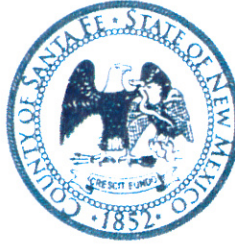


**Henry P. Roybal**  
Commissioner, District 1

**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:** November 13, 2018

**TO:** Santa Fe County Board of County Commissioners

**FROM:** Miguel "Mike" Romero, Senior Development Review Specialist *MR*

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

**FILE REF:** CASE # APP 18-5071 Angelo Ortega, Appeal.

**ISSUE:**

Angelo Ortega, Appellant, is appealing the Santa Fe County Planning Commission's decision to deny a variance of the Sustainable Land Development Code (SLDC), of Chapter 10, Section 10.4.2.1 to allow an accessory dwelling within a major subdivision. If the appeal is approved by the Board of County Commissioners (BCC), the Appellant, requests a partial plat vacation to modify a plat note that prohibits guest houses within the Vista de Sandia Subdivision to allow lot 10 to have an accessory dwelling unit. The property is located at 120 North Paseo De Angel, within the La Cienega and La Cieneguilla Community District Overlay (LCLCCD) (RES-E), within Section 22, Township 16 North, Range 8 East (Commission District 3).

**Vicinity Map:**



Site Location



## SUMMARY:

On April 16, 2018, Angelo Ortega submitted an application requesting a variance to allow an accessory dwelling unit within a major subdivision and a variance to allow an accessory dwelling to have its own separate liquid waste system.

On June 14, 2018, that application was presented to the Hearing Officer. The Hearing Officer recommended supporting the application based on the evidence and testimony presented at the public hearing as well as the precedent of the Dorothy Montoya variance application. Ms. Montoya's application was a request to allow an accessory dwelling unit within a major subdivision and to allow an accessory dwelling to have its own separate liquid waste system within the same subdivision. In regards to Angelo Ortega's application, the Hearing Officer found that the application was not contrary to the public interest, was in the spirit of the SLDC, and since there was a finding in Ms. Montoya's application of extraordinary and exceptional situations or conditions of the property, as required in order to grant a variance, that the same finding will be made here. In a written Order, the Hearing Officer recommended approval of a variance of Chapter 10, Section 10.4.2.1 to allow an accessory dwelling within a major subdivision (Vista de Sandia Subdivision), and a variance of Section 10.4.2.4 (Utilities) to allow a separate liquid waste system for the accessory dwelling unit. The Hearing Officer supported the application as memorialized in the findings of fact and conclusions of law in a written order subject to the following conditions:

1. Applicant must request a partial plat vacation to modify the note that prohibits guest houses and re-record the plat;
2. Applicant must install a meter on the well and submit proof at time of development application; and
3. Applicant will ensure that water use on Lot 10 does not exceed a total of 0.25-acre feet per year for the dwelling and accessory dwelling combined.

The written order and minutes of the June 14<sup>th</sup> hearing are attached as Exhibit 6.

On July 19, 2018, the variance application was presented to the Santa Fe County Planning Commission. The Planning Commission denied the variances requested to allow an accessory dwelling unit within a major subdivision and the variance request to allow a separate liquid waste system for the accessory dwelling unit. The Planning Commission denied the request, in part, because there was insufficient information to determine whether the accessory dwelling would impact the limited resources of the development and the Applicant failed to provide any documentation from NMED that an additional septic system is required. The written order and minutes of the July 19<sup>th</sup> hearing are attached as Exhibit 7.

On September 27, 2018, Angelo Ortega filed an application requesting an appeal of the Planning Commission's Findings of Fact and Conclusion of Law, pertaining to the requested variance to allow an accessory dwelling unit within a major subdivision. In addition, the Appellant provided an updated/approved liquid waste permit attached as Exhibit 3, from New Mexico Environment Department (NMED) stating "The proposed system constitutes one system or designed dtd." Staff has determined that the approved liquid waste permit is compliant with the SLDC, meeting the code requirements set forth in Chapter 10, Section 10.4.2.4 (Utilities). Therefore, a variance a Chapter 10, Section 10.4.2.4 is no longer needed.

Mr. Ortega referenced a fellow neighbor, Dorothy Montoya, in his letter of appeal (Exhibit 1). The letter stated, "This request was also presented to the Santa Fe County Hearing Officer on June 14, 2018. The Hearing Officer supported the Application based on evidence and testimony presented at the Public Hearing as well as the precedent of the Montoya Application (Case # V 17-5230) described above."

On December 21, 2017, hearing, the Planning Commission granted Ms. Montoya's request of a variance from Chapter 10, Section 10.4.2.1 to allow an accessory dwelling unit within a major subdivision and a variance of Chapter 10, Section 10.4.2.4 (Utilities) to allow a separate liquid waste system for the accessory dwelling unit. The Commission found that both variances would not be contrary to the public interest, exceptional situations exist, 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. The written order and minutes of the December 21<sup>st</sup> hearing are attached as Exhibit 19.

On March 13, 2018, Ms. Montoya went before the Board of County Commissioners (BCC) hearing for a request to allow 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 BCC approved Ms. Montoya's request to allow a partial plat vacation of the Vista de Sandia Subdivision (Exhibit 22).

Angelo Ortega's variance requests differed from Ms. Montoya's variance requests, which was approved on December 21, 2017. Mr. Ortega's variances did not provide unique facts to the Planning Commission. Contrary to Ms. Montoya, Mr. Ortega did not prove undue hardship or unique situations. In addition, Mr. Ortega's did not allege any similar facts with regard to the condition of his property that creates a hardship.

If the appeal and the variance is granted to allow an accessory dwelling unit within a major subdivision, the Appellant, requests a partial plat vacation to modify a plat note 12 on the Plat of Survey for Vista de Sandia Corporation Subdivision, duly recorded in Book 333 Page 004 of the Records of Santa Fe County Clerk, that prohibits guest houses within the Vista de Sandia Subdivision to allow lot 10 to have an accessory dwelling unit. The plat is attached hereto as exhibit 5. The Applicant has submitted an acknowledged statement, declaring a portion of the final plat to be vacated, which is attached hereto as Exhibit 8.

**Appellant's Statement:** The use matrix depicts an "A" within this zoning district which is an Accessory Use. The letter "A" indicates that the listed use is permitted only where it is accessory to a use that is permitted or conditionally approved for that district. Accessory uses shall be clearly incidental and subordinate to the principal use and located on the same tract/lot as the principal use.

The subject property is located within the Residential Estate (RES-E) zoning district which is one dwelling unit per 2.5 acres. The proposed accessory dwelling unit which is an "A" in the RES-E use matrix fully complies with the standards of the underlining zoning district. The zoning district allows accessory dwelling units and in no way authorizes a use that is otherwise prohibited in the zoning district. The Planning Commission's decision deprived the property owner of privileges that are enjoyed by other property owners in this same district as described below.

**Staff Response:** The Appellant's property is located within a major subdivision. Chapter 10, Section 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. On January 10, 1995, the BCC granted final approval for a 16-lot residential subdivision (Vista de Sandia Subdivision) on 42.0 acres. In a memorandum prepared by staff, staff presented the memorandum to the BCC that contained staff recommendations and conditions of approval for the final approval of the Vista de Sandia Subdivision. Within the memorandum, contained a list of conditions one being water restrictions of 0.25-acre feet per lot, per year and one condition that prohibits guest houses within the subdivision. The memorandum is attached as Exhibit 20. The Vista de Sandia Corporation Subdivision completed a Hydrological Review in August, 1994. The Vista de Sandia subdivision Hydrological Review water availability report, attached hereto as Exhibit 17, concluded that 0.28-acre feet per lot, per year, was available. Water was found to be sufficient to support 2.5 acre lots within the development with one single family residence, which would include water restrictions. Therefore, the submittals for approval of the Vista de Sandia Corporation Subdivision failed to establish there was sufficient water for two dwelling units. None of the reports accounted for a primary residence and accessory dwelling unit on each lot of the subdivision. Staff recommended denial of the Applicant's variance request because water use was restricted to 0.25-acre feet per lot, per year in the Vista de Sandia Subdivision and because Chapter 10, Section 10.4.2.1., Number Permitted states, "[o]nly 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."

**Appellant's Statement:** On December 21, 2017, a matter went before the Planning Commission on the Application of Dorothy Montoya. The Planning Commission granted approval of the Application for the variance from Chapter 10, Section 10.4.2.1 to allow an accessory dwelling unit within a major subdivision and a variance of Chapter 10, Section 10.4.2.4 (Utilities) to allow a separate liquid waste system for the accessory dwelling unit. The Dorothy Montoya property is located within the same Subdivision (Vista de Sandia) as our client and the variance requests were similar in nature. The BCC also approved a partial plat vacation to remove note # 12 and allowed an accessory dwelling unit (Guest House) on the property.

This request was also presented to the Santa Fe County Hearing Officer on June 14, 2018. The Hearing Officer supported the Application based on evidence and testimony presented at the Public Hearing as well as the precedent of the Montoya Application (Case # V 17-5230) described above.

**Staff Response:** The approval of Dorothy Montoya's variance requests and partial plat vacation does not set precedent in this matter.

As to the requested variance from Chapter 10, Section 10.4.2.4 to allow a separate liquid waste system for the proposed accessory dwelling, the Commission found that Ms. Montoya's property was split level causing terrain constraints making it difficult, costly and ineffective to utilize the primary septic system. The Applicant did not allege any similar facts with regard to the condition of his property that creates a hardship.

As to the requested variance from Chapter 10, Section 10.4.2.1 to allow an accessory dwelling within a major subdivision, the Commission found that the request was not contrary to the public interest, exceptional situations exist, 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. Again, Ms. Montoya provided very unique facts to both the Planning Commission and the BCC. Ms. Montoya 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 SLDC changes along with plat note #12 held up the application process for Ms. Montoya.

**Appellant's Statement:** Since the case was heard on July 19, 2018, we have met with the New Mexico Environment Department and have received a new permit which combines the new septic system with the existing system so that they are in common as required by Chapter 10, Section 10.4.2.4. We feel that this satisfies the Code requirement and we no longer will be requesting a variance of this standard. The new septic system permit is attached with the Application.

**Staff Response:** The Appellant has provided staff with an amended/approved liquid waste permit identifying the liquid waste system as one system. Staff agrees that the Appellant no longer needs to request a variance of Chapter 10, Section 10.4.2.4 (Utilities).

#### **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.

**4.9.7.4. 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 spirit of the SLDC is observed 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.

#### **The Applicant has addressed the Variance Criteria as follows:**

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

**Applicant's Statement:** The proposed accessory dwelling unit will be occupied by the daughter of the Applicant. The Applicant's daughter already resides on the property within the existing home. Accessory dwelling units are an important means by which persons can provide separate and affordable housing for elderly, single parent and multi-generational family situations. There will be no immediate or significant impact to the public in regards to water, liquid waste and traffic. The proposed accessory dwelling unit complies with all other provisions as outlined in Chapter 10, Section 10.4 of the SLDC.

**Staff Response:** Accessory dwelling units are permissible only: where permitted by the Use Matrix, where constructed and maintained in compliance with section 10.4 and within major subdivisions if their approval and reports and Studies Reports and Assessments (SRA's) allowed and accounted for this. In 1996, Vista de Sandia Subdivision was approved for a 16-lot subdivision. Lot sizes were derived from a Hydrologic Review, which proved 0.28-acre feet per lot. Water was found to be sufficient to support 2.5 acre lots within the development with one single family residence, which would include water restrictions. Therefore, the submittals for approval of the Vista de Sandia Corporation Subdivision failed to establish there was sufficient water for two dwelling units. The Appellant has asserted that the intent for approval of an accessory dwelling unit is to provide housing for his daughter. However, once an accessory dwelling unit is approved, there is no restriction as to whom or how many people can live in the accessory dwelling unit. Water usage may increase if an accessory dwelling unit is approved for Lot 10.

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:** Chapter 4, Section 4.9.7.3 (Applicability) of the SLDC states, "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 districts."

The use matrix depicts an "A" within this zoning district which is an Accessory Use. The letter "A" indicates that the listed use is permitted only where it is accessory to a use that is permitted or conditionally approved for that district. Accessory uses shall be clearly incidental and subordinate to the principal use and located on the same tract/lot as the principal use. The Planning Commission's decision to deny the requested variance to allow an accessory dwelling unit and require strict application of the SLDC deprived that Applicant of privileges enjoyed by other properties in the same vicinity or zone based on the property being located within a Major Subdivision.

**Staff Response:** Chapter 4, Section 4.4.10., Review and Final Action by the Planning Commission or the Board states, "[u]pon receipt of a complete application and appropriate recommendation of the Administrator or the Hearing Officer, the Planning Commission or the Board shall review the application for compliance with the SLDC and other applicable law. Following completion of the review and following a public hearing on the application, the Planning Commission or the Board, as applicable, may take final action, make the appropriate recommendation or take other appropriate action."

Chapter 4, Section 4.4.11. Conditions states, "[i]n acting upon an application, the decision-making body shall be authorized to impose such conditions upon the application as allowed by law and as may be necessary to reduce or minimize any potential adverse impact upon other property in the area or to carry out the general purpose and intent of the SLDC, so long as the condition relates to a situation created or aggravated by the proposed use and is roughly proportional to its impact.

The Appellant's property is located within a major subdivision. Chapter 10, Section 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. On January 10, 1995, the BCC granted final approval for a 16-lot residential subdivision (Vista de Sandia Subdivision) on 42.0 acres. In a memorandum prepared by staff, staff presented the memorandum to the BCC that contained staff recommendations and conditions of approval for the final approval of the Vista de Sandia Subdivision. Within the memorandum, contained a list of conditions one being water restrictions of 0.25-acre feet per lot, per year, and one condition that prohibits guest houses within the subdivision. The memorandum is attached as Exhibit 20. The Vista de Sandia Corporation Subdivision completed a Hydrological Review in August, 1994. The Vista de Sandia subdivision Hydrological Review water availability report, attached hereto as Exhibit 17, concluded that 0.28-acre feet, per lot, per year, was available. Water was found to be sufficient to support 2.5 acre lots within the development with one single family residence, which would include water availability. Therefore, the submittals for approval of the Vista de Sandia Corporation Subdivision failed to establish there was sufficient water for two dwelling units. None of the reports accounted for a primary residence and accessory dwelling unit on each lot of the subdivision. Staff recommended denial of the Applicant's variance request because water use was restricted to 0.25-acre feet, per year in the Vista de Sandia Subdivision and because Chapter 10, Section 10.4.2.1., Number Permitted states, "[o]nly 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."

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

**Applicant's Statement:** Based on the decision of the Planning Commission to deny the requested variance to allow an accessory dwelling unit substantial justice was not done. The Applicant was deprived the privileges that other property owners enjoy in the same zoning district. The Applicant cannot provide affordable housing for family members (daughter) which is why this mechanism was placed within the SLDC and;

On December 21, 2017, a matter went before the Planning Commission on the Application of Dorothy Montoya. The Planning Commission granted approval of the Application for the variance from Chapter 10, Section 10.4.2.1 to allow an accessory dwelling unit within a major subdivision and a variance of Chapter 10, Section 10.4.2.4 (Utilities) to allow a separate liquid waste system for the accessory dwelling unit. The Dorothy Montoya property is located within the same Subdivision (Vista de Sandia) as our client and the variance requests were similar in nature and;

This request was also presented to the Santa Fe County Hearing Officer on June 14, 2018. The Hearing Officer supported the Application based on evidence and testimony presented at the Public Hearing as well as the precedent of the Montoya Application (Case # V17-5230).

**Staff Response:** As previously stated in the staff response to this statement, Ms. Montoya applied for several variances that were not the equivalent to the Appellant's request. The Planning Commission approved Ms. Montoya's variance request of Chapter 10, Section 10.4.2.4 and Chapter 10, Section 10.4.2.1 based on terrain constraints, the request was not contrary to the public interest, exceptional situations existed, 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. Mr. Ortega's variance requests differed from Ms. Montoya's variance requests. Mr. Ortega's variances did not provide unique facts to the Planning Commission. Contrary to Ms. Montoya, Mr. Ortega did not prove undue hardship or unique situations. In addition, Mr. Ortega's did not allege any similar facts with regard to the condition of his property that creates a hardship.

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

**4.5.4. Appeal of a Final Decision of the Planning Commission.** Any party with standing may appeal a final decision of the Planning Commission to the Board. The application seeking an appeal of a decision of the Planning Commission must be filed with the Administrator. An appeal from a decision of the Planning Commission must be filed within thirty (30) working days of the date of the decision and recordation of the final development order by the Planning Commission. The application shall be forwarded by the Administrator to the Board. The Administrator shall provide to the Board a copy of the record of the proceedings below of the decision appealed. The appeal shall be placed on the docket of the Board for consideration on the next available agenda. An appeal of the decision of the Planning Commission shall be reviewed *de novo* by the Board. The timely filing of an appeal shall stay further processing of the application unless the Board determines that special circumstances exist.

## **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.

## **5.11.2 Vacation of Approved Plat**

**5.11.2.1. Applicability.** Any final plat filed in the Office of the County Clerk may be vacated, or a portion of the final plat may be vacated, if:

1. the owners of the land proposed to be vacated sign an acknowledged statement, declaring the final plat or a portion of the final plat to be vacated;
2. the statement is approved by the Board; and
3. if the plat, or portion of plat, to be vacated was initially approved through an administrative process, the Administrator may approve the vacation or partial vacation of the plat.

**5.11.2.2. Application.** The owners of all or a portion of the lots in any approved subdivision may initiate a plat vacation by filing an application with the Administrator. The application shall include the acknowledged statement required by Section 5.11.2.1.1. The application requesting vacation of the plat and an application requesting a re-subdivision of the plat may be filed concurrently.

## **5.11.2.3. Review.**

1. **Process.** The Administrator shall review and process the application and the acknowledged statement of the plat vacation as provided [by] Table 4-1. The application and acknowledged statement shall be approved, conditionally approved, or disapproved at a regular public meeting of the Board, or by the Administrator in accordance with Section 5.11.2.1.3 above.

2. **Standards.** The Administrator or Board shall approve the application for vacation on such terms and conditions as are reasonable to protect the public health, safety, and welfare. The Administrator or Board shall not approve an application for vacation if it will adversely affect the interests of the persons on contiguous land or persons within the subdivision being vacated.

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 Appellant 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 18, 2018. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on October 23, 2018, 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. In addition a list of persons who were sent a mailing is contained in the record.

**This Appeal was submitted on October 3, 2018.**

**APPROVAL SOUGHT:**

The Appellant is requesting that the BCC overturn the Santa Fe County Planning Commissions decision to deny the variance request to allow an accessory dwelling unit within a major subdivision. If the appeal is granted and the variances is approved by the BCC, the Appellant, requests a partial plat vacation to modify a plat note that prohibits guest houses within the Vista de Sandia Subdivision to allow lot 10 to have an accessory dwelling unit.

**STAFF RECOMMENDATION:**

Staff recommends denial of the Appellant's request, and that the BCC uphold the Santa Fe County Planning Commission's decision to deny the Appellants variance request to allow an accessory dwelling within a major subdivision and therefore not act upon the partial plat vacation.

**EXHIBITS:**

1. Letter of Appeal
2. Chapter 10, Section 10.4.2.1
3. Approved NMED Liquid Waste Permit
4. Aerial of Site of Surrounding Area
5. Recorded Plat of Survey for Vista de Sandia Subdivision
6. Hearing Officer's Final Order/Meeting Minutes
7. Planning Commission's Final Order/Meeting Minutes
8. Acknowledge Statement
9. Proposed Site Plan
10. Chapter 5, Section 5.11.2.1
11. Notice
12. Fire Prevention Division Fire Plans Review
13. Public Works Division Memorandum
14. Letter of Support from Chika N. Ezeanyim (NMED)
15. Warranty Deed
16. Pre-Application Neighborhood Meeting Material
17. Vista De Sandia Subdivision HydroGeologic Review

18. Vista de Sandia Declaration of Covenants, Conditions, and Restrictions
19. Planning Commission's Final Order/Meeting Minutes (Dorothy Montoya)
20. January, 1995 Staff Memorandum for Vista de Sandia Subdivision
21. January 10, 1995, BCC Meeting Minutes for Vista de Sandia Subdivision
22. BCC Final Order/Meeting minutes (Dorothy Montoya)



**JAMES W. SIEBERT  
AND ASSOCIATES, INC.**

---

915 MERCER STREET \* SANTA FE, NEW MEXICO 87505  
(505) 983-5588 \* FAX (505) 989-7313  
[jim@jwsiebert.com](mailto:jim@jwsiebert.com)

9/25/18

Miguel "Mike" Romero  
Development Review Specialist Senior  
102 Grant Ave.  
Santa Fe, NM 87504

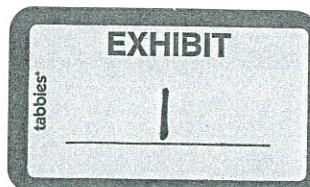
**Re: Angelo Ortega Appeal**

Dear Miguel:

On behalf of Angelo Ortega, we request to appeal the decision of the Planning Commission to deny a variance to the requirements set forth in the Sustainable Land Development Code (SLDC) of Chapter 10, Section 10.4.2.1 to allow an accessory dwelling unit within a major subdivision to the Board of County Commissioners (BCC). With this Application we also request that the BCC take action on a partial plat vacation and remove note # 12 which prohibits guest houses on the property. The property is located at 120 North Paseo De Angel, within the La Cienega and La Cieneguilla Community District Overlay (LCLCCD) (RES-E), within Section 22, Township 16 North, Range 8 East (Commission District 2).

The use matrix depicts an "A" within this zoning district which is Accessory Use. The letter "A" indicates that the listed use is permitted only where it is accessory to a use that is permitted or conditionally approved for that district. Accessory uses shall be clearly incidental and subordinate to the principal use and located on the same tract/lot as the principal use.

The subject property is located within the Residential Estate (RES-E) zoning district which is one dwelling unit per 2.5 acres. The proposed accessory dwelling unit which is an "A" in the RES-E use matrix fully complies with the standards of the underlining zoning district. The zoning district allows accessory dwelling units and in no way authorizes a use that is otherwise prohibited in the zoning district. The Planning Commission's decision deprived the property owner of privileges that are enjoyed by other property owners in this same district as described below.



On December 21, 2017, a matter went before the Planning Commission on the Application of Dorothy Montoya. The Planning Commission granted approval of the Application for the variance from Chapter 10, Section 10.4.2.1 to allow an accessory dwelling unit within a major subdivision and a variance of Chapter 10, Section 10.4.2.4 (Utilities) to allow a separate liquid waste system for the accessory dwelling unit. The Dorothy Montoya property is located within the same Subdivision (Vista de Sandia) as our client and the variance requests were similar in nature. The BCC also approved a partial plat vacation to remove note # 12 and allowed an accessory dwelling unit (Guest House) on the property.

This request was also presented to the Santa Fe County Hearing Officer on June 14, 2018. The Hearing Officer supported the Application based on evidence and testimony presented at the Public Hearing as well as the precedent of the Montoya Application (Case # V 17-5230) described above.

Since the case was heard on July 19, 2018, we have met with the New Mexico Environment Department and have received a new permit which combines the new septic system with the existing system so that they are in common as required by Chapter 10, Section 10.4.2.4. We feel that this satisfies the Code requirement and we no longer will be requesting a variance of this standard. The new septic system permit is attached with the Application.

## Criteria for Variance

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

### Applicant's Statement:

The proposed accessory dwelling unit will be occupied by the daughter of the Applicant. The Applicant's daughter already resides on the property within the existing home. Accessory dwelling units are an important means by which persons can provide separate and affordable housing for elderly, single parent, and multi-generational family situations. There will be no immediate or significant impact to the public in regards to water, liquid waste and traffic. The proposed accessory dwelling unit complies with all other provisions as outlined in Chapter 10, Section 10.4 of the SLDC.

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:

Chapter 4, Section 4.9.7.3 (Applicability) of the SLDC states "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."

The use matrix depicts an "A" within this zoning district which is a Accessory Use. The letter "A" indicates that the listed use is permitted only where it is accessory to a use that is permitted or conditionally approved for that district. Accessory uses shall be clearly incidental and subordinate to the principal use and located on the same tract/lot as the principal use. The Planning Commission's decision to deny the requested variance to allow an accessory dwelling unit and require strict application of the SLDC deprived the Applicant of privileges enjoyed by other property in the same vicinity or zone based on the property being located within a Major Subdivision.

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

### Applicant's Statement:

Based on the decision of the Planning Commission to deny the requested variance to allow an accessory dwelling unit substantial justice was not done. The Applicant was deprived the privileges that other property owners enjoy in the same zoning district. The Applicant cannot provide affordable housing for family members (daughter) which is why this mechanism was placed within the SLDC and;

On December 21, 2017, a matter went before the Santa Fe Planning Commission on the Application of Dorothy Montoya. The Planning Commission granted approval of the Application for the variance of Chapter 10, Section 10.4.2.1 to allow an accessory dwelling unit within a major subdivision and a variance of Chapter 10, Section 10.4.2.4 (Utilities) to allow a separate liquid waste system for the accessory dwelling unit. The Dorothy Montoya property is located within the same subdivision (Vista De Sandia) as our client and the variance requests were similar in nature and;

This request was also presented to the Santa Fe County Hearing Officer on June 14, 2018. The Hearing Officer supported the Application based on evidence and testimony presented at the Public Hearing as well as the precedent of the Montoya Application (Case # V 17-5230) described above.

**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 design, style, appearance, and character of the main building and the surrounding neighborhood, the accessory dwelling unit shall be of the same exterior materials as the principal dwelling.

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





☐ Conventional-New ☐ Conventional Modification ☐ Registration ☐ ATS/ADS - New ☐ ATS/ADS Modification ☐ ATS Transfer ☐ Commercial ☒ Amendment

Section 1 General Information						Liquid Waste Processing Number: <b>001213</b>	
Name (Property Legal owner, Inc., LLC, partnership, DBA, full legal name):						Field Office ID: <b>Santa Fe</b>	
Facility Name: <b>Angelo e Ortega</b>				Phone: <b>505 714-3445</b>		E-mail address(es):	
System Location: Physical Address, County - (if needed, attach directions) <b>120 Paseo de Angel N</b>				Mailing Address (Invoices, permits, official correspondence): <b>120 Paseo de Angel N</b>			
City: <b>Santa Fe NM</b>		State: <b>NM</b>		Zip Code: <b>87502</b>		City: <b>Santa Fe</b>	
Uniform Property Code: <b>1-046-093-010 041</b>		Date of Record: <b>June 2001</b>		Lot Size (0.01 acres): <b>2.50</b>		Total No. LW Systems on Property: <b>1 Existing 1 New</b>	
Subdivision:		Subdivision Plat Date:		Unit/Phase:		Block	
Water Supply Source: <input checked="" type="checkbox"/> Onsite <input type="checkbox"/> Offsite		No. Connections:		OSE Well Permit No. <b>RL</b>		Private or Shared Water Well Location (long., lat. or physical address, city, state): <b>120 Paseo De Angel N</b>	
<input type="checkbox"/> Shared <input type="checkbox"/> Public		Public Water System Name:		Irrigation well, flood irrigation area on lot? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		Enter all LW permit nos. for lot: <b>SFO 10 22 4</b>	

### Section 2 Installer Information

No person shall construct, install or modify an onsite liquid waste system unless that person holds a valid and appropriate classification of contractor's license issued by New Mexico CID.

Installer Name: <b>Tom Lucero</b>		Phone: <b>505 470 6717</b>		Installer Company Name: <b>Rino Real Const INC</b>		<input checked="" type="checkbox"/> Corp., Inc.	
Mailing Address (street / PO Box, City, State, Zip): <b>25 private RD 1130 Española NM 87532</b>				E-mail address:			
CID License Classification: <input type="checkbox"/> MM-1 <input type="checkbox"/> MM-98 <input type="checkbox"/> MS-1 <input checked="" type="checkbox"/> MS-3 <input type="checkbox"/> Homeowner				CID License No.: <b>87960</b>			
I am a licensed contractor by the State of New Mexico Regulation Licensing Department, Construction Industries Division (CID). I will either personally install the work myself or authorize my employee(s), _____							

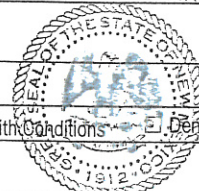
(named here) to provide the services and labor for this permit application under my direct supervision.

### Section 3 Authentication / Verification

By signing below, I attest that the information in this application is correct and true to the best of my knowledge. I understand the issuing of this permit does not relieve me from the responsibility of complying with all applicable provisions of the New Mexico Plumbing Code and the New Mexico Liquid Waste Disposal and Treatment Regulations. Obtaining this permit does not relieve me from the responsibility of obtaining any permit required by state, city or county regulation or ordinance or other requirements of state or federal law.

<input type="checkbox"/> CID Licensed Contractor	Printed Name:	Signature:	Date Signed:
<input type="checkbox"/> Qualified Homeowner			
<input type="checkbox"/> Authorized Rep (Registrations Only)			

NMEM CONSTRUCTION APPROVAL						
A permit for construction of the Liquid Waste system described herein is hereby: <input type="checkbox"/> Granted <input type="checkbox"/> Granted with Conditions <input type="checkbox"/> Denied <input type="checkbox"/> Cancelled						
Conditions, Reasons for Cancellation or Denial: <b>Amended</b>						
NMEM Inspector Name Printed: <b>Michael Brannard 827-1840</b>				NMEM Inspector Signature: <b>Michael Brannard</b>		
Date: <b>9/21/18</b>						
NMEM LIQUID WASTE FEES						
<input type="checkbox"/> Conventional-New \$100	<input type="checkbox"/> Conventional Modification \$50	<input type="checkbox"/> Registration \$100	<input type="checkbox"/> ATS/ADS - New \$150	<input type="checkbox"/> ATS/ADS Modification \$75	<input type="checkbox"/> Commercial \$150	<input type="checkbox"/> Variance \$50
Total Fee Paid: <b>N/A</b>		Date Paid:		Payment Received By: <b>RECEIVED</b>		
FINAL INSPECTION OF LW SYSTEM						
<input type="checkbox"/> Final Inspection Conducted by NMEM	Final Inspection Date:		NMEM Inspector Name Printed:			
<input type="checkbox"/> Contractor inspection authorized:	Inspection date:		Date photos received or Registration			
NMEM OPERATIONAL APPROVAL						
A permit for operation of the Liquid Waste system described herein is hereby: <input type="checkbox"/> Granted with Conditions <input type="checkbox"/> Denied <input type="checkbox"/> Cancelled						
Conditions, Reasons for Cancellation or Denial:						
NMEM Inspector Name Printed:				Inspector Signature: <b>TA FE FIELD OFFICE</b>		
Date:						





If your lot has more than one LW system, you must fill out a separate application for each system. The site plan drawing must show all liquid waste systems located on your lot. Existing permitted systems must be identified with their LW Permit #. New, modified or unpermitted systems must be clearly labelled on the site plan. NMED agents are not authorized to amend or complete any portion of this application.

Liquid Waste Processing Number:

001213

Treatment & Disposal System Design

Section 1 Design Flow, Hydrology, and Soil Description

A. Wastewater Sources & Design Flow Calculations			B. Hydrology Data		C. Soil Description:	
Facility	Units (enter number)	(Q) Flow, calculated: gpd	Depth from ground surface to:	Feet	Type	AR
<input checked="" type="checkbox"/> Existing Single Family Residence	Bedrooms: 3	Total flow: 375	Seasonal High Water table	100	<input type="checkbox"/> Type Ia: Coarse Sand (or up to 30% gravel)	1.25
<input checked="" type="checkbox"/> Multiple Family Units	No Units: 2	Total flow: 300	Bedrock, caliche, tight clay	20	<input type="checkbox"/> Type Ib: Medium Sand, Loamy Sand	2.0
<input type="checkbox"/> Commercial / Institution (type):	Calculation Sheet Attached: <input type="checkbox"/> YES <input type="checkbox"/> NO	Total flow: 675	Gravel, cobbles, highly permeable soil	15	<input type="checkbox"/> Type II: Sandy Loam, Fine Sand, Loam	2.0
<input type="checkbox"/> Other:	Method of Design Flow Calculation: <input type="checkbox"/> Table 201.1 <input type="checkbox"/> PE (Calc. Sheet) <input type="checkbox"/> Water Meter Data Attached	Total flow:	Test Hole / Soil Borings Used: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> Type III: Silt, Silt Loam, Clay Loam, Silty Clay Loam, Sandy Clay Loam	2.0
<input type="checkbox"/> Cluster	No. of Units:	Total flow:	Soil Classification Methodology used: <input type="checkbox"/> Jar Test		<input type="checkbox"/> Type IV: Sandy Clay, Silty Clay, Clay	5.0
<input type="checkbox"/> Other (type):		Total flow:	<input type="checkbox"/> Laboratory: <input checked="" type="checkbox"/> Hand Sampling <input type="checkbox"/> Sieve			
Total Flow for this LW System: (see page 1 for total flow to property)		Q 675				

Section 2. Treatment Unit and Pump Design:

1. Primary Treatment Unit		2. Pump		3. ATS	
<input checked="" type="checkbox"/> Septic Tank(s)	No. Septic Tank(s): 1	Manufacturer: MEDIAN SILVER	Series / Model / Certification No.:	Capacity (gallons): 1250	Burial Depth: 3'
<input type="checkbox"/> Pump Tank	Manufacturer:	Series / Model:	Capacity (gallons): 1000	Burial Depth:	
<input type="checkbox"/> Pump	Manufacturer:	Series / Model:	Pump Curve Attch'd: <input type="checkbox"/> YES <input type="checkbox"/> NO	Effluent Pump: <input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/> Dual Pump	Manufacturer:	Series / Model:	Capacity (gallons):	Burial Depth:	
<input type="checkbox"/> Secondary	<input type="checkbox"/> Standard <input type="checkbox"/> Conditional <input type="checkbox"/> Experimental	<input type="checkbox"/> Required <input type="checkbox"/> Voluntary	Manufacturer:	Series / Model:	Notes:
<input type="checkbox"/> Tertiary	<input type="checkbox"/> UV <input type="checkbox"/> Ozone <input type="checkbox"/> Chlorine	<input type="checkbox"/> Required <input type="checkbox"/> Voluntary	Manufacturer:	Series / Model:	Notes:
<input type="checkbox"/> Disinfection					

Section 3 Disposal System Design, Components and Calculations

A. Minimum Required absorption area, calculated (Multiply Design Flow (Q) times Application Rate (AR))									
Q 675				X	AR 2	=	Min. Sq. Ft. Required: 1350		
B. Design Components: <input checked="" type="checkbox"/> Distribution Box <input type="checkbox"/> Tee <input type="checkbox"/> Drop Box <input type="checkbox"/> Alternating Drainfield Valve <input type="checkbox"/> Other:									
CONVENTIONAL DISPOSAL	<input checked="" type="checkbox"/> Pipe & Gravel	Trench Width:	Depth Gravel Below Pipe:	Total Linear Feet:	No. of Trenches:	Trench Depth:	Length, each trench:	Trench Spacing (ft):	Proposed Sq. Ft.:
	<input checked="" type="checkbox"/> Chamber	Mr. Model No & Sizing Credit (stiff, or unit): (33.6)			Total Linear Feet:	No. of Units:	Trench Depth:	Length, each trench:	Trench Spacing (ft):
	<input checked="" type="checkbox"/> Synthetic Agg	HS Quick 4 HC (21.6)			96	16	5'	96	537
	<input type="checkbox"/> Other:				150	45		64 x 3	972
<input type="checkbox"/> Seepage Pit	Dimensions (L x W):		Depth below invert:	Proposed Sq. Ft.:	Trench Depth:	Notes:			
<input type="checkbox"/> Absorption Bed						existing 375 537sf 1509sf			

Section 4 Alternative Disposal System (ADS) Design, Components and Calculations

For all ADS's - calculation sheets & site plan drawings (plan view with cross section views) must be submitted with this permit application.

Alternative Disposal System	Discharging					
	<input type="checkbox"/> Wisconsin Mound	<input type="checkbox"/> Elevated System	<input type="checkbox"/> Unlined ET Bed	<input type="checkbox"/> Effluent Irrigation Re-use	<input type="checkbox"/> Sand-Lined Trench Sand ASTM Specs Attached? <input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> Bottomless Sand Filters Sand ASTM Specs Attached? <input type="checkbox"/> YES <input type="checkbox"/> NO
	<input type="checkbox"/> LPD	<input type="checkbox"/> LPP	<input type="checkbox"/> Graywater	<input type="checkbox"/> Drip Irrigation		
	<input type="checkbox"/> Split Flow (complete holding tank section & septic tank & conventional disposal section)			<input type="checkbox"/> Wetland	<input type="checkbox"/> Other (description):	
Non-Discharging	<input type="checkbox"/> Holding Tank	No. of Tank(s):	Manufacturer:	NM Certification No.:	Capacity:	Burial Depth:
	<input type="checkbox"/> Lined ET Bed Sand ASTM Specs Attached? <input type="checkbox"/> YES <input type="checkbox"/> NO	Liner Material & Thickness (mils):		Dimensions (L x W) & sq. ft.:	High Water Alarm at 80%? <input type="checkbox"/> YES <input type="checkbox"/> NO	
			STATE OF NEW MEXICO ENVIRONMENT DEPARTMENT		RECEIVED	
	<input type="checkbox"/> Vault	<input type="checkbox"/> Privy (outhouse)	<input type="checkbox"/> Other (description):			

Section 5 Backs / Site Plan & Attachments

(check those that apply)

- ☐ YES ☒ NO 1. Does proposed system meet all setbacks required per 20.7.3.302 NMAC (see setback Table 302.1)?
- ☐ YES ☒ NO 2. Site plan attached w/ all structures shown w/ LW systems, wells & waters w/ 200' all setbacks clearly shown per 402.A.1 NMAC?
- ☒ N/A ☐ YES ☐ NO 3. If ATS or ADS, all requirements under section 403 are submitted, including calculations and drawings?

Supporting Documents Included:

- ☒ Survey ☐ Plat ☐ Floorplan ☐ Warranty Deed ☐ Tax Bill ☐ Other:

SANTA FE FIELD OFFICE

Property Line

STATE OF NEW MEXICO  
ENVIRONMENT DEPARTMENT



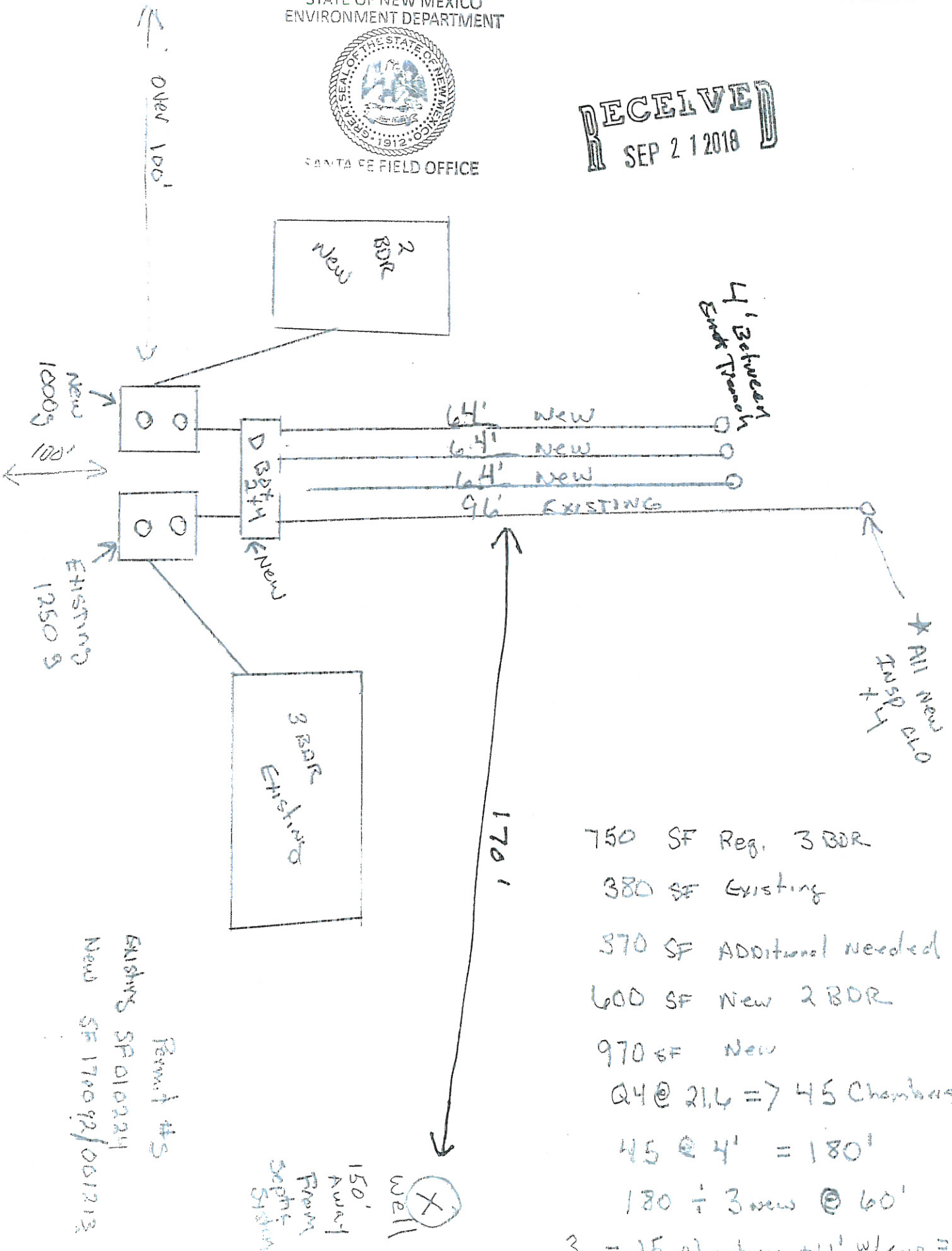
SANTA FE FIELD OFFICE

RECEIVED  
SEP 21 2018

120 N Paseo De Ansel

Amendment to 00213 9/21/18

19



750 SF Reg. 3 BDR

380 SF Existing

370 SF Additional needed

600 SF New 2 BDR

970 SF New

$Q4 @ 21.4 \Rightarrow 45$  Chambers

$45 @ 4' = 180'$

$180 \div 3 \text{ new } @ 60'$

3 - 15 chambers + 4' w/END = 64'

# Area of interest



## Vicinity Map





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 Administrator 4-28-96  
DEVELOPMENT PERMIT NO. 94-2173

NOTES AND CONDITIONS

- PURSUANT TO THE SANTA FE COUNTY LAND DEVELOPMENT, THE SOIL PAVING 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 911-912 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 VII, SEC 3.2 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 CONSTRUCTED 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 911-920 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.

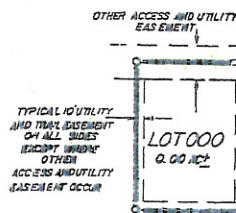
SURVEYORS CERTIFICATE

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 PLAT NO. 1303



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, 202.54'  
D) N 72° 03' 00" W, 48.48'  
E) N 03° 12' 27" W, 164.46'  
F) N 02° 57' 30" E, 287.24'  
G) N 37° 27' 05" E, 267.52'  
H) N 37° 27' 05" E, 175.25'  
I) N 51° 37' 55" W, 272.41'

SANTA FE PLATS  
AND PLANS  
707 DUNLAP  
1303 985-9919

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 6-53A-1, ET SEQ. HNSA 1978, AS THESE 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, EXCLUDING 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 HNSA 72-12-1 (1978) AND TO DISCONTINUE USE OF SAID WELLS IF ACCEPT 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.



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 R3E, N.M.P.M. BEARS:  
N 23° 19' 43" W 1273.725' THENCE  
S 89° 53' 35" E 338.51' THENCE FROM  
SAID BEGINNING POINT ALONG THE FOLLOWING:  
S 23° 19' 47" E 1333.85' THENCE  
S 51° 43' 03" W 1444.36' THENCE  
N 18° 26' 37" W 1378.02' THENCE  
N 61° 42' 46" E 1278.93' TO SAID  
BEGINNING POINT. CONTAINING 42.13 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.



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 42.13 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.

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 LOUIS GONZALES THIS 1st DAY OF July, 1994.  
Linda R. Dabbs 5-30-98  
NOTARY PUBLIC MY COMMISSION EXPIRES

CITY OF SANTA FE (REVIEWED BY)  
SUBDIVISION ENGINEER 1/9/96  
DATE 1/9/96

UTILITY COMPANIES  
J. L. Communications 2-8-95  
DATE 2-8-95  
PUBLIC SERVICE COMPANY OF NEW MEXICO  
DATE 2-7-95  
DATE 2-7-95

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 June, 1994, AT 1:50 P.M. AND WAS ONLY RECORDED IN BOOK 922 PAGE 005 OF THE RECORDS OF SANTA FE COUNTY.  
WITNESS MY HAND AND SEAL OF OFFICE  
JONAS B. ARRIAGA  
COUNTY CLERK, SANTA FE COUNTY, N.M.  
DEPUTY  
Marcella Ruiz

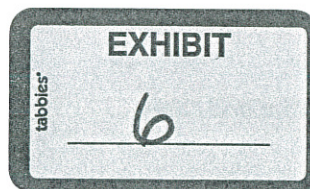


Sustainable Land Development Code  
Hearing Officer Meeting  
June 14, 2018  
CASE NO. V18-5070  
Angelo Ortega, Applicant

**RECOMMENDED DECISION AND ORDER**

**THIS MATTER** came before the Sustainable Land Development Code Hearing Officer for hearing on June 14, 2018, on the application of Angelo Ortega (Applicant) for variances of the Sustainable Land Development Code (SLDC). Applicant seeks a variance of Chapter 10.4.2.1 (Number Permitted) to allow an accessory dwelling within a major subdivision and a variance of Chapter 10.4.2.4 (Utilities) to allow a separate liquid waste system for the accessory dwelling unit. The property is located at 120 N Paseo de Angel Road (Property) within the La Cienega and La Cieneguilla Community District Overlay, within the Residential Estate Zoning District, within Section 22, 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 variances should be granted, subject to certain conditions and makes the following findings of fact and conclusions of law:

1. On March 6, 2018, Applicant submitted his application for the variances.
2. As required by the SLDC, Applicant presented the application to the Technical Advisory Committee (TAC) on March 15, 2018, 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, 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 May 30, 2018. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on May 30, 2018, 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 feet of the Property and a list of persons sent a mailing is contained in the record.

4. In 1994, an application for Vista de Sandia Subdivision was submitted, which was approved by the Board of County Commissioners (BCC) in 1996. Based on the accompanying hydrologic survey, the water use on each of the 16 lots was restricted to 0.25 acre feet. At the time of approval, the BCC established a condition that no guest homes would be allowed within the Subdivision.

5. Applicant's property is located within a major subdivision. Chapter 10, Section 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. None of the reports accounted for two homes on a single lot.

6. Further, Chapter 10, Section 10.4.2.4 (Utilities) requires the principal dwelling to share a septic system with any accessory dwelling.

7. Applicant provided that "the accessory dwelling unit will be occupied by my daughter who currently lives with me in my current home." Applicant's principal residence is a 2,300-square foot residence located on a 2.5-acre lot. On March 6, 2018, Applicant requested authorization to construct a 920-square foot accessory dwelling unit on the Property. The 920 square feet proposed accessory dwelling unit is 50% of the 1884 square feet heated space of the