

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: December 21, 2017

TO: Santa Fe County Planning Commission

FROM: John Lovato, Development Review Specialist Sr.

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

FILE REF.: CASE # V 17-5230 Dorothy Montoya Variances

ISSUE:

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 (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).

Vicinity Map:



Site Location

NBG-1

SUMMARY:

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 (Exhibit 10).

The Applicant is the owner of the property as evidence by warranty deed recorded in the records of the Santa Fe County Clerk on April 14, 2000, as recorded in Book 1756 page 305. 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 (SLDC).

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): fifty percent (50%) 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: 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 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's response to the variance review criteria for each of the variances are as follows:

Driveway Variance

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

Applicant's Statement: The accessory dwelling unit minimizes slope disturbance. Speeds on the road are not high so there would not be an issue with accessing the lot with a second driveway. The second driveway exists and is already used to access the bottom of the property.

Staff Response: The proposed second driveway meets setback requirements of Chapter 7.11.12.3.3 Table 7-15, which requires a minimum setback of 200' between access points for a posted speed limit of 25.m.p.h. The property has slope which separates upper and lower portion of the parcel. A shared driveway will disturb slopes in excess of 30% slope.

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:

Applicant's Statement: The property is split levels. The existing house and access is on the top portion of the lot. There is no room for an accessory dwelling on that portion so it needs to be placed on the bottom portion of the lot. Thus this is why I am asking for a variance of this requirement.

Staff Response: An access to the second dwelling from the existing access point would require an engineered driveway and a possible variance due to terrain constraints. This would cause slope disturbance.

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

Applicant's Statement: The additional driveway will not disturb slopes. The property has slope which separates upper and lower portion of the parcel. A shared driveway will disturb slopes in excess of 30% slope.

Staff Response: The proposed driveway will not disturb slopes in excess of 30% slope. The Applicants existing driveway would disturb slopes in excess of 30% to access the lower level. However Provisions in the SLDC allows for 3 separate occurrences of 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.

The Applicant's response to Chapter 4.9.7.4 Review Criteria is as follows:

Accessory Dwelling Unit in a Major Subdivision Variance

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

Applicant's Statement: We will share a well. My sons live with me now so having their own home will not be an impact.

Staff Response: In 1996, Vista de Sandia was approved for a 16 lot subdivision. Lot sizes were derived from a Hydrologic study and granted 0.26 acre feet per lot.

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:

Applicant's Statement: This process has caused a major financial and time consuming burden. Please see attached (Exhibit 2)

Staff Response: The Applicant came in for an addition on August 23, 2016, with the intention of adding on to her existing modular home to increase the size, so she could obtain a permit for an accessory dwelling unit of 1,350 square feet that met the standards of Ordinance 2015-11 (SLDC). At the time, the SLDC did not prohibit accessory dwelling units in a major subdivision. This provision was added as part of Ordinance 2016-9. The changes also included that heated floor area be used for determining size of the accessory dwelling unit which previously was building footprint. The included changes along with plat note #12 has held up the Applicant from moving ahead with any Application.

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

Applicant's Statement: In general the SLDC allows accessory dwellings it is just we are in a Major Subdivision.

Staff Response: The Code changes along with plat note #12 has held up the Applicant from moving ahead with any Application. The plat note states, Guest houses are prohibited on these lots.

Size of Accessory Structure Variance

1. Where the request is not contrary to the public interest

Applicant's Statement: The structure is a small double wide and not a huge home and my sons are already living with me.

Staff Response: The Applicants residence is 2,000 square feet of heated area. The Applicant is proposing a 1,350 square foot accessory dwelling. In order to meet current standards of the

Staff Response: The Applicants residence is 2,000 square feet of heated area. The Applicant is proposing a 1,350 square foot accessory dwelling. In order to meet current standards of the SLDC, the proposed accessory dwelling could only be 1,000 square feet to comply with standards of Chapter 10.4.4.2.2 which states the heated area of the accessory dwelling unit shall not exceed the lesser of: (a) fifty percent (50%) if the heated floor area of the principal residence; or (b) 1,400 square feet. In 2015, the Ordinance 2015-11, stated the heated area of the accessory dwelling unit shall not exceed the lesser of: (a) fifty percent (50%) of the building footprint of the principal residence; or (b) 1,400 square feet.

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:

Applicant's Statement: A 700 square foot porch was added which met the 2015 SLDC requirements and then that changed.

Staff Response: The Applicant obtained a permit on August 23, 2017, to add a 700 square foot porch to meet the size requirements of the SLDC that would allow for a 1,350 square foot accessory dwelling that met the 50% of the square footage of total building footprint of the main residence. The Applicant later came in to permit the accessory dwelling and was informed the code had changed to heated area and the accessory dwelling did not meet the requirements of the SLDC. The Applicant had tried to conform to the code and spent money on the porch to comply.

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

Applicant's Statement: The small home allows my family members to stay close together. The home will not exceed 1,400 square feet which is the maximum for accessory units. The request meets the purpose of accessory dwelling to provide affordable housing for multi-generational family situations.

Staff Response: The intent of the Accessory dwelling is to create and provide an affordable means for family members to live close to other family members.

Utilities Variance

1. Where the request is not contrary to the public interest.

Applicant's Statement: The proposed septic system has been permitted through New Mexico Environment Department and will not affect any surrounding neighbors or wells.

Staff Response: Chapter 10.4.2.4, requires the accessory dwelling share in common the septic system with the principal residence. This section further states any upgrades to the system shall be upgraded and permitted through NMED. The Applicant has submitted an approved permit for the separate septic system.

NR19-5

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:

Applicant's Statement: In order to share a septic we would have to place a lift to pump it up to the existing system and it would be costly and ineffective.

Staff Response: There is a provision in the SLDC that allows accessory structures to use a separate septic if terrain constraints prohibit the accessory structure from utilizing the septic of the primary residence. However, this is an accessory dwelling and the SLDC does not allow separate septic systems. The property is split level and it would not be easy to share the septic system.

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

Applicant's Statement: 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 meet the intention of the Code.

Staff Response: Other parcels are located uphill from the proposed structure and septic system. Structures on surrounding properties are over 150' away and the proposed system will comply with all New Mexico State Environment regulations.

The applicable requirements under the Santa Fe County Sustainable Land Development Code, Ordinance No. 2016-9 (SLDC), which govern this Application are the following:

Chapter 10.4.2.1 (Number Permitted) Only one accessory dwelling unit shall be permitted per legal lot of record. 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.

Chapter 10.4.2.2 (Size) the heated area of the accessory dwelling shall not exceed the lesser of a: fifty percent (50%) of heated floor area of the principal residence; or (b) 1,400 square feet.

Chapter 10.4.2.3.3 (Building and Site Design) an accessory dwelling shall be accessed through the same driveway as the principal residence

Chapter 10.4.2.4 (Utilities) Liquid waste disposal shall be in common with the principal residence.

Chapter 4, Section 4.9.7.4, Variance Review Criteria.

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 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

Chapter 4, Section 4.9.7.5 Variance Conditions of approval.

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.
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

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.

Chapter 4, Table 4-1, Procedural Requirements by Application, defines the review/approval process for a variance request.

As required by the SLDC, the Applicant presented the Application to the Technical Advisory Committee (TAC) on August 3, 2017, at the regularly scheduled monthly meeting, which satisfied the requirements set forth in Chapter 4, TAC Meeting Table 4-1.

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 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 subject property and a list of persons sent a mailing is contained in the record.

This Application was submitted on August 3, 2017

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 (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% 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.
2. Applicant must install a meter on the well and submit proof at time of development permit application.

EXHIBITS:

1. Applicants Request
2. Applicants Letter of Burden
3. Proposed Site Plan
4. Plat (Plate Note #12)
5. Chapter 10.4 Accessory Dwelling Units
6. Chapter 4, Section 4.9.7.4, Variance review criteria
7. Chapter 4, Section 4.9.7.4, Conditions of approval
8. Notice
9. Community Meeting Documents
10. October 26, 2017, Hearing Officer Meeting Minutes
11. Hearing Officers Recommended Decision and Order

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

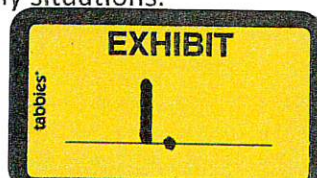
1. Would minimize slope disturbance
Speeds on the road are not high so there would not be an issue with accessing
2nd driveway exists – used already to access the bottom of the property
2. Property is split levels. Existing house is on the top portion. No room for an accessory dwelling on that portion.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



NBG-10

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

NBq-11

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 details 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 one!) 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 county 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

me to write a letter to submit to the



NB6-12

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!

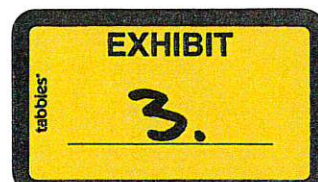
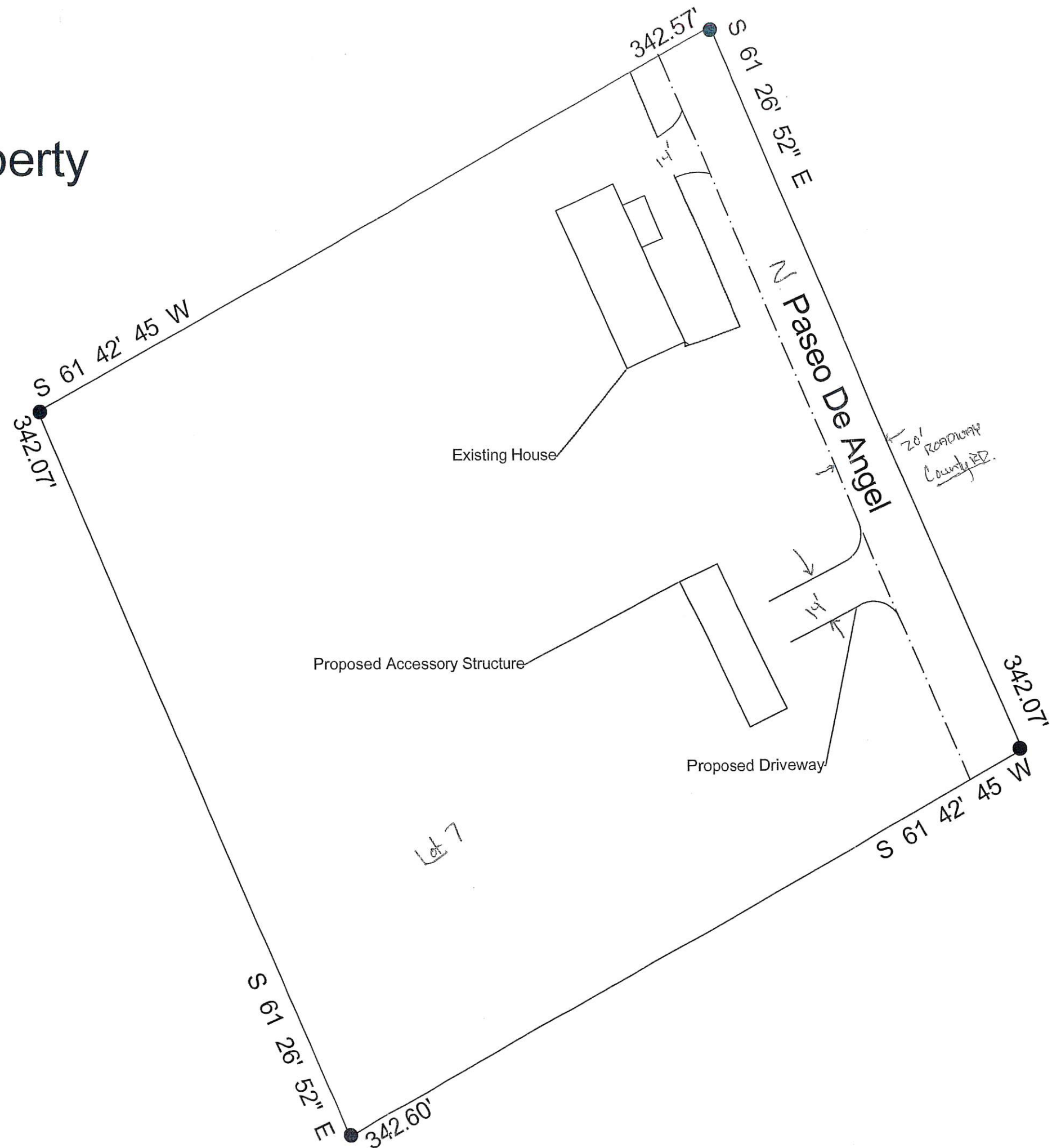
Dorothy Montoya
State of New Mexico
Human Services Department
Information Technology Division
1301 Siler Road - Bldg. B/C
Santa Fe, NM 87505
Phone - 505-476-7335
Fax - 505- 476-3950
Cell - 505-577-0795

Montoya Property

Scale: 1" =

33 N. PASEO DE ANGEL

LOT 7 VISTA DE SANDIA SUB.



NB9-14



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.

SANTA FE COUNTY APPROVAL

COUNTY LAND USE ADMINISTRATION 4-26-96
DEVELOPMENT PERMIT NO. 94-2173

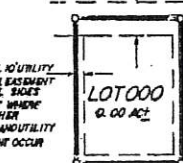
NOTES AND CONDITIONS

- 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.
- DRAINAGE EASEMENTS SHALL REMAIN IN NATURAL CONDITION.
- WATER WELL WITHDRAWAL ON THESE LOTS RESTRICTED BY COVENANTS FILED IN THE OFFICE OF THE COUNTY CLERK RECORDED IN BOOK 1264 PAGE 411-415 DOCUMENT NO. 943-374.
- PORTION OF THIS PROPERTY LIES WITHIN THE 100 YR. FLOOD ZONE AS PER COMMUNITY PANEL NO. 350069 236 B. AS SHOWN BY DOTTED AREA.
- THE APPROVAL OF THIS PLAT DOES NOT CONSTITUTE THE APPROVAL OF ANY FURTHER DEVELOPMENT INCLUDING BUILDING PERMITS.
- TERRAIN MANAGEMENT REGULATIONS (ARTICLE V, SEC. 3.8 OF THE COUNTY LAND DEVELOPMENT CODE) SHALL BE COMPLIED WITH AT THE TIME OF BUILDING PERMIT APPLICATION FOR EACH LOT.
- 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.
- DRIVEWAYS SHALL BE LOCATED AND COMBINED TO MINIMIZE IMPACT ON EXISTING GROUND AND VEGETATION.
- DRIVEWAY CULVERTS SHALL BE INSTALLED DURING LOT IMPROVEMENTS, BY LOT OWNERS.
- IN ORDER TO ADDRESS FIRE PROTECTION EACH RESIDENTIAL UNIT SHALL HAVE INDIVIDUAL SPRINKLER SYSTEMS DESIGN.
- RESTRICTIVE COVENANTS FILED IN THE OFFICE OF THE SANTA FE COUNTY CLERK IN BOOK 1264 PAGE 411-415 DOCUMENT NO. 943-374.
- GUEST HOUSES ARE PROHIBITED ON THESE LOTS.
- MAINTENANCE OF ROADS AND COMMON RECREATIONAL OPEN SPACE IS THE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION.
- 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.
- NOTICE: THESE LOTS ARE SUBJECT TO SANTA FE COUNTY FIRE AND RESCUE IMPACT FEES AT THE TIME OF BUILDING PERMIT APPLICATION.

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.

Lorenzo E. Dominguez 7/7/94
LORENZO E. DOMINGUEZ N.E.S. NO. 10484



TYPICAL EASEMENT DETAIL

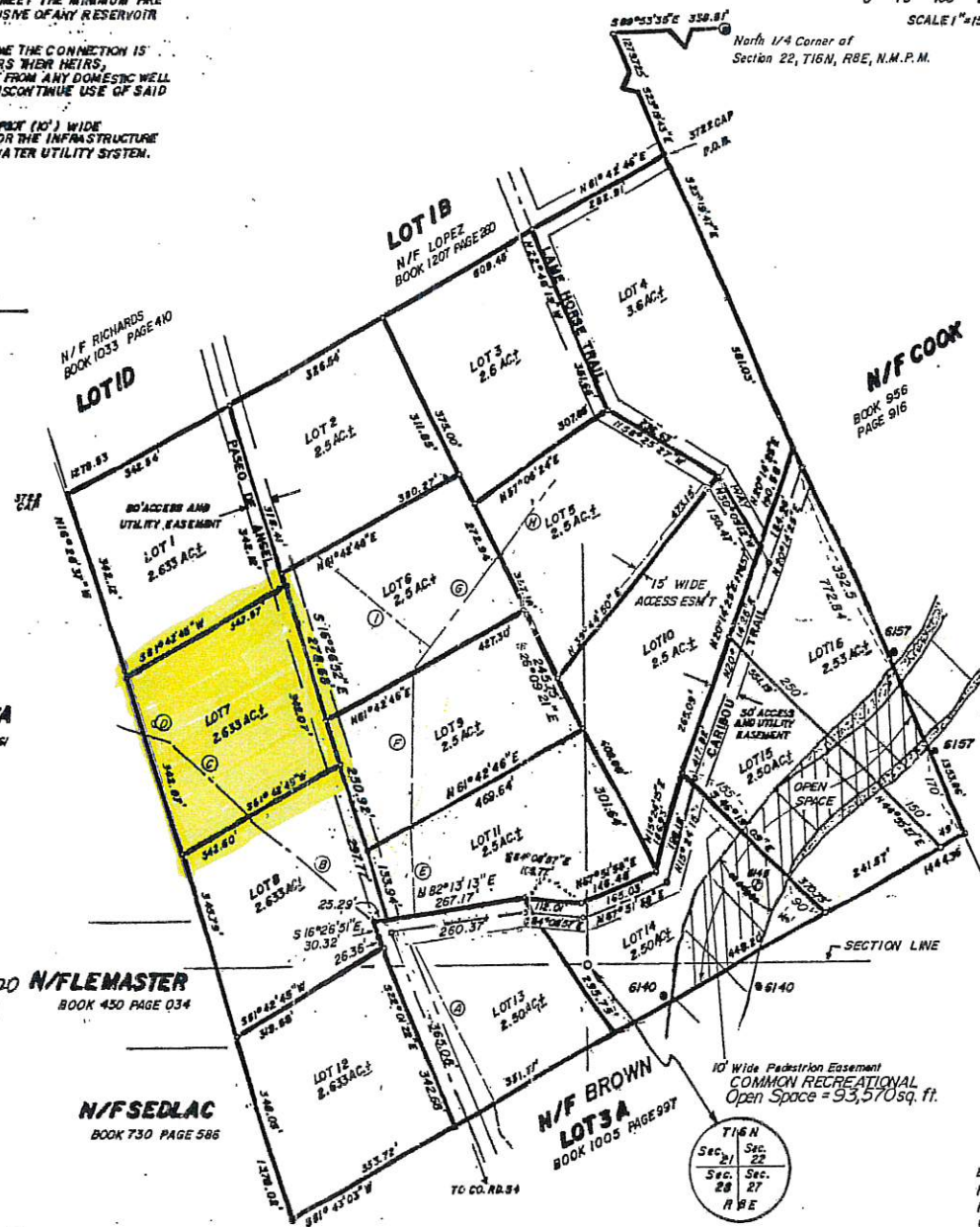
DRAINAGE EASEMENT DATA (CENTERLINE) 10' WIDE

- N 27° 05' 00" W, 327.12'
- N 30° 02' 04" W, 304.23'
- N 46° 35' 00" W, 202.54'
- N 72° 05' 00" W, 45.44'
- N 03° 12' 27" W, 164.46'
- N 02° 57' 20" E, 287.24'
- N 3° 27' 05" E, 267.32'
- N 37° 27' 05" E, 176.25'
- N 51° 37' 55" W, 272.49'

SANTA FE PLATS
AND PLANS
107 DUNLAP
(505) 989-9819

LA CIENEGA WATERSHED CONDITIONS

- 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 4-53A-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.
- ENCOURAGEMENT FOR SHARED WELLS. TO THE GREATEST EXTENT FEASIBLE LOT OWNERS SHOULD USE SHARED WELLS TO MINIMIZE EXPENSES RELATED TO INTERIM WATER SUPPLIES.
- DESIGN AND CONSTRUCTION. AT THE TIME A LINE EXTENSION IS MADE OR SHARED WELL SYSTEM SHALL BE DESIGNED TO MEET THE MINIMUM FLOW REQUIREMENTS OF THE LAND DIVIDED, EXCLUSIVE OF ANY RESERVOIR CAPACITY.
- 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.
- 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.



North 1/4 Corner of Section 22, T16N, R8E, N.M.P.M.

DEDICATION AND AFFIDAVIT

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 OWNERS. 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.

Luis Gonzales July 1, 1994
OWNER VISTA DE SANDIA CORPORATION
LOUIS GONZALES, PRESIDENT

STATE OF NEW MEXICO

COUNTY OF SANTA FE
THE FOREGOING WAS SWORN, ACKNOWLEDGED AND SUBSCRIBED BEFORE ME BY *Luis Gonzales* THIS 1st DAY OF July, 1994.

Linda R. Dwyer 5-30-98
NOTARY PUBLIC NY COMMISSION EXPIRES

CITY OF SANTA FE (REVIEWED BY)

John P. ... 1/9/96
SUBDIVISION ENGINEER
CITY PLANNER

UTILITY COMPANIES

U.S. WEST COMMUNICATIONS 6-1 DATE
J. Basore 2-8-95 DATE
PUBLIC SERVICE COMPANY OF NEW MEXICO
Julius ... 2-7-95 DATE
GAS COMPANY IN NEW MEXICO

943.373

STATE OF NEW MEXICO
COUNTY OF SANTA FE
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THE 29th DAY OF July, A.D. 1994 AT 11:58 CLOCK, A.M. AND WAS EARLY RECORDED IN BOOK 932, PAGE 005 OF THE RECORDS OF SANTA FE COUNTY.

WITNESS MY HAND AND SEAL OF OFFICE

JOHN A. ARRIJO

COUNTY CLERK, SANTA FE COUNTY, N.M.

Marcelle ...

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. R8E, N.M.P.M. BEARS:
N 23° 19' 43" W 1279.725' 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 1444.38' THENCE
N 16° 26' 37" W 1378.02' THENCE
N 61° 42' 46" E 1278.53' 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.

NB9-15

10.3.2.3. The accessory structure shall not contain a kitchen or cooking facilities, including kitchen appliances, unless approved as part of an approved home occupation or non-residential use. If a kitchen is provided for such use, the accessory structure shall not also contain a half bathroom.

10.3.2.4. Agricultural and grazing and/or ranching accessory structures shall be permitted on property where the principal use is agriculture, grazing and/or ranching, provided that a development permit is obtained in accordance with the siting and design standards of this SLDC.

10.3.2.5. Residential accessory structures shall not be designed such that they can be used for dwelling purposes. Accessory dwelling units are governed by Section 10.4.

10.3.2.6. Residential accessory structures shall not contain a full bathroom; a toilet and sink shall be permitted but no shower or bath shall be permitted.

10.3.2.7. An accessory structure may be approved on a lot adjacent to a lot containing a principal structure where both lots are in common ownership, where the lot with the principal structure has terrain or locational constraints.

10.4. ACCESSORY DWELLING UNITS.

10.4.1. Purpose and Findings. Accessory dwellings units are an important means by which persons can provide separate and affordable housing for elderly, single-parent, and multi-generational family situations. This Section permits the development of a small dwelling unit separate and accessory to a principal residence. Design standards are established to ensure that accessory dwelling units are located, designed and constructed in such a manner that, to the maximum extent feasible, the appearance of the property is consistent with the zoning district in which the structure is located.

10.4.2. Applicability. This Section applies to any accessory dwelling unit located in a building whether or not attached to the principal dwelling. Accessory dwelling units shall be clearly incidental and subordinate to the use of the principal dwelling. Accessory dwelling units are permissible only: (a) where permitted by the Use Matrix; and (b) where constructed and maintained in compliance with this Section 10.4.

10.4.2.1. Number Permitted. Only one accessory dwelling unit shall be permitted per legal lot of record. 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.

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

10.4.2.3. Building and Site Design.

1. In order to maintain the architectural design, style, appearance, and character of the main building as a single-family residence, the accessory dwelling unit shall be of the same architectural style and of the same exterior materials as the principal dwelling.

2. An accessory dwelling unit shall not exceed one story in height and may not

exceed the height of the principal dwelling unit.

3. An accessory dwelling shall be accessed through the same driveway as the principal residence. There shall be no separate curb cut or driveway for the accessory dwelling.

10.4.2.4. **Utilities.** Water and electricity for the accessory dwelling unit shall be shared with the principal residence. Liquid waste disposal shall be in common with the principal residence; however, if the principal residence is on a septic system, then any modifications to the system to accommodate the accessory dwelling unit shall be approved by NMED.

10.5. GROUP HOMES.

10.5.1. Purpose and Findings. This Section is designed to protect the rights of handicapped and disabled persons subject to the federal Fair Housing Act (FHA), 42 U.S.C. § 3601 et seq. and the Developmental Disabilities Act [NMSA 1978, §§ 28-16A-1 to 28-16A-18], and to accommodate housing for persons protected by the FHA by establishing uniform and reasonable standards for the siting of group homes and criteria that protect the character of existing neighborhoods.

10.5.2. Applicability. This Section applies to all group homes. For purposes of this Section, a "group home" means a residential facility in which any handicapped or disabled persons unrelated by blood, marriage, adoption, or guardianship reside with one or more resident counselors or other staff persons.

10.5.3. Location. Group homes are permitted as of right in all residential zoning districts, all commercial zoning districts, and other zones as specified in the SLDC. Pursuant to the requirements of the federal FHA and applicable case law, the SLDC does not require a conditional use permit or any other form of discretionary development approval for a group home. A variance is required only to the extent that the group home seeks a variance from the standards that apply to other uses in the base zoning district.

10.5.4. Standards. The standards applicable to group homes are the same as for single-family dwelling units located within the base district. Evidence of any license, certification, or registration required for the group home by state or federal standards, or a copy of all materials submitted for an application for any such license, shall be provided.

10.6. HOME OCCUPATIONS.

10.6.1. Purpose. The Purpose of this Section is to stimulate economic development in the County and promote energy efficiency by promoting home occupations and home businesses while ensuring the compatibility of home based businesses with other uses permitted in the community. Any home-based business that exceeds the standards of this Section, either at its commencement or through business growth, shall be located in or relocated to an appropriate nonresidential area.

10.6.2. Permit Required. Home occupations require a permit as specified in Table 10-1. A permit will not be issued for a home occupation where:

10.6.2.1. Code violations are present on the property;

10.6.2.2. adequate access is not available;

10.6.2.3. adequate infrastructure is not in place;

c. the proposal conforms to the SLDC and is consistent with the goals, policies and strategies of the SGMP.

2. Minor Amendments Causing Detrimental Impact. If the Administrator determines that there may be any detrimental impact on adjacent property caused by the minor amendment's change in the appearance or use of the property or other contributing factor, the owner/applicant shall be required to file a major amendment.

3. Major Amendments. Any proposed amendment, other than minor amendments provided for in Section 4.9.6.9.1, shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original CUP development approval.

4.9.6.10. Expiration of CUP. Substantial construction or operation of the building, structure or use authorized by the CUP must commence within twenty-four (24) months of the development order granting the CUP or the CUP shall expire; provided, however, that the deadline may be extended by the Planning Commission for up to twelve (12) additional months. No further extension shall be granted under any circumstances, and any changes in the requirements of the SLDC, or federal or state law shall apply to any new CUP development approval application.


4.9.7. Variances.

4.9.7.1. Purpose. 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 and standards of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

4.9.7.2. Process. All applications for variances will be processed in accordance with this chapter of the Code. A letter addressing Section 4.9.7.4. review criteria must accompany the application explaining the need for a variance.

4.9.7.3. Applicability. When consistent with the review criteria listed below, the planning commission may grant a zoning variance from any provision of the SLDC except that the planning commission shall not grant a variance that authorizes a use of land that is otherwise prohibited in the relevant zoning district.

4.9.7.4. Review criteria. A variance may be granted only by 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 erved and substantial justice is done.

4.9.7.5. Conditions of approval.

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.
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.

4.9.7.6. Administrative minor deviations. The Administrator is authorized to administratively approve minor deviations upon a finding that the deviation is required, that the result is consistent with the intent and purpose of this SLDC, and that the deviation is not detrimental to adjacent or surrounding properties as follows:

1. minor deviations from the dimensional requirements of Chapters 7, 8 and 9 of the SLDC not to exceed ten percent (10%) of the required dimension; and
2. minor deviations from the density dimensional standards of Chapter 8 of the SLDC not to exceed five tenths of a percent (0.5%) of the gross acreage allowed in the zoning district.

4.9.8. Beneficial Use and Value Determination (BUD).

4.9.8.1. Purpose. The intent of the SLDC is to provide, through this Section, a process to resolve any claims that the application of the SLDC constitutes an unconstitutional regulatory taking of property. This Section is not intended to provide relief related to regulations or actions promulgated or undertaken by agencies other than the County. The provisions of this Section are not intended to, and do not, create a judicial cause of action.

4.9.8.2. Application. In order to evaluate whether, and if so, the extent to which, application of the SLDC unconstitutionally creates a regulatory taking without just compensation, or other constitutional deprivation, an applicant, once denied development approval or granted conditional development approval, or as otherwise provided in Section 7.16.3.1, may apply to the Administrator for a beneficial use and value determination, the application for which shall describe:

1. the extent of diminution of use and value with respect to the entirety of the owner's, or lessee's real property interests in common ownership;
2. the distinct and reasonable investment backed expectations of the owner, lessee, or predecessors in interest, in common ownership;
3. the availability of cluster development, phased development, tax incentives, or transfers of development rights;
4. any variance or relief necessary or available to relieve any unconstitutional hardship or regulatory taking created;



CERTIFICATION OF POSTING

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

Case # 17-5230 was posted for 15 days on the property beginning

The 6 day of October
2017. **

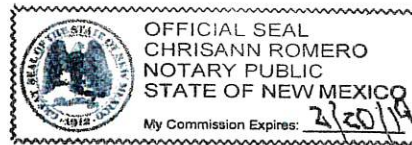
Signature

*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 }



The foregoing instrument was acknowledged before me this 10 day of

October, 2017, By Chrisann Romero.

Chrisann Romero
Notary Public

My Commission Expires:

Feb. 20, 2019



NB4-20

SANTA FE NEW MEXICAN

LEGAL #83307

CASE # V 17-5230
Dorothy Montoya
Variance.

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 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 1,300 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, a variance of Chapter 10.4.2.4 (Utilities) to allow an accessory dwelling a separate liquid waste system, and a partial plat vacation (Note) 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 October 26, 2017, at 3 p.m. on a petition to the Santa Fe County Hearing Officer and on November 16, 2017, at 4 p.m. on a petition to the Santa Fe County Planning Commission.

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

Ad Proof / Order Confirmation / Invoice

Account Number

2438

Ad Order Number

0000210452

SF COUNTY

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.

Published in the Santa Fe New Mexican on October 11, 2017.

NB6-22

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.



NB6-23

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

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,



NB6-26

SEC 011111 RECORDED 11/26/2017

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

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 allowed. 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

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. Case # V17-5520 Oreo, LLC. Variance. 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 Chapter 10.4.2.3.3 (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 accessory 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 accessory 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.

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 accessory 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.

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

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 Chapter 10.4.2.3.3 (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,

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

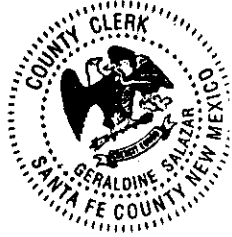
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I Hereby Certify That This Instrument Was Filed for
Record On The 28TH Day Of November, 2017 at 08:55:18 AM
And Was Duly Recorded as Instrument # 1842287
Of The Records Of Santa Fe County

Nancy R. Long
Nancy R. Long
Hearing Officer

Date: 11-15-17

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



REC CLERK RECORDED 11/28/2017