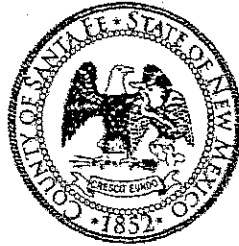


Henry P. Roybal
Commissioner, District 1

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

CASE NO. MIS 18-5000
PARTIAL PLAT VACATION
DOROTHY MONTOYA, APPLICANT

ORDER

THIS MATTER came before the Board of County Commissioners (BCC) on 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 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).

The BCC, having reviewed the Application, supplemental materials, and staff reports and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted subject to conditions, and makes the following findings of fact and conclusions of law:

1. The BCC granted plat approval for the Vista de Sandia Corporation Subdivision on January 10, 1995 in case 94-2173. The plat was recorded on April 29, 1996 in book 333, page 004-005 (hereinafter Plat) of the records of Santa Fe County. The approval was for a 16 lot residential subdivision and lot sizes ranged from 2.5 acres to 2.63 acres. The lot

sizes were derived from a hydrologic study prepared by Jack Frost. Water use on each lot within the subdivision was restricted to 0.25 acre foot per year.

2. Note 12 of the Plat states that "Guest houses are prohibited on these lots."
3. Applicant is the owner of Lot 7 on the Plat.
4. The Applicant requests approval to vacate Plat note 12 to allow an accessory dwelling on Lot 7. The Applicant's intent by vacating note 12 is to build a 1,350 square foot accessory dwelling for her children on Lot 7.
5. In 2016, under Ordinance 2015-11, the Applicant obtained a permit (#16-478) to add a 700 square foot porch to her home and thereby increase the building footprint of her home so that she could meet the criteria required for a 1,350 square foot accessory dwelling set forth in Chapter 10.4.2.2 (Size) of that Ordinance (stating 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.) Before Applicant completed her porch and secured a permit for her accessory dwelling unit, Ordinance 2015-11 was amended by Ordinance 2016-9.
6. Ordinance 2016-9 (SLDC), amending Ordinance 2015-11, states that 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 SLDC also prohibited accessory dwelling units within a major subdivision. In addition, the note on the subdivision plat stated no guest homes were allowed. Accordingly, the Applicant was informed by Land Use staff that she would

need variances and a partial plat vacation despite having constructed a porch to increase her building footprint.

7. On December 12, 2017, the Santa Fe County Planning Commission granted a variance of Chapter 10.4.2.1, to allow an accessory dwelling within a major subdivision, a variance of Chapter 10.4.2.2, to allow an accessory dwelling to be 1,350 square feet where the main house is 2000 square feet heated floor area, a variance of Chapter 10.4.2.3.3 (Building and Design Standards) to allow a separate driveway access points for an Accessory Dwelling Unit, and a variance of Chapter 10.4.2.4 (Utilities), to allow the accessory dwelling a separate liquid waste system for Lot 7 of the Vista de Sandia Subdivision subject to the following conditions:

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

8. Chapter 5, Section 5.11.2.3.2 of the SLDC states:

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 persons on contiguous land or persons within the subdivision being vacated.

9. At the March 13, 2018 BCC meeting, no member of the public spoke at the public hearing on this matter either in favor of or in opposition to the Application.

10. In advance of a hearing on the Application, the Applicant provided notice to the New Mexican, which was published on February 20, 2018. The Applicant has also provided certification of posting acknowledging that the public notice has been posted for 15 days

on the property, beginning on February 20, 2014. These noticing efforts comply with the noticing requirements of the Code.

11. The Applicant agreed with staff's conditions.
12. Staff stated that water restrictions were imposed on the Vista de Sandia Corporation Subdivision at the time of approval based on a hydrologic study.
13. Note 3 on the Plat, states the following with regard to water restriction:

Water well withdrawal on these lots restricted by covenants filed in the office of the County Clerk Recorded in Book 1264 Page 911-920 Document No. 943-374.
14. Paragraph 5 of Article VII of the Declaration of Covenant, Conditions, and Restrictions for the Vista de Sandia Subdivision, recorded in Book 1264, Page 911-920 Document No 943-374 (Covenants, Conditions, and Restriction) states the following:

Domestic water use for the lots is restricted to .25 acre feet per Lot per year as required by the Santa Fe County Land Development Code.
15. The BCC finds that a meter on the Applicant's well will ensure that water use on Lot 7 does not exceed a total of .25 acre feet per year for the dwelling and accessory dwelling combined
16. The BCC finds that if combined total water use for both the dwelling and accessory dwelling does not exceed .25 acre feet per year, then there are no adverse impacts to the interests of persons on contiguous land or persons within the subdivision being vacated.
17. The BCC finds that the condition imposed by the Planning Commission requiring a meter will protect the public health, safety, and welfare by ensuring the Applicant's total combined water use on Lot 7 does not exceed the .25 acre feet per Lot per year restriction set forth in the Plat and Covenant, Conditions, and Restrictions.

18. The BCC finds that the Applicant has a unique situation that warrants the approval of a partial vacation of the accessory dwelling prohibition for Lot 7, because of her history with the Land Use Department.

WHEREFORE the BCC hereby approves, by a unanimous 5-0 vote, the Applicant's request to allow a partial plat vacation of the Vista de Sandia Corporation Plat filed at Book 333, Page 004-005 of the Records of Santa Fe County to allow Lot 7 an accessory dwelling subject to the following conditions:

1. The Applicant shall re-record the Vista de Sandia Corporation Subdivision plat with language consistent with this Order that modifies Plat note 12 to permit an accessory dwelling unit on Lot 7.
2. The combined total water use for both the Applicant's dwelling and the accessory dwelling shall not exceed .25 acre feet per year, consistent with note 5 on the Plat.

IT IS SO ORDERED


This Order was approved by the Board of County Commissioners of Santa Fe County on this _____ day of _____, 2018.

By: _____
Anna Hansen, Chair

Attest:

Geraldine Salazar, County Clerk

Approved as to form:



R. Bruce Fredrick, County Attorney



CHAIR HANSEN: I know there's some legal ramifications with giving out information.

MS. RODRIGUEZ: Correct.

CHAIR HANSEN: But at the same time, Megan, if I can call you that, I will give your number to Mr. Sedillo.

MS. RODRIGUEZ: Thank you. And I will also give a call too. Thank you.

CHAIR HANSEN: Thank you. Thank you both very much.

MR. CHAVEZ: Another question, if I could, members of the Commission. We know that the facility, because it is, has been functioning as a de facto mental health facility, depends on staff. We're spending about \$4.5 million at that facility providing general health and behavioral health services. That could be a good thing, but if someone is kept in isolation, in solitary confinement, that does no one any good. If we don't have the full complement of staff, both psychiatrists and psychologists at the same time, working in lock-step, every day there's a gap in services. So it's a very challenging place to operate on a daily basis, just for the normal, what I would call the normal population, but then you have 50 to 60 percent of that population that's in that facility that's been diagnosed with a mental condition. So it's good that we as Commissioners and I as a former Commissioner tour that facility, because it is a real eye-opener, but we need to change the way that we're doing things and it needs to happen sooner than later. Thank you.

CHAIR HANSEN: Thank you very much. Thank you both for coming here.

COMMISSIONER ROYBAL: Madam Chair.

CHAIR HANSEN: Yes.

COMMISSIONER ROYBAL: I'd just like to comment as well and thank Ms. Megan Rodriguez and former Commissioner Miguel Chavez for being here today and giving us this information. We know that we need to be more pro-active than reactive, and right now I know that our Community Service Division and the County Manager's Office is working on these issues and we do have the GRT funds that are going to be coming available and eventually we will have community input as to the triage center and all these services that we do want to provide, but I really would like to see you both stay active in coming and working here and bringing all this information forward. So I just want to say I appreciate your being here today, both of you. Thank you.

CHAIR HANSEN: Yes, thank you.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HANSEN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Yes, Madam Chair. I echo the comments of Commissioner Roybal and yourself and I hope they continue to stay active and participate in the process. Thank you.

CHAIR HANSEN: Okay. Thank you.

VIII. PUBLIC HEARINGS

A. Land Use Cases

- 1 CASE # MIS 18-5000 Dorothy Montoya Plat Vacation.
Dorothy Montoya Applicant, Requests 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)

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

In 2016, under Ordinance 2015-11, 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 of total building footprint of the principal residence; or b) 1,400 square feet.

Ordinance 2016-9 later amended Ordinance 2015-11, and now states, the heated area of the accessory dwelling shall not exceed the lesser of a) fifty percent of heated area of the principal residence; or b) 1,400 square feet. The heated area of the principal residence is 2,000 square feet, therefore a 1,350 square foot accessory dwelling would not meet code requirements. The amended SLDC also prohibited accessory dwelling units within a major subdivision. In The amended SLDC also prohibited accessory dwelling units within a major subdivision. In addition, the note on the subdivision plat stated no guest homes were allowed.

On December 12, 2017 the Santa Fe County Planning Commission granted a variance of Chapter 10.4.2.1, to allow an accessory dwelling within a major subdivision, a variance of Chapter 10.4.2.2, to allow an accessory dwelling to be 1,350 square feet where the main house is 2000 square feet heated floor area, a variance of Chapter 10.4.2.3.3, Building and Design Standards, to allow a separate driveway access points for an accessory dwelling unit, and a variance of Chapter 10.4.2.4, Utilities, to allow an accessory dwelling a separate liquid waste system for Lot 7 of the Vista de Sandia Subdivision subject to the following conditions:

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

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

Staff recommendation: The original subdivision did not prove up more than 0.26 acre-feet per lot and stated that guesthouses are not allowed. The applicant was unaware of the note on the plat and if the applicant would have applied for the accessory dwelling

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CHAIR HANSEN: Okay. I have a motion. Do I have a second?

COMMISSIONER ANAYA: I second that.

CHAIR HANSEN: You'll second, Commissioner Anaya?

COMMISSIONER ANAYA: Yes.

CHAIR HANSEN: Okay, so I have a motion and a second. Do I have any discussion?

MR. FREDERICK: Madam Chair, I just want to interject, we should probably close public hearing, and also remind you that if you want to deliberate in executive session you can certainly do that.

CHAIR HANSEN: So I want to open first public comment. So is there anybody here from the public who would like to speak? Seeing none, I will close public comment. So public comment is now closed.

COMMISSIONER HAMILTON: I think it would be beneficial to have a short deliberation in executive session, from my point of view.

COMMISSIONER MORENO: I'd be okay with that.

CHAIR HANSEN: Okay.

COMMISSIONER ANAYA: I'm fine with that, Madam Chair.

CHAIR HANSEN: Okay. Good. We'll take – we need to have a motion to go into executive session to discuss –

MR. FREDERICK: Madam Chair, I can read it here. We'll go into executive session to conduct Board deliberations in public hearings on the agenda as allowed by Section 10-15-1-H(3).

COMMISSIONER HAMILTON: I would so move.

COMMISSIONER ROYBAL: Second.

The motion to go into executive session pursuant to NMSA Section 10-15-1-H (3) to discuss the matters delineated above passed by unanimous roll call vote as follows:

Commissioner Anaya	Aye
Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Commissioner Moreno	Aye
Commissioner Roybal	Aye

[The Commission met in closed session from 6:03 to 6:24.]

CHAIR HANSEN: Can I have a motion to come out of executive session?

COMMISSIONER ROYBAL: So moved.

CHAIR HANSEN: You need to state what happened.

COMMISSIONER ROYBAL: Can you give us a summary of what happened in executive session, County Attorney?

MR. FREDERICK: Madam Chair, if the record could reflect that the only matters that were discussed in the executive session, but before public hearing and after

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