

CAMINO REAL REGIONAL UTILITY AUTHORITY EXTRA-TERRITORIAL PLANNING & ZONING COMMISSION VARIANCE APPLICATION

DOÑA ANA COUNTY

COMMUNITY DEVELOPMENT DEPARTMENT

Doña Ana County Government Center • 845 N. Motel Blvd. Las Cruces, New Mexico 88007 • Telephone: (575) 647-7350

MEETING DATE: April 1, 2019

CASE NO: CRV 19-001

REQUEST: Variance to the front and

rear yard setbacks to build a 2,726 sq. ft home Applicant is proposing 10' and 5'

where 20' is required.

PROPERTY OWNERS:

APPLICANT: Geronimo Cortez

LOCATION: Lot 16, Block 5 of the

Desert Shadow Subdivision

in Santa Teresa, NM.

EXISTING ZONING: Planned Unit Development

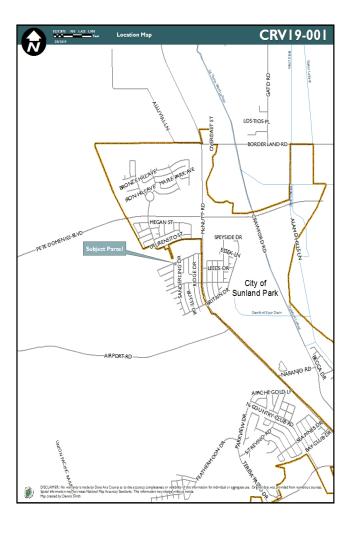
Overlay Type 1, (PUD1)

PROPERTY SIZE: 0.16-acres

RECOMMENDATION: Denial

CASE MANAGER: Luis Marmolejo

Senior Planner



SUMMARY: Case# CRV 19-001: Submitted by Geronimo Cortez, a request for a Variance to the front and rear yard setbacks in order to build a 2,726 sq. ft. home. The applicant is proposing a 10' front yard setback where a 20' setback is required and a 5' rear yard setback where a 20' setback is required as indicated on the plat. The 0.16-acre lot is located on Lot 16, Block 5 of the Desert Shadow Subdivision, in Santa Teresa, NM, and is within Township 28 South, Range 3 East, and Section 17, as recorded on September 28, 2000, under Instrument # 21002, in the Doña Ana County Clerk's office. It can be further identified by Parcel # R1716436.

REPORT CONTENTS: (1) Case Analysis and Staff Recommendation. (2) Supporting Documents (3) GIS Information and Maps.

SURROUNDING ZONING AND LAND USE

SITE	ZONING	LAND USE	
North	PUD-1	Residential	
South	PUD-1	Residential	
East	PUD-1	Residential	
West	PUD-1	Residential	

BACKGROUND

The Request: The applicant is requesting a Variance to the front and rear yard setbacks in order to build a 2,726 sq. ft. home on a corner lot. The proposal is a 10' front yard setback where a 20' setback is required and a 5' rear yard setback where a 20' setback is required as specified on the plat.

Existing Conditions & Land Use/Zoning: The subject property is within a Planned Unit Development Overlay Zone Type 1, Case # CZ99-001. The 0.16-acre lot is located on Lot 16 Block 5 of the Desert Shadow Subdivision, in Santa Teresa, NM. Desert Shadow Subdivision is reaching full build out. The property is at the intersection of Casas Lindas Lane and Willet Dr. There have been 4 administrative set back variances within the Desert Shadow Subdivision: CRV18-002, CRV16-001, CRV14-002, and CRV14-001.

Applicant Statement: See pages 6 & 7.

NOTICE / NOTIFICATION

51 letters of notification were sent out on March 7, 2019.

Legal Notification was posted in the Las Cruces Sun-News on Sun, March 10, 2019 Signs were posted on the property.

Agenda was posted on County Web Site.

No letters in opposition or support were received.

APPLICABLE PLANS, POLICIES AND CRITERIA FOR APPROVAL

DOÑA ANA COUNTY CODE CHAPTER 250: LAND USE AND ZONING

ARTICLE 2 ADMINISTRATIVE RESPONSIBILITIES

Section 250-18 Variances Section 250-18.A Application Section 250-18.D A Denial of Variance Section 250-18.E Required Findings

AGENCY REVIEW COMMENTS

DAC Engineering Department:

1. The layout will not work and must uphold setbacks to meet intersection sight distance.

DAC Flood Commission:

- 1. The property will be required to retain storm water runoff on-site, and not allow any runoff to enter roadway or to adjacent properties.
- 2. This layout requires 636 cubic feet of ponding which is more or less a 2' deep pond with approximately 20x26' footprint. There does not appear to be adequate room for an on lot pond.
- 3. This property is in a Special Flood Hazard area and the flood commission is opposed to granting variances in Flood Hazard Areas.

DAC Fire & Emergency Services: Approved with the following conditions:

1. Variance approved only.

CRRUA:

1. CRRUA stands ready to provide water and waste water services.

DAC Building Services:

- 1. The type of construction of the proposed single family residence, and if the proposed structure is one or two stories. The construction information would need to include any projections into the 5 foot setbacks, such as eaves, decks, balcony's or raised entries to the home
- 2. Existing grade elevations of the lot where the construction is proposed as well as the grade elevations of the adjoining properties to determine sheet flow from all properties and a method of controlling sheet flow.
- 3. Drainage abutting Lot 16 for the roadway drainage for Casa Lindas and Willet.
- 4. The driveway as shown on the proposed site plan will probably only accommodate one vehicle. The connection the street is not shown or dimensioned for the driveway. Street parking may be problematic as this is a corner lot.
- 5. The utility easements along Casas Lindas and Willet roadways may be of concern due to the location of the foundation of the proposed single family residence where the underground utilities installed may have caused the destabilization of the existing soils that would adversely affect the foundation.

<u>County Codes:</u> No Zoning violations found at this time.

County Rural Addressing:

1. No Comments.

STAFF ANALYSIS

The Extraterritorial Planning and Zoning Commission (EPZC) being duly appointed shall receive, hear and make final determination on all Variance applications, subject to the procedures established within the County Code. A variance shall not be granted unless the variance is found to meet the requirements of Article 2 Section 250-18.E of the Code. In granting a variance, any reasonable conditions may be imposed to minimize any adverse effects the variance might otherwise have on property within the area of notification or on the County generally.

The applicant is requesting a Variance to the front and rear yard setbacks in order to build a 2,726 sq. ft. home on a corner lot. The proposal is a 10' front yard setback where a 20' setback is required and a 5' rear yard setback where a 20' setback is required as specified on the plat. Four setback administrative variances were identified within the Desert Shadow Subdivision, Case #'s CRV18-002, CRV16-001, CRV14-002, and CRV14-001. Pursuant to § 250-18 Variances B (1), Administrative Variances represent a deviation of 20% or less from a numerical standard

Section 250-18.E Findings: (**Staff response in bold**)

- a. The variance will constitute a grant of special privilege inconsistent with the limitations on other properties in the area of notice. Although there are 4 administrative variances within the Desert Shadow Subdivision, an administrative variance is a 20% or less deviation from the required setback. Given the degree of deviation from the required setback, approval of the variances would result as a grant of special privilege and would be inconsistent with other properties in the area.
- b. There is a physical hardship resulting from the size or shape of the parcel; or from existing structures on the parcel; or from topographic or physical conditions on the site or in the area of notice and the hardship is not self-imposed. The proposed setbacks is a self-imposed hardship as the property is of sufficient size to accommodate a home within the depicted setback per the plat as evident by other homes built on corner lots with the subdivision.
- c. The variance upholds the purpose and intent of this Chapter, public safety and welfare are secured, and substantial justice is done. Granting of the Variance will not uphold the spirit and intent of Chapter 250. The proposed front yard variance for a 10 ft. set back is a 50% deviation of the 20' setback requirement, and the rear yard setback for 5 ft. is a 75% deviation from the requirement.

Three agency reviews from DAC Engineer, DAC Flood Commission and the Building Services Department have given unfavorable opinions to the proposed front and rear yard setbacks. Comments range from maintaining vehicle intersection sight distance to there does not appear to be adequate room for on lot ponding and street parking may be problematic as this is a corner lot. The setback deviation of 50% in the front yard and 75% in the rear yard is a self-imposed hardship that constitutes a grant of special privilege that does not up hold the intent of the code.

Staff recommendation: Based on the agency reviews and Section 250-18.E Findings as listed above, staff recommends Denial of Case # CRV 19-001as this is a self-imposed hardship.

FINDINGS:

- 1. The request of this application is consistent with the following requirements of the Doña Ana County Land Use Regulations & Zoning Ordinance Section 250-17.C, regarding Applications and Hearing Procedures for Variances.
- 2. All notification and notice requirements have been met per Section 250-17.C. of the Ordinance.
- 3. The property is outside of any incorporated municipal zoning authority and is within Doña Ana County.
- 4. The EPZC has jurisdiction to review this application.
- 5. The Variance request does not meet the following evaluation criteria under Article 2 Section 250-18.E of the Code:
 - a. The variance will constitute a grant of special privilege inconsistent with the limitations on other properties in the area of notice. Although there are 4 administrative variances within the Desert Shadow Subdivision, an administrative variance is a 20% or less deviation from the required setback. Given the degree of deviation from the required, grant of special privilege is inconsistent with other properties in the area.
 - b. There is a physical hardship resulting from the size or shape of the parcel; or from existing structures on the parcel; or from topographic or physical conditions on the site or in the area of notice and the hardship is not self-imposed. **The proposed setbacks is a self-imposed hardship as the property is of sufficient size to accommodate a home.**
 - c. The variance upholds the purpose and intent of this Chapter, public safety and welfare are secured, and substantial justice is done. Granting of the Variance will not uphold the spirit and intent of Chapter 250. The proposed front yard variance for a 10 ft. set back is a 50% deviation of the 20' setback requirement, and the rear yard setback for 5 ft. is a 75% deviation from the requirement.

P&Z OPTIONS

- 1. The EPZC can approve the request as submitted.
- 2. The EPZC can deny the request as submitted.
- 3. The EPZC can conditionally approve the request to minimize any adverse effects the variance might otherwise have on properties within the area of notification.

APPLICANT STATEMENT

PROPOSED DESIGN PLAN

@1-24-2@19

MANUEL OLANO LOT-16 DESERT SHADOW SUB. PHASE IV

> VARIANCE DEPARTMENT VARIACE AT REAR SETBACK

HELLO MY NAME IS MANUEL OLANO I PURCHASED A LOT IN SANTA TERESA NM AT DESERT SHADOW SUB. LOT IS AT THE CORNER OF WILLET & CASAS LINDAS. WE ARE REQUESTING A VARIANCE AT REAR SETBACK FROM 20'-0" TO 5'-0". TO MAKE DESIGN WORK. AS PER DEVELOPER SETBACKS THERE IS NOT ENOUGH. WOULD LIKE TO SEE IF WE CAN DESIGN THIS DREAM HOME

APPLICANT STATEMENT

PROPOSED DESIGN PLAN

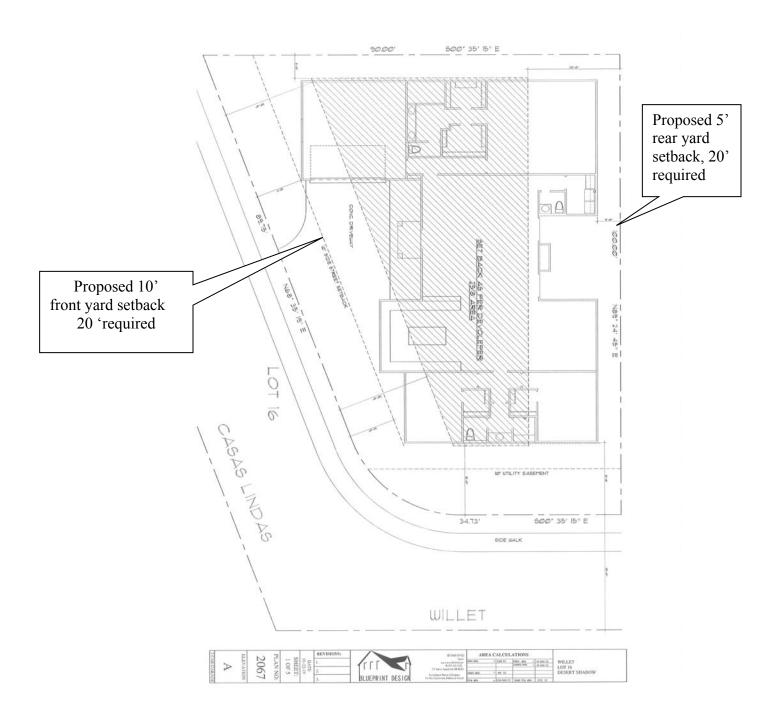
Ø1-24-2Ø19

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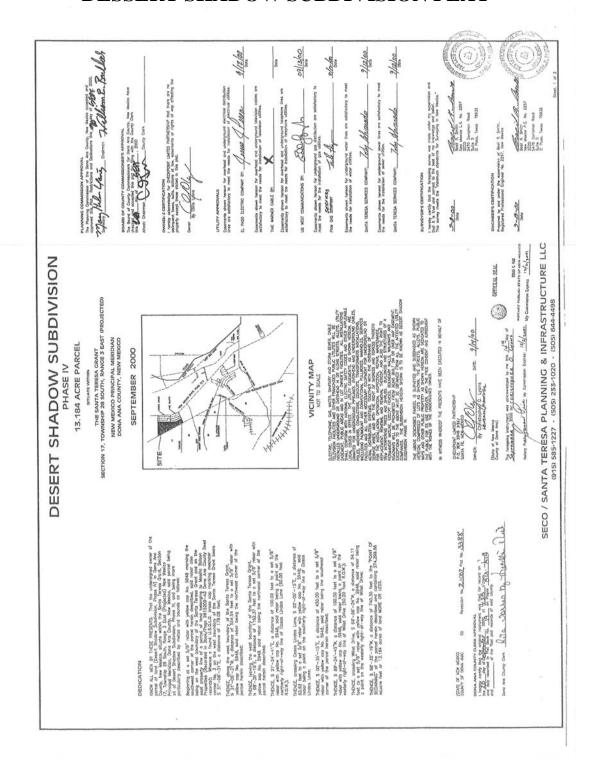
> VARIANCE DEPARTMENT VARIACE AT SIDE STREET CASAS LINDAS

HELLO MY NAME IS MANUEL OLANO I PURCHASED A LOT IN SANTA TERESA NM AT DESERT SHADOW SUB, LOT IS AT THE CORNER OF WILLET & CASAS LINDAS. WE ARE REQUESTING A VARIANCE AT SIDE STREET CASAS LINDAS FROM 20'-0" TO 10'-0" AS PER DEVELOPER SETBACKS THERE IS NOT ENOUGH. WOULD LIKE TO SEE IF WE CAN DESIGN THIS DREAM HOME

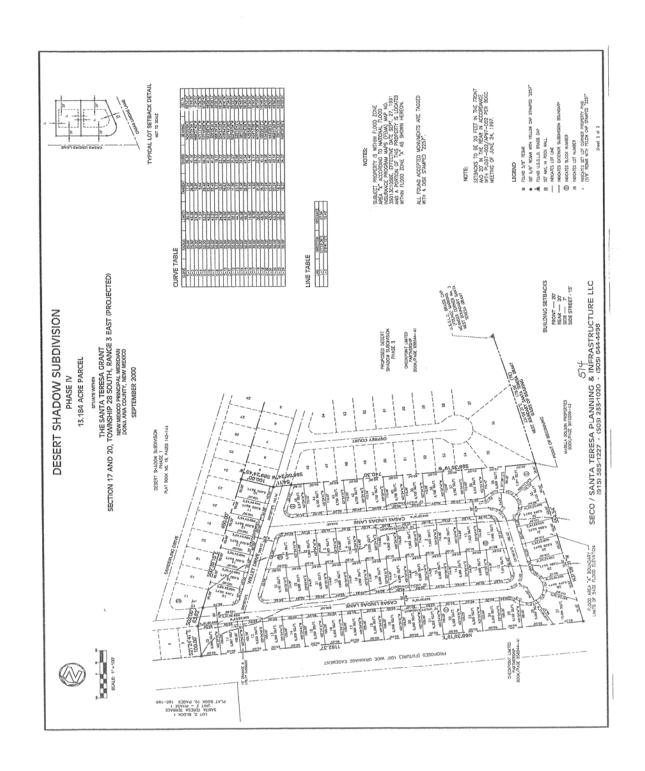
PROPOSED SITE PLAN



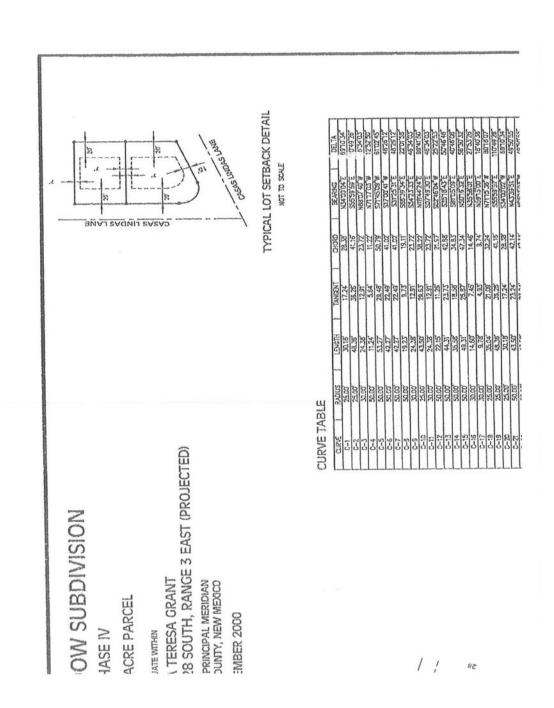
DESSERT SHADOW SUBDIVISION PLAT



DESSERT SHADOW SUBDIVISION PLAT CONT.



DESSERT SHADOW SUBDIVISION PLAT SETBACK CALL OUTS



AREA OF NOTIFCATION



NOTIFICATION TABLE

CRY19001

2/8/2019

CODE ACCOUNT	OWNERNAME	MAILADDRI	CITY	STATE	ZIP
I R1716436	ESPINOZA NEIRA O TRUJILLO	816 MARTHA GALE	EL PASO	TX	7991
2 R1715274	POST TERESA 2 LLC	8149 SANTA MONICA BLVD # 298	LOS ANGELES	CA	9004
3 R 17 17065	POST TERESA 3 LLC	8149 SANTA MONICA BLVD #298	LOS ANGELES	CA	9004
4 R 17 1775 I	DAN BROWN HOMES INC	5305 MCNUTT	SANTA TERESA	NM	8800
5 R 17 15342	ROJERO JULIAN JR & JOSEFINA	146 CASAS LINDAS	SANTA TERESA	NM	8800
6 R1715343	RADA ROBERTO JR & ELIDA	148 CASAS LINDAS LN	SANTA TERESA	NM	8800
7 R 17 I 5344	RICO ANA	150 CASAS LINDAS LN	SANTA TERESA	NM	8800
8 R 17 15 3 4 5	AGUILAR JOSE L & SUJHEY	152 CASAS LINDAS LN	SANTA TERESA	NM	8800
9 R 17 15346	RAMIREZ SANTIAGO	154 CASAS LINDAS	SANTA TERESA	NM	8800
10 R 17 16343	RODRIGUEZ BENJAMIN JR	156 CASAS LINDAS LN	SANTA TERESA	NM	8800
11 R1716344	MOYA CLAUDIA	158 CASAS LINDAS LANE	SANTA TERESA	NM	8800
12 R1715356	MAESE AIDA & ENRIQUE MAESE	PO BOX 352	SANTA TERESA	NM	8800
13 R 17 16345	FLORES MARIA	160 CASAS LINDAS LIN	SANTA TERESA	NM	8800
14 R 17 15355	MUNOZ BERNABE	5834 SANDERLING DR	SANTA TERESA	NM	88008953
15 R 17 16346	GARCIA LOURDES	162 CASAS LINDAS LANE	SANTA TERESA	NM	8800
16 R 17 16347	HERNANDEZ MARIO & LILIA M SANCHEZ	164 CASAS LINDAS LN	SANTA TERESA	NM	8800
17 R 17 16348	RAMIREZ DAISY R	166 CASAS LINDAS LN	SANTA TERESA	NM	8800
18 R 17 15357	RAMIREZ JUAN & MARTHA	5833 DUNLIN DR	SANTA TERESA	NM	8800
19 R 17 16349	CISNEROS ERIKA A & ANGEL I NAVARETTE	168 CASAS LINDAS LN	SANTA TERESA	NM	8800
20 R1715322	CALVILLO VERONICA V	5829 SANDERLING DR	SANTA TERESA	NM	8800
21 R1715353	MCCUE BLIZABETH	5832 SANDERLING DR	SANTA TERESA	NM	8800
22 R1605650	DVNM LAND LLC	7910 GATEWAY EAST STE 102	FL PASO	TX	7991
23 R1715358	CEPEDA SERGIO & MIREYA I	5831 DUNUN DR	SANTA TERESA	NM	8800
	FLORES IOSE G & MARTHA	5830 SANDERLING DR	SANTA TERESA	NM	8800
25 R1715352	CARRILLO EDUARDO IR	5827 SANDERLING DRIVE	SANTA TERESA	NM	8800
26 R1716383		165 CASAS UNDAS LN	SANTA TERESA	NM	8800
27 R1715359	GRANADOS VICTOR & MARIAM F HAJJI				8806
28 R1716382	MORENO JOSE & OFELIA HERNANDEZ SERGIO IR	PO BOX 3121 167 CASAS LINDAS LANE	SUNLAND PARK SANTA TERESA	NM	8800
29 R 17 16437	DYNAMIC HOME SPECIALTIES LLC	315 NUECES	SUNLAND PARK	1.000	8806
30 R1715351	REZA ESTEBAN H & BEATRIZ HERNANDEZ	PO BOX 1914	CANUTILLO	TX	7983
31 R1716381	GUERRA PAULINO	169 CASAS LINDAS LN	SANTA TERESA	NM	8800
THE STATE OF THE STATE OF	TREJO RAMON SR & MARIA M	PO BOX 1602	SUNLAND PARK	10000	8806
33 R 17 16380	FAVILA JOEL & CLAUDIA PATRICIA	171 CASAS LINDAS LN	SANTA TERESA	NM	8800
7.11 2010 107.00.0	MACIAS ANDY R	5826 WILLET DR	SANTA TERESA	NM	8800
35 R 17 15 360	VASQUEZ MARCUS & MARISELA	5827 DUNLIN DR	SANTA TERESA	NM	8800
36 R1715350	ALVARADO JESUS J & MARI CRUZ	5826 SANDERLING	SANTA TERESA	NM	8800
37 R1716361	ALVAREZ ROBERT A	P.O. BOX 221744	EL PASO	TX	7991
38 R1715325	RUBIO LUIS M	5823 SANDERLING DR	SANTA TERESA	NM	8800
39 R 17 16439	DELGADO LUIS	5824 WILLET DRIVE	SANTA TERESA	NM	8800
40 R 17 16362	DESANTIAGO MARCO A	168 RED LEGS COURT	SANTA TERESA	NM	8800
41 R1715361	MARTINEZ JESUS	5825 DUNLIN DR	SANTA TERESA	NM	8800
42 R1715349	LOPEZ FRANCISCO A & MARIBEL	5824 SANDERLING DR	ST TERESA	NM	8800
43 R1716363	BINGHAM DAVID K	6044 GATEWAY BLVD EAST STE 901	EL PASO	TX	7990
44 R 17 15326	MANGAN MICHAEL J & MARTHA J	5821 SANDERLING DR	SANTA TERESA	NM	8800
45 R 17 16440	TUSCAN VALLEY PROPERTIES INC	PO BOX 981	SANTA TERESA	NM	
46 R 17 I 53 48	MESSER RYAN T & JEANINE G	5822 SANDERLING DR	SANTA TERESA	NM	8800
47 R1715327	RAMIREZ MIGUEL JR & HILDA Y	5819 SANDERLING DR	SANTA TERESA	NM	8800
48 R1716441	MEDINA PEDRO ROJAS	5820 WILLET DRIVE	SANTA TERESA	NM	8800
49 R1716401	HAMLET MORTGAGE INVESTMENT LLC	6044 GATEWAY E STE 900	EL PASO	TX	7990
50 R1715329	MARRUFO ISRAEL & JENNIE	5817 SANDERLING DR	SANTA TERESA	NM	8800
51	DAC ROAD DEPT.	2025 E GRIGGS	LAS CRUCES	NM	8800

ADMINISTRATIVE VARIANCES

§ 250-18 Variances B (1), Administrative Variances represent a deviation of 20% or less from a numerical standard

