Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

DATE: February 28, 2018

TO: Board of County Commissioners

FROM: John Lovato, Development Review Specialist Sr.

VIA: Katherine Miller, County Manager
Penny Ellis-Green, Growth Management Director
Vicki Lucero, Building and Development Services Manager

FILE REF.: CASE # MIS 18-5000 Dorothy Montoya Plat Amendment

ISSUE:

Dorothy Montoya Applicant, requests a partial plat vacation to modify a plat note that prohibited guest houses within the Vista de Sandia Subdivision to allow lot 7 to have an accessory dwelling unit, and an amendment to a previously imposed condition by the BCC prohibiting guest houses.

The property is located at 33 N Paseo De Angel Road within The La Cienega and La Cieneguilla Community District Overlay, within the Residential Estate Zoning District, within, Section 21, Township 16 North, Range 8 East, (Commission District 3).

Vicinity Map:



SUMMARY:

In 1994, an application for Vista de Sandia subdivision was submitted. The Application for plat approval was granted by the BCC in 1996 under case number 94-2173. The approval was for a 16 lot residential subdivision and lot sizes ranged from 2.5 acres to 2.63 acres. The lots sizes were derived from a hydrologic study prepared by Jack Frost. Each lot within the subdivision was granted a 0.26 acre foot water restriction based on the amount of water that the geo hydrologic report proved. A condition was imposed by the Board of County Commissioners that no guest homes were allowed.

In 2016, under Ordinance 2015-11 (SLDC), the Applicant obtained a permit (permit #16-478) to allow an addition to place a 700 square foot porch to comply with criteria set forth in Chapter 10.4.2.2 (Size) to allow a 1,350 square foot accessory dwelling, Ordinance 2015-11, stated the building footprint of the accessory dwelling shall not exceed the lesser of (a): fifty percent (50%) of total building footprint of the principal residence; or (b) 1,400 square feet. Ordinance 2016-9 (SLDC), later amended Ordinance 2015-11, and now states, the heated area of the accessory dwelling shall not exceed the lesser of (a): fifty percent (50%) of heated area of the principal residence; or (b) 1,400 square feet. The heated area of the principal residence is 2,000 square feet, therefore, a 1,350 square foot accessory dwelling would not meet code requirements. The amended SLDC also prohibited accessory dwelling units within a major subdivision. In addition, the note on the subdivision plat stated no guest homes were allowed.

On December 12, 2017, the Santa Fe County Planning Commission granted a variance of Chapter 10.4.2.1, to allow an accessory dwelling within a major subdivision, a variance of Chapter 10.4.2.2, to allow an accessory dwelling to be 1,350 square feet where the main house is 2000 square feet heated floor area, a variance of Chapter 10.4.2.3.3 (Building and Design Standards) to allow a separate driveway access points for an Accessory Dwelling Unit, and a variance of Chapter 10.4.2 4 (Utilities), to allow an accessory dwelling a separate liquid waste system for Lot 7 of the Vista de Sandia Subdivision subject to the following conditions:

1. The Applicant must request a plat amendment from the BCC to modify the note that prohibits guest houses.
2. Applicant must install a meter on the well and submit proof at time of development permit application.

The Applicant stated, "My sons have been unsuccessful at finding an affordable home here in Santa Fe, and I am hoping to help them."

Notice requirements were met as per Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing, of the SLDC. In advance of a hearing on the Application, the Applicant provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for fifteen days on the property, beginning on February 14, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on February 20, 2017, as evidenced by a copy of that legal notice

contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject property and a list of persons sent a mailing is contained in the record.

This Application was submitted on January 21, 2018.

STAFF RECOMMENDATION:

The original subdivision did not prove up more than 0.26 acre feet per lot and stated that guest houses are not allowed. The Applicant was unaware of the note on the plat and if the Applicant would have applied for the accessory dwelling unit in 2016, it would have been allowed by Code but not by subdivision plat.

If the Board of County Commissioners approves the plat vacation and amends the previously imposed condition, staff recommends the following conditions be imposed:

1. The Applicant shall re-record the Vista de Sandia subdivision with the amendment to plat note #12 to allow an accessory dwelling unit on lot 7.

EXHIBITS:

1. Applicants Request
2. Applicants Letter of Burden
3. Plat (Plate Note #12)
4. Notice
5. Community Meeting Documents
6. October 26, 2017, Hearing Officer Meeting Minutes
7. Hearing Officers Recommended Decision and Order
8. December 21, 2017, Planning Commission Meeting Minutes.

August 25, 2017

To: Santa Fe County
102 Grant Avenue
Santa Fe, NM 87504

Fr: Dorothy Montoya
33 Paseo De Angel N.
Santa Fe, NM 87507

This is a letter to request variance and a partial plat vacation to my land at the above address. We would like to put an accessory dwelling on my 2.66 acre land for my sons. They have been unsuccessful at finding an affordable home here in Santa Fe and I am hoping to help them.

Variances
10.4.2.3.3 – To allow a separate driveway
10.4.2.1 – To allow an accessory dwelling within a major subdivision
10.4.2.2 – To allow an accessory structure to be 1350 sq. ft. Where the main home is 2000 Sq. Ft heated area.
10.4.2.4 – To allow a smaller separate septic system.
and
Partial Plat Vacation
Request a partial vacation of the subdivision plat for Vista de Sandia to allow lot 7 to have an accessory dwelling unit per chapter 5 section 5.11.2.

Variance Criteria – Per Variance
Driveway

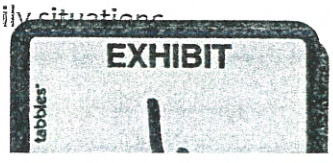
1. Would minimize slope disturbance
   Speeds on the road are not high so there would not be an issue with accessing
   2nd driveway exists – used already to access the bottom of the property
2. Property is split levels. Existing house is on the top portion. No room for an accessory dwelling on that portion. So need to put it on the bottom. Asking for variance so slope is not disturbed.
3. Additional driveway will not disturb slope.

Accessory Dwelling in a Major Subdivision

1. They will share a well. Sons live with me now so having their own home will not be an impact.
2. This process has caused a major financial and time consuming burden. See attached letter sent previously to the county.
3. In general the SLDC allows accessory dwellings – it is just that we bought in a subdivision.

Size of Accessory Dwelling

1. Small doublewide – not a huge home. My sons already living with me.
2. A 700 sq. ft. porch was added to add square footage to my home to make the total 2700 square feet, which met the 2015 SLDC – then it changed.
3. The small home allows my family members to stay close together. Home will not exceed the 1400 sq. ft. maximum for accessory dwelling units. Meets purpose of accessory dwelling to provide affordable housing for multi-generational family situations.



4.

Adding Small Septic for Accessory Dwelling

1. Where the request is not contrary to the public interest. The proposed septic system has been permitted through New Mexico Environment Department and will not effect any surrounding neighbors or wells.
2. Where due to extraordinary and exceptional situations or conditions of the property, the strict undue hardship on the owner. In order to share a septic we would have to place a lift to pump it up to the existing systems and it would be costly and ineffective.
3. So the spirit of the SLDC is observed and substantial justice is done. Allowing us a separate system will not create issues with surrounding neighbors and allow us to provide a home with functioning utilities for my sons and meets the intention of the Code.

Thank you so much for your time and consideration!
Dorothy Montoya
505-577-0795

Montoya, Dorothy C., HSD

From:	Montoya, Dorothy C., HSD
Sent:	Wednesday, July 19, 2017 1:26 PM
To:	'ahansen@santafecountynm.gov'
Cc:	'cdgonzalez@comcast.net'
Subject:	Property Development

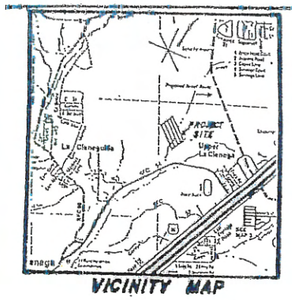
Good Afternoon Anna! My name is Dorothy Montoya and I work for the NM Human Services Department. I have had a very difficult time with the county regarding my property and I was advised to contact you. I live in La Cienega behind the Downs racetrack and have been there for 18 years. When we purchased our property in 1999, we did so with the main purpose of someday dividing it and putting another home on it for our boys (I have 4 boys ages 16 to 26). At that time we were told we could sub-divide. About 6 years ago I went into the county to see what I needed to do to sub-divide my property and was told that I could no longer do that. I was told we could put an accessory dwelling, but at the time we could not afford to do that. So, two years ago when my two older sons decided that they wanted to put a small double wide on our land (which is almost 3 acres) I started looking into what was needed. We looked for a small double wide for them and found one that was 1350 Sq. Feet. I got all the etails for the home and all my property and home paperwork and made an appointment with Nathan Manzanares at the county. He told me everything looked good except in order to get that size of home, I would need to add square footage to my home. My house is 2000 sq. feet and was told I needed to add 700 Sq. feet in a garage or porch, so we can put on the 1350 sq. feet accessory dwelling. So after 6 months of saving and planning for a huge porch and buying permits from the county ($212.00) and the state ($75.00) and waiting for the plans to be approved (which was a major headache, just for a porch!). Everything was approved and we made a 700 Sq. foot porch (totaling $7,241.92 for materials and labor) – that I really didn't need, but did to help my boys. The boys purchased their home, put a $5,000.00 Down payment and signed the paperwork. I found someone to do the development and paid them a down payment $3250.00 which I borrowed from the bank. The developer purchased the septic tank permit $100 and I purchased the well water permit $75.00. In this whole process, I kept calling and going into the county office, to see what was needed. I got plans from the developer and filled out all the paperwork needed and completed the Manufactured Homes Development permit application and I took it all to the county and talked to Nathan again. He said it looks like we have everything, but there was one problem (haha only <u>one!</u>) We needed to add another entrance to our property because our home is on a very high hill and the part of the property that we needed to put the other home on was a lot lower. John Lovato at the unty said he needed to look at our property to see why we need another driveway. He came out a few days later. I was then told that I needed to request a variance to add the new entry way, also there was a concern about a ditch going through our land from the street, that the water flows into that part of our ne to write a letter to submit to the

EXHIBIT
tabbies
2.

6.

Technical Advisory Committee and John put me on the agenda for the TAC meeting. I took all my paperwork and went to the meeting and presented all my plans and concerns. They asked questions and said they would let me know in a couple of weeks. In the meantime I called Johnny Baca at the Public works Department and he told me to contact Robert Martinez to find out about the drainage that was going through my property. I spoke to Robert and he said that should not be there and they would go out and correct the problem (which to this day they still haven't done). After a couple weeks I went back to the county and talked to John to see what the status is and he told me he would check into it and in the meantime I needed to go to another office to get a assigned address form and to get a print out of a Accessors map and a list of all my neighbors in that area to contact for approval. John then noticed a condition on my property plat that said that we can't put an accessory dwelling on our land. I told him, he's got to be kidding and he said no. I cried. He said we can request an amendment to the plat that might take a couple months. But even then it might not be approved. I tried contacting a lawyer, but the cost to start a case it much more than I can afford. This whole process has been a nightmare. I have wasted so much time and money on this project. I wish they would have told me from the beginning that I couldn't do this. Instead all the times I was there in person or called, there was no indication that this wouldn't go through. They all looked at my land and knew what I wanted to do. I don't know if I should continue with this process and not get anywhere. I am a single mother and I am barley making ends meet as it is. I am reaching out to you to advise me what I can do. I have tried calling the people at the county, that I was working with before and nobody gets back to me. Please let me know what can be done or if I can be reimbursed. Thank you for your time and consideration!

Dorothy Montoya
State of New Mexico
Human Services Department
Information Technology Division
1301 Siler Road – Bldg. B/C
Santa Fe, NM 87505
Phone – 505-476-7335
Fax – 505- 476-3950
Cell – 505-577-0795



VICINITY MAP

LEGEND

- ○ INDICATES POINTS SET
- ● INDICATES POINTS FOUND
- ⊙ INDICATES BRASS CAP

BASIS OF BEARING WAS TAKEN FROM A PLAT BY ME FILED ON MARCH 31, 1994 IN PLAT BOOK 270 PAGE 034 COUNTY OF SANTA FE.

EXTRATERRITORIAL ZONING COMMISSION DENIAL NOVEMBER 10, 1994.
BOARD OF COUNTY COMMISSION APPROVAL JANUARY 10, 1995. Richard D. Anaya
BCC

SANTA FE COUNTY APPROVAL

[signature] 4-26-96
COUNTY LAND USE ADMINISTRATOR DATE

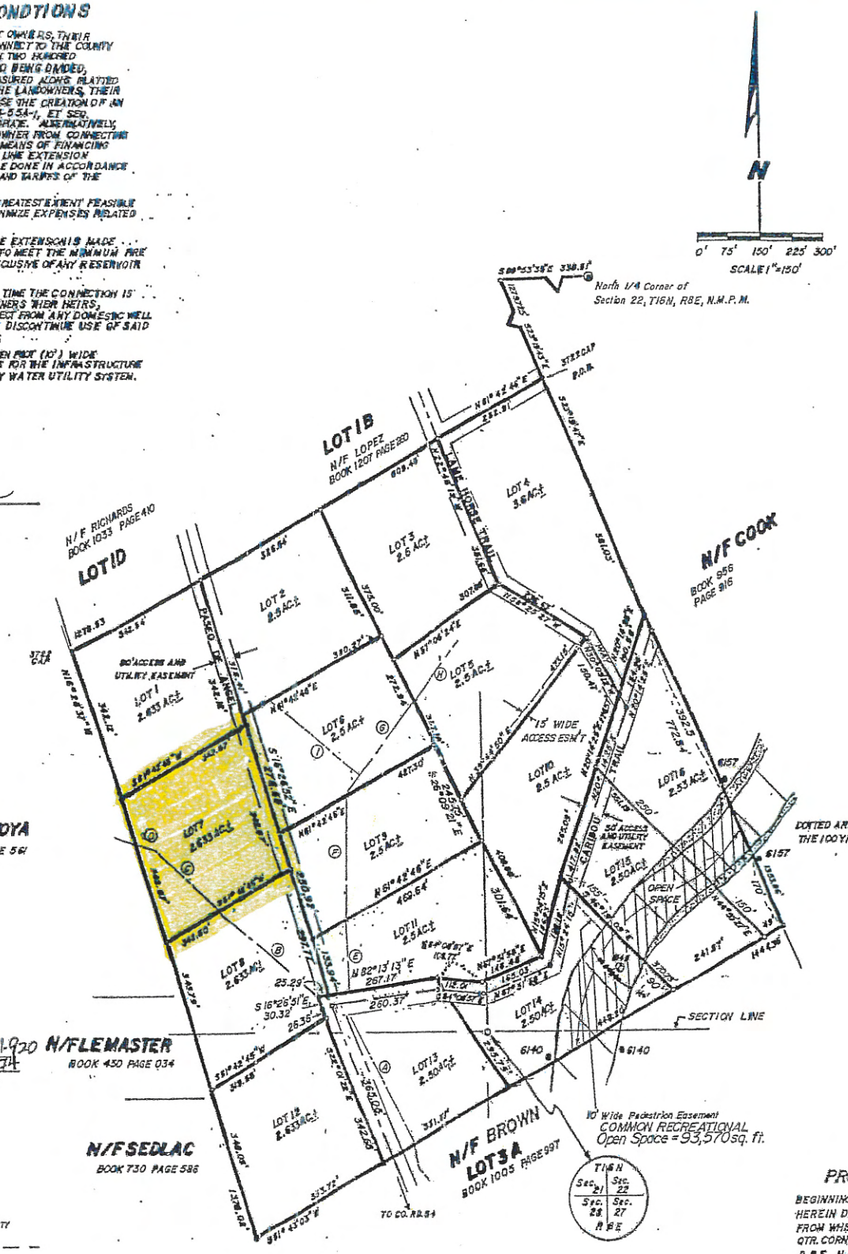
DEVELOPMENT PERMIT NO. 94-2173

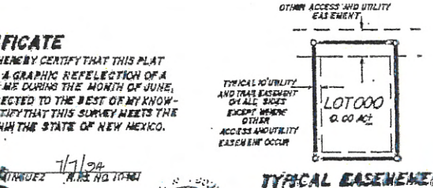
NOTES AND CONDITIONS

1) PURSUANT TO THE SANTA FE COUNTY LAND DEVELOPMENT, THE SOIL RATING ON THIS PROPERTY IS DESIGNATED AS BEING MODERATE/SEVERE REGARDING LIMITATIONS TO SEPTIC TANKS, POTENTIAL BUYERS/SELLERS OF THIS PROPERTY SHOULD INQUIRE WITH THE NEW MEXICO ENVIRONMENT DEPARTMENT WHETHER THESE SOILS ARE SUITABLE FOR A CONVENTIONAL SEPTIC SYSTEM OR IF AN ALTERNATIVE SYSTEM IS REQUIRED.
2) DRAINAGE EASEMENTS SHALL REMAIN IN NATURAL CONDITION.
3) WATER WELL, WITHDRAWAL ON THESE LOTS RESTRICTED BY COVENANTS FILED IN THE OFFICE OF THE COUNTY CLERK RECORDED IN BOOK 1204 PAGE 911-920 DOCUMENT NO. 943.374
4) PORTION OF THIS PROPERTY LIES WITHIN THE 100 YR. FLOOD ZONE AS PER COMMUNITY PANEL NO. 350063 236 B. AS SHOWN BY DOTTED AREA.
5) THE APPROVAL OF THIS PLAT DOES NOT CONSTITUTE THE APPROVAL OF ANY FURTHER DEVELOPMENT INCLUDING BUILDING PERMITS.
6) TERRAIN MANAGEMENT REGULATIONS (ARTICLE VII, SEC. 3.2 OF THE COUNTY LAND DEVELOPMENT CODE) SHALL BE COMPLIED WITH AT THE TIME OF BUILDING PERMIT APPLICATION FOR EACH LOT.
7) MINIMUM FLOOR ELEVATIONS FOR ALL STRUCTURES SHALL BE ONE FOOT ABOVE THE 100 YR. FLOOD LEVEL. THE ELEVATIONS DATUM SHOULD BE VERIFIED BY A LICENSED ENGINEER.
8) DRIVEWAYS SHALL BE LOCATED AND COMBINED TO MINIMIZE IMPACT ON EXISTING GROUND AND VEGETATION.
9) DRIVEWAY CULVERTS SHALL BE INSTALLED DURING LOT IMPROVEMENTS, BY LOT OWNERS.
10) IN ORDER TO ADDRESS FIRE PROTECTION EACH RESIDENTIAL UNIT SHALL HAVE INDIVIDUAL SPRINKLER SYSTEMS DESIGN.
11) RESTRICTIVE COVENANTS FILED IN THE OFFICE OF THE SANTA FE COUNTY CLERK IN BOOK 1204 PAGE 911-920 DOCUMENT NO. 943.374
12) GUEST HOUSES ARE PROHIBITED ON THESE LOTS.
13) MAINTENANCE OF ROADS AND COMMON RECREATIONAL OPEN SPACE IS THE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION.
14) AT THE TIME A PERMIT IS REQUESTED FOR A DWELLING UNIT, AN ON-SITE TERRAIN MANAGEMENT PLAN IS REQUIRED ADDRESSING RETENTION OF POST DEVELOPMENT DRAINAGE, EROSION CONTROL MEASURES AND DRAINAGE STRUCTURES.
15) NOTICE! THESE LOTS ARE SUBJECT TO SANTA FE COUNTY FIRE AND RESCUE IMPACT FEES AT THE TIME OF BUILDING PERMIT APPLICATION.

LA CIENEGA WATERSHED CONDITIONS

1. CONNECTION TO COUNTY WATER UTILITY. THE LOT OWNERS, THEIR SUCCESSORS AND ASSIGNS SHALL AGREE TO CONNECT TO THE COUNTY WATER UTILITY WHEN SERVICE IS AVAILABLE WITHIN TWO HUNDRED FEET (200') OF THE PROPERTY LINE OF THE LAND BEING DIVIDED, WHICH TWO HUNDRED FEET (200') SHALL BE MEASURED ALONG PLATTED EASEMENTS TO THE NEAREST PROPERTY LINE. THE LANDOWNERS, THEIR SUCCESSORS AND ASSIGNS AGREE NOT TO OPPOSE THE CREATION OF AN IMPROVEMENT DISTRICT PURSUANT TO ARTICLES 4-55A-1, ET SEQ, NMSA 1978, AS THOSE SECTIONS MAY BE APPROPRIATE. ALTERNATIVELY, THIS CONDITION DOES NOT PRECLUDE ANY LOT OWNER FROM CONNECTING TO THE COUNTY WATER UTILITY UTILIZING OTHER MEANS OF FINANCING THAN THE IMPROVEMENT DISTRICT METHOD. THE LINE EXTENSION WITHIN SAID TWO HUNDRED FEET (200') SHALL BE DONE IN ACCORDANCE WITH THE APPLICABLE RULES AND REGULATIONS AND TARIFFS OF THE SANTA FE COUNTY WATER UTILITY.
2. ENCOURAGEMENT FOR SHARED WELLS. TO THE GREATEST EXTENT FEASIBLE LOT OWNERS SHOULD USE SHARED WELLS TO MINIMIZE EXPENSES RELATED TO INTERIM WATER SUPPLIES.
3. DESIGN AND CONSTRUCTION. AT THE TIME A LINE EXTENSION IS MADE ... OR SHARED WELL SYSTEM SHALL BE DESIGNED TO MEET THE MINIMUM FIRE FLOW REQUIREMENTS OF THE LAND DIVIDER, EXCLUSIVE OF ANY RESERVOIR CAPACITY.
4. DISCONNECTION FROM DOMESTIC WELLS. AT THE TIME THE CONNECTION IS MADE TO THE SANTA FE WATER UTILITY, LOT OWNERS THEIR HEIRS, SUCCESSORS AND ASSIGNS AGREE TO DISCONNECT FROM ANY DOMESTIC WELL CREATED UNDER NMSA 72-12-1 (1978) AND TO DISCONTINUE USE OF SAID WELLS EXCEPT IN EMERGENCY CIRCUMSTANCES ...
5. EASEMENTS. LOT OWNERS SHALL DEDICATE A TEN FOOT (10') WIDE UTILITY EASEMENT ALONG ALL PROPERTY LINES FOR THE INFRASTRUCTURE WATER DISTRIBUTION LINES FOR THE COUNTY WATER UTILITY SYSTEM.





TYPICAL EASEMENT DETAIL

DRAINAGE EASEMENT DATA (CENTERLINE) 10' WIDE
A) N 27°05'00"W, 327.17'
B) N 50°02'04"W, 304.23'
C) N 46°35'00"W, 202.56'
D) N 72°05'00"W, 48.44'
E) N 03°12'27"W, 164.46'
F) N 02°57'20"E, 287.24'
G) N 37°29'05"E, 267.52'
H) N 37°27'05"E, 176.23'
I) N 31°37'58"W, 272.46'

SURVEYORS CERTIFICATE

I, LORENZO E. DOMINGUEZ, DO HEREBY CERTIFY THAT THIS PLAT AND THE NOTES HEREON ARE A GRAPHIC REFLECTION OF A FIELD SURVEY PERFORMED BY ME DURING THE MONTH OF JUNE, 1994 AND IT IS TRUE AND CORRECTED TO THE BEST OF MY KNOWLEDGE AND BELIEF. I ALSO CERTIFY THAT THIS SURVEY MEETS THE STANDARDS FOR SURVEYS WITHIN THE STATE OF NEW MEXICO.

[signature] 7/1/94
LORENZO E. DOMINGUEZ N.M.S. NO. 10781

EXHIBIT 3.

SANTA FE PLATS AND PLANS
707 DUNLAP
(505) 989-9813

DEDICATION AND AFFIDAVIT

333004

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER(S) HAVE CAUSED TO BE DIVIDED THOSE LANDS SHOWN HEREON. THIS DIVISION IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE WISHES AND DESIRES OF SAID OWNER(S). UTILITY COMPANIES ARE GRANTED EASEMENTS AS SHOWN AND FOR EXISTING UTILITIES OTHER EASEMENTS ARE GRANTED AS SHOWN. PUBLIC AND PRIVATE EASEMENTS ARE HEREBY GRANTED. THIS DIVISION CONTAINS 42.14 AC± AND LIES WITHIN THE PLANNING AND PLATTING JURISDICTION OF CITY AND COUNTY OF SANTA FE, NEW MEXICO. ALL ROADS ARE GRANTED FOR PUBLIC USE.

[signature] July 1, 1994
OWNER VISTA DE SANDIA CORPORATION DATE
LOUIS GONZALES, PRESIDENT

STATE OF NEW MEXICO } ss
COUNTY OF SANTA FE }
THE FOREGOING WAS SWORN, ACKNOWLEDGED AND SUBSCRIBED BEFORE ME BY LOUIS GONZALES THIS 1st DAY OF July, 1994.

[signature] 5-30-98
NOTARY PUBLIC NY COMMISSION EXPIRES

CITY OF SANTA FE (REVIEWED BY)

[signature] 1/9/96
SUBDIVISION ENGINEER DATE
[signature] 1/9/96
CITY PLANNER DATE

UTILITY COMPANIES

[signature] 1-5-95
U.S. WEST COMMUNICATIONS DATE
[signature] 2-8-95
PUBLIC SERVICE COMPANY OF NEW MEXICO DATE
[signature] 2-7-95
GAS COMPANY OF NEW MEXICO DATE

943.373
STATE OF NEW MEXICO } ss
COUNTY OF SANTA FE }
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THE 29 DAY OF Dec A.D. 1994 AT 11:15 O'CLOCK A M. AND WAS DULY RECORDED IN BOOK 322 PAGE 004 OF THE RECORDS OF SANTA FE COUNTY.
WITNESS MY HAND AND SEAL OF OFFICE
JOHN G. ARMIJO
COUNTY CLERK, SANTA FE COUNTY, N.M.
[signature] DEPUTY

PROPERTY DESCRIPTION

BEGINNING AT THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT HEREIN DESCRIBED FROM WHENCE A BLM BRASS CAP MARKING THE QTR. CORNER COMMON TO SECTIONS 21 & 22 T16N. R.8E., N.M.P.M. BEARS:
N 23°19'43"W 1279.72' THENCE
S 89°53'35"E 338.51' THENCE FROM
SAID BEGINNING POINT ALONG THE FOLLOWING:
S 23°19'47"E 1353.86' THENCE
S 61° 43' 03"W 1444.36' THENCE
N 16° 26' 37"W 1378.02' THENCE
N 61° 42' 46"E 1276.53' TO SAID
BEGINNING POINT, CONTAINING 42.15 AC.±

PLAT OF SURVEY FOR VISTA DE SANDIA CORPORATION SUBDIVISION

AS LAST RECORDED IN PLAT BOOK 270 PAGE 034 IN THE OFFICE OF THE SANTA FE COUNTY CLERK, SANTA FE COUNTY, NEW MEXICO.

CERTIFICATION OF POSTING

I herby certify that the public notice posting regarding the Sustainable Land Development Code.

Case # 18-5000 was posted for 15 days on the property beginning

The 20th day of February 2018. **

Signature

*Photo of posting must be provided with certification

**__PLEASE NOTE:__ Public notice is to be posted on the most visible part of the property. Improper legal notice will result in re-posting for an additional 15 days. It is the applicant's responsibility to ensure that the notice is on the property for the full 15 days.

STATE OF NEW MEXICO }
}
COUNTY OF SANTA FE }

OFFICIAL SEAL
CHRISANN ROMERO
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 2/20/19

The foregoing instrument was acknowledged before me this 21 day of February, 2018, By _____.

Chrisann Romero
Notary Public

My Commission Expires:

2/20/19

EXHIBIT
4.

SANTA FE NEW MEXICAN

Ad Proof / Order Confirmation / Invoice

Account Number
2438

Ad Order Number
0000220236

SF COUNTY

LEGAL # 83892

CASE # MIS 18-5000
Dorothy Montoya.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held to consider a request by Dorothy Montoya, Applicant for a partial plat vacation to allow lot 7 to have an accessory dwelling unit. The property is located at 33 N Paseo De Angel Road within The La Cienega and La Cieneguilla Community District Overlay, within the Residential Estate Zoning District, within, Section 21, Township 16 North, Range 8 East, (Commission District 3).

A public hearing will be held in the County Commission Chambers of the Santa Fe County Courthouse, corner of Grant and Palace Avenues, Santa Fe, New Mexico on March 13, 2018, at 5 p.m. on a petition to the Board of County Commissioners

Please forward all comments and questions to the County Land Use Administration Office at 986-6225.

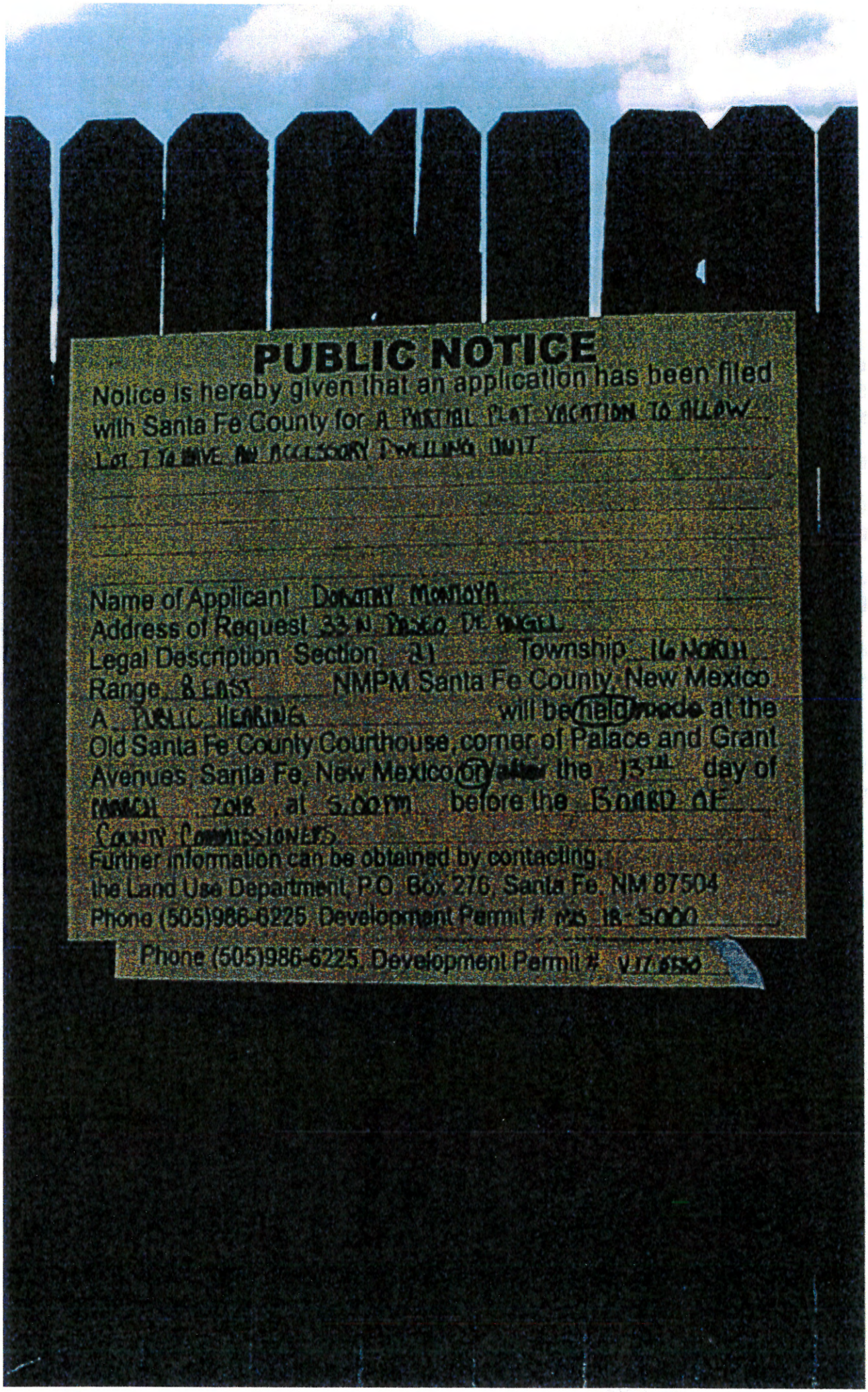
All interested parties will be heard at the Public Hearing prior to the Hearing Officer/Planning Commission taking action.

All comments, questions and objections to the proposal may be submitted to the County Land Use Administrator in writing to P.O. Box 276, Santa Fe, New Mexico 87504-0276; or presented in person at the hearing.

Please forward affidavit of publication to the County Land Use Administrator, P.O. Box 276, Santa Fe, New Mexico 87504-0276.

Written verification of the publication shall be provided to the Administrator prior to the public hearing.

Pub: February 20, 2018



PUBLIC NOTICE

Notice is hereby given that an application has been filed with Santa Fe County for A PARTIAL PLAT VACATION TO ALLOW LOT 7 TO HAVE AN ACCESSORY DWELLING UNIT

Name of Applicant DOROTHY MONTOYA
Address of Request 33 N PASEO DE PEACE
Legal Description Section 21 Township 16 NORTH
Range 8 EAST NMPM Santa Fe County, New Mexico
A PUBLIC HEARING will be held/made at the Old Santa Fe County Courthouse, corner of Palace and Grant Avenues, Santa Fe, New Mexico on/after the 13TH day of MARCH 2018, at 5:00PM before the BOARD OF COUNTY COMMISSIONERS
Further information can be obtained by contacting the Land Use Department, P.O. Box 276, Santa Fe, NM 87504 Phone (505)986-6225 Development Permit # MIS 18-5000

Phone (505)986-6225 Development Permit # V17-6550

La Cienega Valley Association

Date: September 11, 2017 [7:13 P.M. to 8:55 P.M.]

La Cienega Community Center

La Cienega Valley Association: Preserving Our Rural Way of Life

Website: lacienegavalley.com

Board Members Present: Kathryn S. Becker, J. J. Gonzales, Marizabel Ulibarri, Carl Dickens, Elliott Eisner, Tom Dixon, Paul Murray and Ex-officio: Jeff Montoya (substituting for Gabriel Montoya).

Board Members Absent: Reynaldo Romero

Guests Present: Ellen Wittman, Paula Gonzales, Vincent Marchi, Keir Careccio, Dorothy Montoya and Guillermo Hulo.

Upon noting the presence of a quorum, the meeting was called to order by the President, Carl Dickens.

Approval of Agenda: Upon motion duly made, seconded and unanimously adopted, the Agenda, as amended, was approved.

Variance Request: The Board heard a presentation by Dorothy Montoya for 33 Paseo de Angel regarding variance requests for:

a) To allow a separate driveway.
b) To allow an accessory dwelling within a major subdivision.
c) To allow an accessory structure to be 1350 sq ft. (where the main home has 2,000 sq. ft. of heated area.)
d) Request a partial vacation of the subdivision plat for Vista de Sandia to allow Lot 7 to have an accessory dwelling unit

After the presentation, questions which were answered by Ms. Montoya. After discussion, the Board indicated, while it is not opposed to the presented variance requests, noting specifically that it has no authority to approve or consider requests c) and d) set forth above , it generally remains opposed to approving variances. In this case, the Board will not oppose the approval of the variance requests a) and b) above and leave the issue of the remaining variance to the approval of County. The President will advise the County of this decision, copying both Mr. Marchi and Mr. Martinez.

Approval of August Minutes: The minutes of the August 7, 2017 meeting of the Board of Directors having been distributed prior to the meeting were approved as submitted.



Matters from the Public: Vincent Marchi told the Board that he had opposition concerning his proposed development, but one of the opponents asked if he would sell his property for a 'greater' development, not yet proposed. Keir Careccio indicated that there were no new developments on the Reale property matters and there are no further issues presented concerning Las Lagunitas.

President's Report:

BLM Shooting Range: There will be public hearings held on this matter in the future, but no firm date has been established as of this time. Once hearings are announced, addresses for letters will be posted on the web site.

La Cienega Open Space (HIPICO): HIPICO will present plans to the County for a cross country course and park on County property.

LCVA Request to Santa Fe County Water On Water Meter Enforcement Request: There has still been no response from County Commissioner Anaya or the Santa Fe City Manager. The President was authorized to send a follow-up letter to both parties and further include the State Engineer.

PNM Outages: The Board discussed the continued issue of prolonged power outages in the communities making up the LCVA.

Santa Fe Airport Expansion and Master Plan: The Board discussed the continued issue of the new master plan and proposed airport expansion. Board members Kathryn Becker and Elliott Eisner will look into materials concern these matters, including attempting to get a flight pattern map.

Proposed LCVA Community Center Board: President Dickens and Director Tom Dixon continued discussed on the status of the creation of a Board of up to five (5) community members to run the Community Center for the County.

Proposals concerning Water Testing and Well Monitoring: It was reported that 32 well owners in the LCVA area have signed up for the water well testing program.

Youth Advisory Board: Director Tom Dixon told the Board that the Library Committee was interested in Youth Advisory Board input into making the Community Library more viable.

Treasurer's Report: The Treasurer's report for August 2017 was presented by Treasurer Murray. The Savings balance (allocated, not available for general uses) stands at $1,908.34 and the checking account balance stands at $1,373.68 for a total of $3,282.02.

Committee Reports: Library committee reported that there were six (6) responses to their requested poll. The Halloween Committee will meet for the purposes of determining the date

of the festivities and possible inclusion with the Spirit Event planned by the Las Golondrinas staff. The Downs will be hosting Lantern ascension on September 22, 2017 subject to Fire Marshall's approval.

Newsletter: The next Newsletter will address Water Issues.

Matters from the Board:

Action Item for September: Work on gathering information on the proposed Airport Expansion by the City of Santa Fe.

Adjournment: Upon Motion duly made and adopted, the meeting was adjourned at 8:55 P.M.

Submitted By:

ss/Elliott Eisner

Elliott Eisner, Secretary

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TRANSCRIPT OF THE

SANTA FE COUNTY

SLDC HEARING OFFICER MEETING

Santa Fe, New Mexico

October 26, 2017

I. This meeting of the Santa Fe County Sustainable Land Development Code Hearing Officer meeting was called to order by Santa Fe County Hearing Officer Nancy Long on the above-cited date at approximately 3:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Staff Present:
Vicki Lucero, Building & Development Services Manager
Tony Flores, Deputy County Manager
John Michael Salazar, Development Review Specialist
Mike Romero, Development Review Specialist
Paul Kavanaugh, Building & Development Services Supervisor
Rachel Brown, Deputy County Attorney
Penny Ellis-Green, Land Use Director
John Lovato, Development Review Specialist
Robert Griego, Planning Director

II. **Approval of Agenda**

Hearing Officer Long approved the agenda as distributed.

III. **Public Hearings**

A. **Case # 17-5230 Dorothy Montoya Variance Dorothy Montoya Applicant, Requests a Variance of Chapter 10.4.2.1, to Allow an Accessory Dwelling within a Major Subdivision, a Variance of Chapter 10.4.2.2, to Allow an Accessory Structure to Be 1,350 Square Feet Where the Main House is 2000 Square Feet of Heated Floor Area, a Variance of Chapter 10.4.2.3.3 (Building and Design Standards) to Allow a Separate Driveway Access Points for an Accessory Dwelling Unit, a Variance of Chapter 10.4.2 4 (Utilities) to Allow an Accessory Dwelling a Separate Liquid Waste System, and a Partial Plat Vacation to Allow Lot 7 to have an Accessory Dwelling Unit. the Property is Located at 33 N Paseo de Angel Road within the La Cienega and La Cieneguilla Community District Overlay, within the Residential Estate Zoning District, within, Section 21,**

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6.

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Township 16 North, Range 8 East, Commission District 3. John Lovato, Case Manager
[*Exhibit 1: La Cienega Valley Association Board Minutes*]

Hearing Officer Long read the case caption as written above and invited staff to present the report.

JOHN LOVATO (Case Manager): Thank you, Hearing Officer Long. The property consists of 2.63 acres within the Residential Estate Zoning District within the La Cienega/La Cieneguilla Community District Overlay as defined by Ordinance 2016-9, the Santa Fe County Sustainable Land Development Code

The Applicant would like to place a 1,350 square foot residence on her property so that her sons can reside in it. Currently, there is a 2,000 square foot modular home located on the property and is serviced with a well and conventional septic system. The Applicant intends to place a driveway and additional septic system to accommodate the proposed 1,350 square foot accessory dwelling. After a site inspection and further review of the subdivision, it was determined that the subject lot was located within a major subdivision and a note on the Applicant's subdivision, plat note #12 states, Guest homes are prohibited on this lot.

In 1994, an application for Vista de Sandia subdivision was submitted. The application for plat approval was granted by the BCC in 1996 under case number 94-2173. The approval was for a 16-lot subdivision and lot sizes range from 2.5 acres to 2.63 acres. The lots sizes were derived from a hydrology study prepared by Jack Frost. Each lot within the subdivision was granted a 0.26 acre-foot water restriction based on the amount of water that the geo hydrologic report proved.

A condition was imposed by the Board of County Commissioners that no guest homes were allowed. If the variances were granted the Applicant will request a partial plat amendment to change the note on the plat to allow an accessory dwelling on her 2.63 acre parcel.

In 2016, Under Ordinance 2015-11, the Applicant obtained a permit, permit #16-478, to allow an addition to place a 700 square foot porch to comply with criteria set forth in Chapter 10.4.2.2, size, to allow a 1,350 square foot accessory dwelling, Ordinance 2015-11, stated the building footprint of the accessory dwelling shall not exceed the lesser of (a): 50 percent of total building footprint of the principal residence; or (b) 1,400 square feet.

Ordinance 2016-9, later amended Ordinance 2015-11, which states, the heated area of the accessory dwelling shall not exceed the lesser of a: 50 percent of the heated area of the principal residence; or (b) 1,400 square feet. The heated area of the principal residence is 2,000 square feet therefore; a 1,350 square foot accessory dwelling would not meet code requirements.

The Applicants property is located within a major subdivision and Chapter 10.4.2.1, states that platted major subdivisions shall only be permitted to have an accessory dwelling unit if their approval and reports and SRAs allowed and accounted for this. The Applicant proposes a separate septic system and Chapter 10.4.2.4, Utilities, requires the principal dwelling share a septic system. Furthermore, the Applicant requests a second driveway to access the proposed accessory dwelling unit. Chapter 10.4.2.3.3

SLDC RECORDED 11/29/2017

states an accessory dwelling shall be accessed through the same driveway as the principal residence. Therefore, the Applicant is requesting variances.

The Applicant states, "My sons have been unsuccessful at finding an affordable home here in Santa Fe, and I am hoping to help them."

The Applicant responded to each of the variance request and staff responded to the request on whether the applicant's proposal met or didn't meet the variance criteria as stated in the report.

Recommendation, driveway: Staff recommends approval of the variance request. Chapter 10.4.2.3.3 states that an accessory dwelling shall be accessed through the same driveway as the principal residence. The proposed variance is a minimal easing of Code requirements as the proposed driveway will not be contrary to the public interest and it meets separation requirements. The condition of the property constitutes an exceptional condition of the property because it is split levels so the strict application so the code would result in practical difficulties and undue hardship on the owner. The spirit of the SLDC is observed and the new driveway will minimize disturbance of the natural terrain.

Accessory dwelling unit in a Major Subdivision Variance: On August 23, 2016, the Applicant applied for a 700 square foot porch addition to her existing mobile home to meet size requirements so she could apply for an accessory dwelling. During that time, Ordinance 2015-11, was in place and accessory dwellings were allowed in Major Subdivisions. However, December 19, 2017, the Ordinance was replaced which prohibited accessory dwellings in Major Subdivisions.

Staff cannot support the variance to allow an accessory dwelling unit in a major subdivision. The original subdivision did not prove up more than 0.26 acre-feet per lot and stated that guest houses are not allowed. If the Applicant had applied at that time for the accessory dwelling unit, it would have been allowed by Code but not by subdivision plat.

Size of Accessory Structure Variance: On August 23, 2016, the Applicant applied for a 700 square foot porch addition to her existing mobile home to meet size requirements in place at the time so she could apply for an accessory dwelling. The Code language later changed with ordinance 2016-9, to state that the heated area of the accessory dwelling shall not exceed the lesser of a) 50 percent of heated area of the principal residence; or b) 1,400 square feet. Therefore, staff recommends approval of the requested variance to allow the size of the accessory dwelling as proposed as the request will not be contrary to the public interest, exceptional situations exists as the Applicant constructed an addition on the existing residence in order to meet size requirements, then the Code changed and, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner and the spirit of the SLDC is observed.

Utilities Variance: Staff recommends approval of the requested variance to allow an accessory dwelling a separate septic system as the property has split levels which creates a hardship to share the existing system. The new septic has been permitted by NMED. Contrary to public interest the split levels create exceptional situation of the property, the strict applications of the code would result in peculiar and exceptional practical difficulties due to terrain and so that the spirit of the SLDC is observed.

If the hearing officer recommends approval of the variances, staff recommends the following condition be imposed:

1. The Applicant must request a plat amendment from the BCC to modify the note that prohibits guest houses.
2. Applicant must install a meter on the well and submit proof at time of development permit application.

And an added note, Hearing Officer Long, the Applicant has had a community meeting but has limited documentation that supports it. So number 3 would be:

3. The Applicant submits a report on pre-application meeting prior to Santa Fe County Planning Commission public hearing.

Staff requests the Hearing Officer memorialize findings of fact and conclusions of law in a written order. The Santa Fe County Planning Commission will be holding a public hearing on this matter on November 16, 2017.

Hearing Officer, I stand for any questions.

HEARING OFFICER LONG: Thank you.

MS. LUCERO: Hearing Officer Long, I'd like to clarify a couple of things on the staff report.

HEARING OFFICER LONG: Go ahead.

MS. LUCERO: So just as a point of clarification, I know that the caption did mention the request was for a partial plat vacation, that actually will be going to the Board so that is what that condition number one covers. The Board is the one who has authority to grant approval of a plat amendment. So they'll have to submit an application and get approved by the Board if the variances are granted.

And then just a clarification on the variances. The variances that staff is recommending approval of are subject to the variance to allow an accessory dwelling in a major subdivision getting approved.

HEARING OFFICER LONG: And that is what I was going to ask. So the applicant is asking for a variance to allow the accessory dwelling unit in a major subdivision. You are recommending, staff is recommending denial but indicating that the proper route for that is to get a plat amendment from the Commission rather than a variance; is that correct?

MS. LUCERO: Hearing Officer Long there is a section in the code that specifically says that major subdivisions aren't allowed to have an accessory dwelling unless there are reports and assessments accounted for that. So that's what the point of the variance is right now. If the variance is granted, then the plat when it was recorded had that note on there that said guest houses weren't allowed. So the variance would need to happen and if the variance is granted then they would need to follow up with the Board in order to change that note that was previously approved. It's kind of a two-part –

HEARING OFFICER LONG: So you think they need a variance and also a plat amendment. Couldn't you just have a variance for the other matters and then receive the plat amendment. I'm not seeing how you would need both.

MS. LUCERO: The variance would be to the code section that prohibits accessory dwellings in a major subdivision. The plat amendment would be to the plat that the Board had approved I don't know how many years ago with that note that says, Accessory dwellings or guest houses are not allows. So it's kind of a two-part process. They need a variance of the current code and then they need to amend the existing plat.

HEARING OFFICER LONG: In staff's position on the variance to the current code is recommending denial.

MS. LUCERO: That's correct because the studies and reports that were done at that time didn't account for guest houses.

HEARING OFFICER LONG: Which would mean that all of the other requests would be moot?

MS. LUCERO: They would moot, yes, and if that variance gets approved, then we would recommend approval of the others.

HEARING OFFICER LONG: All right. And condition number 2 states that the applicant must install a meter on the well and what would be the water restriction for that meter?

MS. LUCERO: Hearing Officer Long the current code allows a water restriction of .25 acre-feet per dwelling unit. However, based on the geohydro that was previously submitted it's .26 acre-feet for the tract.

HEARING OFFICER LONG: So it would be .26 for both the accessory and the dwelling unit?

MS. LUCERO: Correct.

HEARING OFFICER LONG: Okay, thank you for that clarification. Would the applicant come forward please? Ma'am would you be sworn to start with and give us your name.

[Duly sworn, Dorothy Montoya, testified as follows]

DOROTHY MONTOYA: Dorothy Montoya, 33 Paseo de Angel North, Santa Fe, New Mexico, 87507.

HEARING OFFICER LONG: Thank you, Mrs. Montoya. You may go ahead.

MS. MONTOYA: I've just been trying to get this development done for the past few years for my sons. We were told when we brought the property in 2000 that we were able to put two dwellings on the land which we couldn't do at the time because my sons were little and we were just building our lot. And then when we decided to we went to the County to see what we needed to do, this was almost – it's been almost two years, to see what we can do and they told us we needed to add square footage to our home in order to get the size dwelling we needed. In that case, we decided to build a porch. They told us a porch was fine or a garage or a portal. So we did a porch and we spent a lot of money on a porch that we really didn't need but just to get the home for my kids, we built a 700 square-foot porch and then after it was built – I got all the permits for that and everything, it was built – and then I went to the County to get permission to get the accessory dwelling and that's when I was told we couldn't do it after all. Well, at the time we wanted to get a guest house and they told us we could get an accessory dwelling so we tried to do that and then we were told we couldn't even do that.

So I've been in the process of trying to get this done for the past couple of years for my kids. I have two sons who are 25 and 26 who want to stay in Santa Fe but are unable to because it's very expensive. So we were hoping to get this small double-wide for them to live on my property. We won't be using an extra, probably, utilities or water because we have the same amount of people still living on the property. There's not going to be any additional people.

I don't think there should be a meter on my well because I don't feel we will be using any much more water. We don't have any fancy landscaping, no horses or anything on my property that we would use additional water. It would just be for the people who

EXHIBIT 3 DOROTHY MONTOYA 10/26/17

are living there now. I am just hoping that they approve all of these variances for me so I can get this started.

HEARING OFFICER LONG: Thank you, Mrs. Montoya. You say that you do not want to be required to place a meter on your well but that's one of the conditions that staff is recommending; would you be willing to do that if that allowed approval of your case?

MS. MONTOYA: I mean, I will do it. I'm hoping it doesn't cost a lot. I'm a single mom with my four boys and I'm still paying on the porch that I didn't need and I feel like I can't afford a lot extra. So I'm hoping it's not expensive.

HEARING OFFICER LONG: Understood. And then you had a pre-application meeting with neighbors; is that correct?

MS. MONTOYA: Yes, on September 11th we had a meeting in La Cienega which I sent a notice to all the neighbors within 500 feet of my property to attend. I had a couple of people call me and say they couldn't attend and one person did attend who stood by me, which I was glad. I sent out I think it was 30 some letters to all the people living around me on September 11th and I went in front of the Cienega Committee and I told them what I wanted to do and they said that they approved it. I have the letter from them, the minutes actually. I don't know if John got them, but I could give this to you.

HEARING OFFICER LONG: Yes, if you would give it to the recorder and we'll include it in the record. [*Exhibit 1*] Thank you.

MS. MONTOYA: Is there anything else?

HEARING OFFICER LONG: No, I'll just wait to see if there is anyone else who wants to speak to this application. Thank you.

Is there anyone here this afternoon that would like to speak to this case one way or the other? And I will note for the record that there is no one that appeared to speak in regard to this case.

So Mrs. Montoya what I do is I make a recommendation in writing after this hearing today and I have two weeks to do that, approximately. And then it goes on to the Planning Commission and I think the date is in November; is that correct.

MR. LOVATO: Hearing Officer Long that is correct. It is November 16th.

HEARING OFFICER LONG: So you will receive communication as to when that meeting would be and then possibly on to the Board of County Commissioners for the plat amendment. Okay, thank you.

B. <u>Case # V17-5520 Oreo, LLC. Variance</u>. Oreo, LLC., Applicant, Design Enginuity (Oralynn Guerrerortiz) Agent, request a variance to the requirements set forth in the Sustainable Land Development Code (SLDC) of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a section of South Summit Drive to exceed 9 percent grade and a variance of Chapter 7, Section 7.17.10.7.8 Screening Requirements to allow existing 14 foot. retaining walls to exceed the 5 foot height limitation. The property is located within the Residential Community District (RES-C) at South Summit Drive, within Section 16, Township 17 North, Range 10 East, (Commission District 4)

Sustainable Land Development Code
Hearing Officer Meeting
October 26, 2017
CASE NO. V17-5230
Dorothy Montoya, Applicant

RECOMMENDED DECISION AND ORDER

THIS MATTER came before the Sustainable Land Development Code Hearing Officer for hearing on October 26, 2017, on the application of Dorothy Montoya (Applicant) for variances of the Sustainable Land Development Code (SLDC). The Applicant seeks a variance of Chapter 10.4.2.1 to allow an accessory dwelling within a major subdivision, a variance of Chapter 10.4.2.2 to allow an accessory structure to be 1,350 square feet where the main house is 2,000 square feet of heated floor area, a variance of Chapter10.4.2.3.3 (Building and Design Standards) to allow a separate driveway access point for an accessory dwelling unit, a variance of Chapter 10.4.2.4 (Utilities) to allow an accessory dwelling to have a separate liquid waste system and a partial plat vacation to allow Lot 7 to have an accessary dwelling unit. The property is located at 33 N Paseo de Angel Road (Property) within the La Cienega and La Cieneguilla Community District Overlay, within the Residential Estate Zoning District, within Section 21, Township 16 North, Range 8 East (Commission District 3). The Hearing Officer, having reviewed the application, staff reports, and having conducted a public hearing on the request, finds that the variance as to Chapter 10.4.2.1 should not be granted and that the remaining variance requests are therefore moot, and makes the following findings of fact and conclusions of law:

1. On August 3, 2017, the Applicant submitted her application for the variances.
2. As required by the SLDC, the Applicant presented the application to the



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Technical Advisory Committee (TAC) on August 3 6, 2017, at the regular scheduled monthly meeting, which satisfied the requirements set forth in Chapter 4, Section 4.4.4.3 Pre-application TAC Meeting and Table 4-1.

3. Notice requirements of the SLDC were met pursuant to Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing. In advance of the hearing on the application, the Applicant provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the application was made for fifteen days on the Property, beginning on October 6, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on October 11, 2017, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the Property and a list of persons sent a mailing is contained in the record.

4. The Applicant stated that "my sons have been unsuccessful at finding an affordable home here in Santa Fe and I am hoping to help them." Applicant's sons have been residing with the Applicant in the Applicant's principal residence, a 2,000-square foot modular home located on the Property. On August 23, 2016, the Applicant requested authorization to construct a 700-square foot addition to the principal residence in order to comply with the size requirement of Section 10.4.2.2 for the heated area of a proposed 1,350 square foot accessory dwelling for her sons.

5. The following SLDC provisions are applicable to this case:

A. Chapter 10.4.2.1 (Number Permitted) states:

> Only one accessory dwelling unit shall be permitted per legal lot of record. Platted major subdivisions shall only be permitted to have an accessary dwelling unit if their approval and reports and SRAs allowed and accounted for this.

B. Chapter 10.4.2.2 (Size) states:

The heated area of the accessory dwelling shall not exceed the lesser of (a) fifty percent (50)) of heated area of the principal residence; or (b) 1,400 square feet.

C. Chapter 10.4.2.3.3 (Building and Site Design) states:

An accessory dwelling shall be accessible through the same driveway as the principal residence.

D. Chapter 10.4.2.4 (Utilities) states:

Liquid waste disposal shall be in common with the principal residence.

E. Chapter 4, Section 4.9.7.1 (Variances, Purpose), states:

The purpose of this Section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

F. Chapter 4, Section 4.9.7.4, Variances, Review criteria states:

A variance may be granted by only a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) based upon the following criteria:

1. where the request is not contrary to the public interest;

2. where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner; and

3. so that the spirit of the SLDC is observed and substantial justice is done.

G. Chapter 4, Section 4.9.7.5 Variances, Conditions of approval states:

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of property owners and area residents.

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2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.

3. All approved variances automatically expire within one year of the date of approval, unless the applicant files a plat implementing the variance or substantial construction of the building or structure authorized by the variance occurs within that time.

5. The Applicant and Staff have addressed the variance criteria as to the variance for an accessory dwelling unit in a major subdivision as follows:

a. *Where the request is not contrary to the public interest.*

i. Applicant stated that her sons presently reside with her in the principal residence on the property, so having their own home will not be an impact.

ii. Staff stated that prior to the adoption of Ordinance 2016-9, accessory dwelling units in a major subdivision were permitted. However, the SLDC no longer allows accessary dwelling units in a major subdivision.

b. *Where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner.*

i. The Applicant stated that the approval process has caused Applicant a major financial and time consuming burden.

ii. Staff stated that prior to the adoption of the SLDC, Applicant had requested authorization to construction a 700-square foot addition to the principal residence in order to qualify for a 1,350-square foot accessory dwelling. However, an accessory dwelling is no longer permitted on the Property under the SLDC.

c. *So that the spirit of the SLDC is observed and substantial justice is done.*

i. Applicant stated that accessory dwellings are generally permitted under the SLDC, just not in a major subdivision.

ii. Staff responded that Code changes as well as Plat note #12 on the subdivision plat for the Property prohibit the construction of guest houses on these lots.

6. The Applicant and Staff have addressed the variance criteria on the size of the proposed accessory structure as follows:

a. *Where the request is not contrary to the public interest.*

i. Applicant stated the principal residence is a small double wide mobile home and her sons are already residing in it with her.

ii. Staff stated that under the SLDC, the 2,000-square foot size of the principal residence would require that any accessory dwelling be no larger than 1,000 square feet.

b. *Where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner.*

i. Applicant stated that the 700-square foot porch was added to the principal residence to allow an accessory dwelling of 1,350 square feet, which complied with the then-existing ordinance. The ordinance change took place after the porch had been constructed at the Applicant's considerable expense.

ii. Staff agreed that the proposal had been in compliance when the porch was constructed but that the SLDC prohibits construction of the accessory dwelling.

c. *So that the spirit of the SLDC is observed and substantial justice is done.*

i. Applicant stated that construction of the accessory dwelling allows family members to stay close together and provides affordable housing for multi-generational family situations.

ii. Staff stated that the intent of the accessory dwelling was to create and provide an affordable means for family members to live close or by other family members.

7. The Applicant and Staff have addressed the utility variance criteria as follows:

a. *Where the request is not contrary to the public interest.*

i. Applicant stated the proposed separate septic system for the accessory dwelling has been permitted through the New Mexico Environment Department and will not affect any surrounding neighbors or wells.

ii. Staff stated that Section 10.4.2.4 requires the accessory dwelling share in common the septic system with the principal residence. The Applicant has submitted an approved permit for the separate septic system.

b. *Where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner.*

i. Applicant stated that sharing a septic system with the principal residence would require an expensive lift to pump it up to the existing system.

ii. Staff agreed that since the property is split level, it would not be easy to share the septic system.

c. *So that the spirit of the SLDC is observed and substantial justice is done.*

i. Applicant stated that the separate system will not create any issues with neighbors and will provide a home with functioning utilities for her sons.

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ii. Staff agreed that structures on surrounding properties are over 150' away and the proposed system will comply with all state environment requirements.

8. The Applicant and Staff have addressed the driveway variance criteria as follows:

a. *Where the request is not contrary to the public interest.*

i. Applicant stated the existing second driveway, which is used to access the bottom of the property, would serve the proposed accessory dwelling so slope disturbance would be minimal.

ii. Staff stated that a shared driveway will disturb slopes in excess of 30% slope.

b. *Where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner.*

i. Applicant stated that there is no room for an accessory dwelling on the top portion of the split-level lot, so the accessory dwelling would need to be placed on the bottom portion of the lot and accessed at the bottom of the property.

ii. Staff stated that an access to the second dwelling from the existing access point would require an engineered driveway and a possible variance due to terrain constraints, which would cause slope disturbance.

c. *So that the spirit of the SLDC is observed and substantial justice is done.*

i. Applicant stated that the additional driveway will not disturb slopes.

ii. Staff stated the existing driveway would disturb slopes in excess of 30% to access the lower level However, provisions in the SLDC allow for 3 separate occurrences of

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1,000 square feet of 30% slope disturbance for access and the Applicant has not done a slope analysis or plan and profile of the driveway to see if this requirement could be utilized.

9. At the public hearing, other than Applicant, no one spoke in favor or against the application.

10. Based on the application and the evidence and testimony presented at the public hearing as described herein, the Hearing Officer finds that although the application is not contrary to the public interest and is in the spirit of the SLDC, there has been no showing of extraordinary and exceptional situations or conditions of the Property as required in order to grant a variance. The reasons for seeking the variance are personal to the Applicant and do not involve any conditions of the Property. Based on this finding, the Hearing Officer concludes that the requests for variances regarding the size of the proposed accessory dwelling, the separate septic system and shared driveway use are moot.

WHEREFORE, the Hearing Officer, based on the evidence presented, recommends as follows:

A. Disapproval of a variance of Section 10.4.2.1 (Major Subdivision variance) to allow construction of an accessory dwelling on the Property; and

B. Based on the foregoing, the requested variances of Chapter 10.4.2.2 (Size of Accessory Structure) to allow an accessory structure to be 1,350 square feet where the main house is 2,000 square feet of heated floor area; a variance of Chapter10.4.2.3.3 (Building and Design Standards) to allow a separate driveway access point for an accessory dwelling unit; a variance of Chapter 10.4.2.4 (Utilities) to allow an accessory dwelling a separate liquid waste system are moot.

Respectfully submitted,

Nancy R. Long
Hearing Officer

Date: 11-15-17

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

SLDC HEARING OFFICER 0
PAGES: 9

I Hereby Certify That This Instrument Was Filed for Record On The 28TH Day Of November, 2017 at 08:55:18 AM And Was Duly Recorded as Instrument # 1842287 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy _____ County Clerk, Santa Fe, NM

COUNTY CLERK
GERALDINE SALAZAR
SANTA FE COUNTY NEW MEXICO

EXHIBIT 3

MR. SALAZAR: And, Mr. Chairman, this would be a recommendation of approval.

CHAIR ANAYA: I'm sorry.

MR. SALAZAR: Recommendation of approval with conditions stated by staff numbers 2 through 13 with corrections. We have a motion do we have a second?

MEMBER LOPEZ: I'll second.

CHAIR ANAYA: We have a second by Mr. Lopez.

MEMBER KATZ: I would propose a friendly amendment.

CHAIR ANAYA: Let's hear it.

MEMBER KATZ: An additional condition be added that the buffer zone be a no-build zone.

CHAIR ANAYA: Okay, state that again please.

MEMBER KATZ: The buffer zone be a no-build zone not a one dwelling per acre.

CHAIR ANAYA: Are you talking about that blue area?

MR. SALAZAR: It would be the hatched area that goes along the eastern boundary.

MEMBER KATZ: Yes.

CHAIR ANAYA: Oh, the 200 feet, okay. Okay, Susan?

MEMBER MARTIN: Just for clarification. The friendly amendment changes item 13; is that correct?

MEMBER KATZ: Yes.

MEMBER MARTIN: Okay, thank you.

MEMBER KATZ: Thank you for pointing that out.

CHAIR ANAYA: So it's a 200 feet of no-build zone.

MR. SALAZAR: Correct.

CHAIR ANAYA: Buffer zone.

MEMBER KATZ: That was proposed as a friendly amendment. I don't know whether it's acceptable.

CHAIR ANAYA: Since I made the motion for approval, I will accept the amendment, the friendly amendment to add – the no-build zone in the buffer of 200 feet in item 13.

On the person that made the second.

MEMBER LOPEZ: Yes.

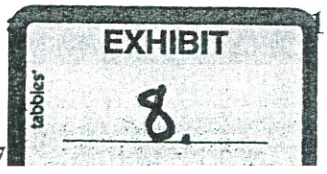
CHAIR ANAYA: Do you accept the amendment?

MEMBER LOPEZ: Yes.

CHAIR ANAYA: Therefore, we have a first and second with a friendly amendment and changes. All in favor.

The motion passed by unanimous [6-0] voice vote.

G. <u>Dorothy Montoya Variance</u>. Dorothy Montoya, Applicant, requests a variance of Chapter 10.4.2.1, to allow an accessory dwelling within a major subdivision, a variance of Chapter 10.4.2.2, to allow an accessory dwelling to be 1,350 square feet where the main house is 2000 square feet heated floor area, [illegible] 10.4.2.3.3



(Building and Design Standards) to allow a separate driveway access points for an Accessory Dwelling Unit, a variance of Chapter 10.4.2 4 (Utilities), to allow an accessory dwelling a separate liquid waste system, and a partial plat vacation to allow lot 7 to have an accessory dwelling unit. The property is located at 33 N Paseo De Angel Road within The La Cienega and La Cieneguilla Community District Overlay, within the Residential Estate Zoning District, within, Section 21, Township 16 North, Range 8 East, (Commission District 3)

Member L. Gonzales recused himself from this case and Member Martin left the meeting.

CHAIR ANAYA: I have a question for staff for the attorney. Mr. Gonzales has an issue with this next item that is coming up.

RACHEL BROWN (Deputy County Attorney): Mr. Chair, member of the Commission, I understood that Mr. Gonzales had elected to recuse himself.

CHAIR ANAYA: That is correct; is that all right? Are we still okay with a quorum? Susan left too. She had to leave. We have four.

MEMBER KATZ: I'm good for another hour and a half. [laughter]

CHAIR ANAYA: Next case coming up is V 17-5230, Dorothy Montoya variance.

JOHN LOVATO (Case Manager): Dorothy Montoya, Applicant, requests a variance of Chapter 10.4.2.1, to allow an accessory dwelling within a major subdivision, a variance of Chapter 10.4.2.2, to allow an accessory dwelling to be 1,350 square feet where the main house is 2000 square feet heated floor area, a variance of Chapter 10.4.2.3.3 to allow a separate driveway access points for an Accessory Dwelling Unit, a variance of Chapter 10.4.2 4, Utilities, to allow an accessory dwelling a separate liquid waste system, and a partial plat vacation to allow lot 7 to have an accessory dwelling unit. The property is located at 33 N Paseo de Angel Road within The La Cienega and La Cieneguilla Community District Overlay, within the Residential Estate Zoning District, within, Section 21, Township 16 North, Range 8 East, Commission District 3.

October 26, 2017, this Application was presented to the Hearing Officer for consideration. The Hearing Officer recommended denial of the Application as memorialized in the findings of fact and conclusions of law written order Exhibit 10.

The property consists of 2.63 acres within the Residential Estate Zoning District within the La Cienega and La Cieneguilla Community District Overlay as defined by Ordinance 2016-9, the Santa Fe County Sustainable Land Development Code.

The Applicant would like to place a 1,350 square foot residence on her property so that her sons can reside in it. Currently, there is a 2000 square foot modular home located on the property and is serviced with a well and conventional septic system. The Applicant intends to place a new driveway and additional septic system to accommodate the proposed 1,350 square foot accessory dwelling. The SLDC requires a shared driveway and a shared septic so the Applicant is requesting variances from that section. After a Site inspection and further review of the subdivision, it was determined that the subject lot was located within a major subdivision and a note on the Applicant's subdivision, plat note #12 states, Guest homes are prohibited on this lot.

In 1994, an application for Vista de Sandia subdivision was submitted. The Application for plat approval was granted by the BCC in 1996 under case number 94-2173. The approval was for a 16 lot subdivision and lot sizes range from 2.5 acres to 2.63 acres. The lots sizes were derived from a hydrologic study prepared by Jack Frost. Each lot within the subdivision was granted a 0.26 acre-foot water restriction based on the amount of water that the geo hydrologic report proved. A condition was imposed by the Board of County Commissioners that no guest homes were allowed. If the variances are granted the Applicant will submit a request to the BCC for a partial plat amendment to change the note on the plat to allow an accessory dwelling on her 2.63 acre parcel.

In 2016, Under Ordinance 2015-11, the Applicant obtained a permit, permit #16-478, to allow an addition to place a 700 square foot porch to comply with criteria set forth in Chapter 10.4.2.2, Size, to allow a 1,350 square foot accessory dwelling, Ordinance 2015-11, stated the building footprint of the accessory dwelling shall not exceed the lesser of a): 50 percent of total building footprint of the principal residence; or b) 1,400 square feet. Ordinance 2016-9, later amended Ordinance 2015-11, and states, the heated area of the accessory dwelling shall not exceed the lesser of a): 50 percent of heated area of the principal residence; or b) 1,400 square feet. The heated area of the principal residence is 2,000 square feet, therefore, a 1,350 square foot accessory dwelling would not meet code requirements.

The Applicants property is located within a major subdivision and Chapter 10.4.2.1, states that platted major subdivisions shall only be permitted to have an accessory dwelling unit if their approval and reports and SRAs allowed and accounted for this. The Applicant proposes a separate septic system and Chapter 10.4.2.4, Utilities, requires the principal dwelling share a septic system. Furthermore, the Applicant requests a second driveway to access the proposed accessory dwelling unit. Chapter 10.4.2.3.3 states an accessory dwelling shall be accessed through the same driveway as the principal residence. Therefore, the Applicant is requesting variances.

The Applicant states, My sons have been unsuccessful at finding an affordable home here in Santa Fe, and I am hoping to help them.

The Applicant responded to the variance review criteria and staff responded to the applicant's response on whether or not the applicant met the variance criteria.

Recommendations: Hearing Officer Recommendation: On October 26 2017, this Application was presented to the Hearing Officer for consideration. The Hearing Officer recommended denial of the Application as memorialized in the findings of fact and conclusions of law written order as Exhibit 10.

The Hearing Officer denied the variances because although the application is not contrary to the public interest and is in the spirit of the SLDC, there has been no showing of extraordinary and exceptional situations or conditions of the property as required in order to grant a variance. The reasons for seeking the variance are personal to the Applicant and do not involve any conditions of the property.

The Hearing Officer concludes that the request for variances regarding the size of the proposed accessory dwelling, the separate septic system, and shared driveway use are moot. This is based on the fact accessory dwellings are not allowed within a major subdivision, the hydrologic report proving only 0.26 acre-feet per lot, and the plat note stating guest homes are prohibited on these lots.

Staff Recommendation: Staff cannot support the variance to allow an accessory dwelling unit in a major subdivision. The original subdivision did not prove up more than 0.26 acre-feet per lot and stated that guest houses are not allowed. If the Applicant had applied for the accessory dwelling unit in 2015, it would have been allowed by Code but not by subdivision plat.

If the Santa Fe County Planning Commission approves the variance to allow the accessory dwelling unit within a Major Subdivision then staff recommends the following: Approval of the variance request for a second driveway. Chapter 10.4.2.3.3 states that an accessory dwelling shall be accessed through the same driveway as the principal residence. The proposed variance is a minimal easing of Code requirements as the proposed driveway will not be contrary to the public interest, as it meets separation requirements. The condition of the property constitutes an exceptional condition of the property because it is split levels so the strict application so the code would result in practical difficulties and undue hardship on the owner. The spirit of the SLDC is observed as the new driveway will minimize disturbance of the natural terrain.

Approval of the requested variance to allow the size of the accessory dwelling to exceed 50 percent of the heated area of the main residence as proposed. The request will not be contrary to the public interest, exceptional situations exists as the Applicant constructed an addition to the existing residence in order to meet size requirements, then the Code changed, and the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner and the spirit of the SLDC is observed.

Approval of the requested variance to allow an accessory dwelling a separate septic system as the property has split levels which creates a hardship to share the existing system. The new septic has been permitted by NMED. Contrary to public interest the split levels create exceptional situation of the property, the strict applications of the code would result in peculiar and exceptional practical difficulties due to terrain and so that the spirit of the SLDC is observed.

If the Santa Fe County Planning Commission approves all variances, staff recommends the following conditions be imposed:

1. The Applicant must request a plat amendment from the BCC to modify the note that prohibits guest houses. [The applicant must request and obtain approval of a plat amendment from the BCC.- clarified by Ms. Lucero]
2. Applicant must install a meter on the well and submit proof at time of development permit application

Thank you, Mr. Chair, Commissioners, I stand for questions.

CHAIR ANAYA: Do we have any questions for staff? Mr. Gonzales.

MEMBER C. GONZALES: John, right now as is, the applicant could build a 1,000 square-foot house but they'd have to tie into the existing utilities; is that correct? Without a variance.

MR. LOVATO: Mr. Chair, Commissioner Gonzales, without a variance and many other major subdivision – in many places they can do so. In this instance they –

MEMBER C. GONZALES: Okay, because of that note.

MEMBER KATZ: Mr. Chairman.

CHAIR ANAYA: Mr. Katz.

MEMBER KATZ: To what extent is the condition on the plat that there are no guest houses, something that people who bought in the area would have relied on.

MS. LUCERO: Mr. Chair, Commissioner Member Katz, being that there was a not placed on the plat that basically gave all of those property owners disclosure that they couldn't have a guest house if they were to request one. So I would imagine that they all relied upon that condition as not being allowed to have a secondary dwelling unit.

MEMBER KATZ: Thank you.

CHAIR ANAYA: Any other questions for staff at this time? Oh, I'm sorry, Vicki.

MS. LUCERO: No problem. Mr. Chair, I wanted to actually amend or clarify condition 1 that staff was recommending. What we would request is that it state, "The applicant must request and obtain approval of a plat amendment from the BCC." So it wouldn't just be the request they would also have to obtain approval from the BCC. Thank you, Mr. Chair.

CHAIR ANAYA: Thank you, Vicki. Any other questions of staff? Seeing none, is the owner here.

[Duly sworn, Dorothy Montoya testified as follows]

DOROTHY MONTOYA: Dorothy Montoya, 33 Paseo de Angel North, Santa Fe, New Mexico. I'd first like to say I bought my property in 2000. When I purchased my property, the people told me, the people that sold me the property told me that accessory dwellings were allowed. Well, that said that we could subdivide the property and I always – I never looked into all these years because my kids were little and I just figured I was able to do that when the time came.

Probably about five years ago I looked into and I called the County and they told me that we can no longer subdivide but we could put an accessory dwelling. At the time I wasn't ready to do that because we didn't have the money and my kids were still young. About two years ago I came to the County thinking I could get this all going now that my kids were older. I have four boys and my two older boys are 25 and 26 and they wanted to get their own place and be responsible for their own home and I told them, well, you could put a house on our property. That's why we bought it. It's huge. It's almost three acres. There's no other reason we bought it, just for our kids.

They told me, Yeah, we could put an accessory dwelling I got the permits because they told me I needed to add square footage to my house which I did. I got the permit to get a porch done. I added this humongous porch that I didn't need. I was never planning to build a huge porch like that. I couldn't afford it. I took out a loan of $7,000 to pay for this porch and to pay for the people doing it because my kids really wanted a home here and they wanted a home on our land.

We love La Cienega. We want to continue living there. So I spent $7,000 on that. That's not including all the permits I needed for it and I had to get a State permit and a County permit. I did all of that. I thought, okay, we're done with this now we can get their accessory dwelling. I put $4,000 down to help them buy their septic and they put a down payment on their home which we thought we could get a 1,350 square foot. It wasn't like we wanted this size because we wanted. We thought, that's the size we could get because we had 2,700 square feet on my home. So my boys put down a down payment, they picked their home, I put down $4,000 for the septic. We were just going

to start developing, I went to the County to tell them I had all my paperwork that's when they told me, Oh, no, this is not accepted anymore. We can't put an accessory dwelling. I was furious because I would have not even started this if I would have known that. I wouldn't have spent all of that money on a humongous porch that I didn't need, put the down payment on the septic, got my boys' hopes up thinking they could live on the property. It's just been – I've been doing every single thing that the County asked me to do. I've been here probably about a million times, a bunch of meetings, I paid everything that I needed to pay regarding fees and permits and everything and now I'm not allowed to do that.

I wanted to get a lawyer but I can't afford that. I'm a single mom with four boys and that's just not easy for me to do. So now they told me that I can come back and through this process and that's what I have been doing. I'm really hoping that this goes through because if it doesn't my boys are going to probably move to Albuquerque and I will probably follow them which I don't want to do because I have an elderly mother who lives in Santa Fe. I grew up in Santa Fe. My boys grew up in Santa Fe. I would like them to stay here but if this is a town that doesn't care about family and only cares about accepting big businesses and rich people to come out then that's fine, I'll move. And so far I've seen that all these people that come and ask for approvals for things have been people that are developing and rich people. And I'm just not there. I am hoping to get this approved. I've done everything I've been asked to do and I am not doing it just to expand my land or anything like that. I don't need 3 acres of land. I bought it for my kids and I just hope that you guys approve this because other than that, my kids are going to leave and I probably will too. I've been with the State, I work with the State for 26 years and my two sons both have a job with the State and we thought that this was a place we could live and my kids could grow up and my grandkids can grow up. But that's basically all I have to say.

CHAIR ANAYA: One quick question. You said 3 acres?

MS. MONTOYA: It's 2.66 acres. They say it is 2.63 but we were told it was 2.66.

CHAIR ANAYA: Okay, another question. You said that your sons had put a down payment on a home; is that a manufactured housing?

MS. MONTOYA: Yes.

CHAIR ANAYA: Are all the other houses around you, are they manufactured homes?

MS. MONTOYA: Most of them are and most of my neighbors have two dwellings or they're subdivided. There's a neighbor across the street that is subdivided, they did that a long time ago for their son. And I don't know why I couldn't do it. There's people that have two driveways on my street. There's people that have a bunch horses and several families live in one place and this is all accepted and I can't even provide for my two boys. We will not have any more people in our family. It just me and my four boys. They'll be using the same amount of water. The driveway that we're planning to put in does not hit any of the other driveways across from us. There's when we develop it – there's not a bunch of trees that we're going to have to knock down or anything. It's pretty flat where we're going to develop. The only reason why we can't put two driveways – I mean we can't use the same driveway is I'm on a hill and in order to do one driveway the kids would have to come in through my driveway and go down a

steep hill or I'd have to build a road and that would cost a lot. And the property where they want to put their house is right next to the road, right level to the road and we've already been driving through there because that's how we can access the back of our property. It's not like we have to do anything major and run over trees or arroyos or anything. It's right connected to the property. I wanted to hookup their septic to mine but they said that considering the big house that we have and their size of their home, they'd have to put a small septic which won't be interfering with anybody else's septic or water lines in that area. Our well is on top of the hill and far from their septic and my septic. Their septic won't be very close to my septic. There's no chance of it flooding there because we're on a hill and all of the water runs down on the street, down the street, so there's no chance of flooding.

All of my neighbors, well, not all of them, several of them that I talked to are pretty okay with it. They think there should be no reason why we can't do that – we can't put another accessory dwelling there. I had nobody oppose it and I sent letters out to all the neighbors within 500 feet. Nobody opposed it at all. I don't think – the water usage would be the same. It's still the same amount of people. We don't have any horses. We don't have a lot of landscaping that needs a lot of water. I don't think I should have to put a meter on the water when nobody has a meter on their water there. Not that I'm afraid we're going to go over: I know we won't. But that's more expense for me to have to pay for a water meter and to have to report that.

CHAIR ANAYA: Okay.

MS. MONTOYA: I just feel that I'm doing everything I was told to do. I am doing everything legally and I know people that haven't and they have no problems. And I feel that I have tried to do things legally and I'm having all sorts of problems.

CHAIR ANAYA: You didn't submit any pictures with your application or anything like that so that we could actually –

MS. MONTOYA: I do have pictures.

CHAIR ANAYA: But you didn't submit any with the application that you --

MS. MONTOYA: Well, the County is the one that provided pictures for me. They provided the aerial photo and I provided the plat, my plat.

CHAIR ANAYA: The plat that you wanted to do just on your lot?

MS. MONTOYA: Yeah, the plat of my property and where we want to put the dwelling and the driveway. I also paid for my septic permit already and I submitted the paperwork for the septic permit, it was already approved. I have copies of all of that. If you want copies of it now –

CHAIR ANAYA: No, that's fine. But in the future if you have to – because that helps visualize a lot of that. And you're talking about your neighbors and what they have well, this Board –

MS. MONTOYA: I have an aerial.

CHAIR ANAYA: This Board has not been to your location so we can't tell what's there without looking.

MS. MONTOYA: I have an aerial photo of my plot and the neighbors around there so you can see all of that.

CHAIR ANAYA: Any questions from the staff for the owner at this time? Seeing none, okay, thank you, Mrs. Montoya. This is an open hearing, open meeting. If

there is anybody in the audience that wishes to speak for or against the project please come forward. Seeing and hearing none, the open session is closed.

Next item up is for the Board, do you have any questions for staff at this time? Mr. Gonzales.

MEMBER C. GONZALES: John, have you been to the site?

MR. LOVATO: Mr. Chair, Commissioner Gonzales, yes, I have been to the site.

MEMBER C. GONZALES: I saw something in the report about 30 percent slopes by the driveway and so forth. What does the site look like as far as terrain management?

MR. LOVATO: The site where the actual her current residence is on, it's on a hilltop. It would be considered a ridgetop. So it does have 30 percent on more than one side. That's kind of how staff leaned if you guys were going to approve the variances that it wouldn't be such a big deal because this is – they're clearly going to disturb a lot of 30 percent and scare up that hillside.

MEMBER C. GONZALES: So is the actual proposed site, is it pretty flat?

MR. LOVATO: The proposed site is pretty flat. It is within two other hills so it is kind of sunken in a bit. But it is flat, at the most 15 percent.

MEMBER KATZ: Mr. Chairman.

CHAIR ANAYA: Mr. Katz.

MEMBER KATZ: So if we were to approve with the conditions suggested, that essentially boots it up to the Board and they would have to decide whether they want to vacate the rule about no guesthouse?

MS. LUCERO: Mr. Chair, Commission Member Katz, if the Planning Commission approves the variances then they would all be approved. The Planning Commission has final authority on variances. It's just that the note on the plat that says, guesthouses are not allowed, would be contrary to the variance so that plat note would have to be amended by the Board because they approved the initial plat.

MEMBER KATZ: Okay, thank you. I would make a motion if you're ready.

CHAIR ANAYA: Let me ask John one other question real quick. John, the area over there evidentially it is manufactured housing and stuff, is there a lot of places that have two homes on it – a second dwelling, in other words?

MR. LOVATO: Mr. Chair, there is many that has accessory structures but not dwellings. There was one across the street that was and actually was brought into compliance with Code Enforcement. But the surrounding locations, other than the subdivision, there are a few. And then there's also lots that are 1.25 acre.

CHAIR ANAYA: Thank you, John. Okay, pleasure of the Board.

MEMBER KATZ: Mr. Chair, in case of V 17-5230, I would move to grant the three variances with the conditions that were specified as amended so that they must request and get a plat amendment from the Board.

MEMBER LOPEZ: I second that motion.

CHAIR ANAYA: We have a first and a second with the amendments on condition 1 as stated by staff earlier. We have a first and a second. All in favor.

The motion passed by unanimous [4-0] voice vote. [Member Martin was not present for this action and Member L. Gonzales recused himself.]

MS. BROWN: Mr. Chair, did you vote on this matter because it does require a majority of the Board to approve a variance. Okay.

CHAIR ANAYA: Thank you, John.

MR. LOVATO: Thank you.

MS. MONTOYA: Thank you very much.

CHAIR ANAYA: Good luck.

H. Executive Session as allowed by Section 10-15-1(H)(3) NMSA 1978, Deliberation by a public body in connection with an administration adjudicatory proceedings

MS. BROWN: The executive session is only to deliberate on an item that you're about to make a decision on.

MEMBER KATZ: It's very confusing to have it on here.

CHAIR ANAYA: Don't I still have to ask because it's on the item – it's on the minutes.

MS. BROWN: Mr. Chair, I think you can skip over it if you haven't used it during the session. And we will put it on the agenda in a different manner in the future where it is simply a note at the bottom saying that for any of the items on the agenda you could go into executive session.

CHAIR ANAYA: Thank you.

I. Petitions from the Floor

None were offered.

J. Communications from the Committee

Wishes for a Merry Christmas and a Happy New Year were shared.

K. Communications from the Attorney

None were presented.

L. Matters from Land Use Staff

Staff wished all a Merry Christmas and Happy New Year.

M. Next Planning Commission Meeting: January 18, 2018

Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

DATE: March 13, 2018

TO: Board of County Commissioners

FROM: John M. Salazar, Development Review Specialist Sr. JMS

VIA: Katherine Miller, County Manager
Penny Ellis-Green, Growth Management Director
Vicki Lucero, Building and Development Services Manager VL

FILE REF.: CASE # CP 16-5280 Oshara Conceptual Plan Amendment

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ISSUE:

G.E. Richards Property, LLC, Applicant, Santa Fe Global Partners/Arroyo Hondo de Santa Fe, Agent, request Conceptual Plan approval to amend the previously approved Oshara subdivision (735 dwelling units on 470.62 acres) in order to reduce the estimated commercial square footage in future phases from 1,321,000 square feet to 303,330 square feet, eliminate the Employment Center Zone in Phase 2, eliminate the Institutional Campus Zone, increase the number of dwelling units to 855 from 735, reorganize the phasing plan from six phases to five, to have five sub-phases in Phase 2, and to amend the proposed source of sewer service.

The property is located in the Community College District, within a Planned Development District, east of Richards Avenue and south of Rabbit Road, within Section 16, Township 16 North, Range 9 East (Commission Districts 4 and 5).

SUMMARY:

The Applicant has requested to table this case until the April 10th meeting as they continue to work with the Public Works Department on certain issues.