

**DATE:** January 17, 2013

**TO:** County Development Review Committee

**FROM:** Miguel "Mike" Romero, Development Review Specialist Sr.

**VIA:** Penny Ellis-Green, Land Use Administrator  
Vicki Lucero, Building and Development Services Manager  
Wayne Dalton, Building and Development Services Supervisor

**FILE REF.:** CDRC CASE # V 12-5430 Susan Sutton Variance

**ISSUE:**

Susan Sutton, Applicant, Requests A Variance Of Article III, Section 10 (Lot Size Requirements) Of The Land Development Code To allow Two Dwelling Units on 2.492 Acres.

The Property Is Located At 8 Ute Lane, Within Section 20, Township 16 North, Range 10 East (Commission District 4).

**Vicinity Map:**



## **SUMMARY:**

The Applicant requests a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 2.492 acres. The property is located in the Metro Mountain Hydrologic Zone where the maximum density is one dwelling unit per 5 acres with community water. The subject lot was created in 1974, and is recognized as a legal non-conforming lot.

There are currently two dwelling units on the subject property. The structures consist of a main residence, a studio containing a kitchen and bathroom, and a shed. There are no records of the main residence or the studio being permitted by Santa Fe County.

On October 19, 2012, Santa Fe County Building and Development Services Department received a written complaint regarding the Applicant's studio. On October 25, 2012, the Applicant received a Notice of Violation from Santa Fe County Code Enforcement for Exceeding Density requirements.

The Applicant states that when she bought the property at 8 Ute Lane in 2007 the house was listed below the appraisal value and the property was advertised as is, having a main house and a heated studio with a kitchen and bathroom. According to the Applicant's knowledge the house was built in the early 1970's and the original owners lived there from 1974 to 1988. The property has since been sold 5 times since the original owners sold the property in 1988. The Applicant has obtained information that the studio was built in 1991 by the second owner of 8 Ute Lane. The Applicant has stated she has spent thousands of dollars on repairs to bring the main residence and the studio up to code. At this time the Applicant has a roommate who is ill that lives in the main residence, which she is helping care for. The Applicant has rented the studio to a nurse who provides medical assistance to the roommate. The Applicant feels she should not be held accountable for the structure (studio) that has been on the property for years and to her knowledge has never been challenged as being an illegal structure.

Article II, § 3 (Variances) of the County Code states: "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance." This Section goes on to state "In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified." **The variance criteria does not consider financial or medical reasons as extraordinary hardships**

**This Application was submitted on December 4, 2012.**

**Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request.**

**APPROVAL SOUGHT:** Approval of a variance from Article III, §10 (Lot Size Requirements) of the Land Development Code.

**GROWTH MANAGEMENT AREA:** El Centro, SDA-2

**HYDROLOGIC ZONE:** Metro Mountain Zone, minimum lot size per Code is 80 acres per dwelling unit. Lot size may be further reduced to 20 acres with water restrictions. Lot size may be further reduced to 5 acres where Community Water service is available. The two proposed dwelling units exceed the number of units allowed on the subject property.

**FIRE PROTECTION:** Hondo Fire District.

**WATER SUPPLY:** Sunlit Hills

**LIQUID WASTE:** Advanced Treatment System

**VARIANCES:** Yes

<b>AGENCY REVIEW:</b>	<u>Agency</u>	<u>Recommendation</u>
	County Fire	Approved With Conditions

**STAFF RECOMMENDATION:** **Denial of a variance from Article III, §10 (Lot Size Requirements) of the Land Development Code.**

If the decision of the CDRC is to recommend approval of the Applicant's request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk's Office **(As per Article III, § 10.2.2 and Ordinance 2002-13).**

2. The Applicant must obtain a development permit from the Building and Development Services Department for all structures on the property (**As per Article II, § 2**).
3. The placement of additional dwelling units or Division of land is prohibited on the property (**As Per Article III, Section 10**).
4. The Applicant shall comply with all Fire Prevention Division requirements (**As per 1997 Fire Code and 1997 Life Safety Code**).

**EXHIBITS:**

1. Letter of request
2. Article III, §10 (Lot Size Requirements)
3. Article II, § 3 (Variances)
4. Site Photographs
5. Site Plan
6. Aerial of Site and Surrounding Area
7. Fire Prevention Division