #3. A motion was made without any staff recommendations. So I'm adding staff recommendations 1 and 2.

CHAIR AABOE: So you're requesting to amend the motion? So do we have a second to the request to amend the motion made by Commissioner Gonzales.

MR. PRUCINO: It could be considered a friendly amendment if Commissioner Gonzales accepts it as such. If he doesn't –

CHAIR AABOE: Commissioner, will you accept this as a friendly amendment?

MEMBER GONZALES: I will accept that as a friendly amendment.

CHAIR AABOE: So the motion as it exists is to approve the variance striking condition 3 but imposing the other conditions from staff. Is there a second for that amended motion?

MEMBER PIERARD: I will second.

CHAIR AABOE: Thank you. Any discussion? Let's get a roll call vote please.

The motion passed by unanimous [7-0] roll call vote as follows:

Steve Brugger	Yes
Carl Trujillo	Yes
J.J. Gonzales	Yes
Jeremy Mier	Yes
Dan Pava	Yes
Wendy Pierard	Yes
Erik Aaboe, Chair	Yes

CHAIR AABOE: The variance request is approved. Thank you very much for presenting.

5. **Petitions from the Floor** - None were presented.

6. **Matters from the Commission**

Mr. Yutzy said the special meeting minutes regarding the AES request will be emailed to the Commission tomorrow. The final order on that case will be on the March agenda.

- 7. Communications from the Attorney - None were presented
- 8. Matters from Land Use Staff - None were presented
- 9. Next Planning Commission Meeting: March 20, 2025
- 10. Adjournment

With no further business to come before this Commission, Chair Aaboe declared this meeting adjourned at approximately 6:00 p.m.

Approved by:



Erik Aaboe, Chairman
Planning Commission

ATTEST TO:

KATHARINE CLARK
SANTA FE COUNTY CLERK



Submitted by:


Karen Farrell, Wordswork

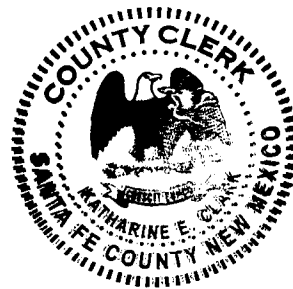
COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

PLANNING COMMISSION MI
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I Hereby Certify That This Instrument Was Filed for
Record On The 4TH Day Of April, 2025 at 02:55:02 PM
and Was Duly Recorded as Instrument # 2056239
of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Katharine E. Clark

Deputy  County Clerk, Santa Fe, NM



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