

**DATE:** March 15, 2012

**TO:** County Development Review Committee

**FROM:** Wayne Dalton, Building and Development Services Supervisor

**VIA:** Shelley Cobau, Building and Development Services Manager  
Penny Ellis-Green, Interim Land Use Administrator

**FILE REF.:** CDRC CASE # V 11-5400 Jenny Cocq Variance

**ISSUE:**

Jenny Cocq, Applicant, Matthew McQueen, (Attorney At Law), Agent, request a variance of Article III, §10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 0.79 acres.

The property is located at 131 County Road 84, in the vicinity of Jacona, within Section 12, Township 19 North, Range 8 East, (Commission District1).

**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 0.79 acres. There are currently four dwelling units on the property. The structures consist of a main residence, a studio and a garage. The studio has been converted into a dwelling with a kitchen and bathroom facilities. The garage which was permitted on May 2, 1994, (Permit # 94-996) has been converted into two dwelling units both having kitchen and bath facilities.

On October 10, 2011, Code Enforcement received a complaint on the subject property stating the property owner was exceeding density on the property. On October 18, 2011, Code Enforcement conducted an inspection and observed multiple dwelling units on the property. Code Enforcement then issued a Notice of Violation to the property owner for exceeding density.

The Applicant states as a result of the lack of experience and some bad advice, the Applicant was encouraged to convert the two accessory structures into dwelling units. The Applicant now understands and acknowledges that this was in error. The Applicant proposes to remove the kitchen facilities from the studio and bring it into compliance for its original purpose as a working artist studio/office. The Applicant also proposes to convert the two dwelling units within the garage into a single dwelling unit for a total of two dwelling units on the property.

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.”

**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 Norte, SDA-2

**HYDROLOGIC ZONE:** Traditional Community of Jacona, minimum lot size per Code is 0.75 acres per dwelling unit. The two proposed dwelling units exceed the number of units allowed on the subject property.

**FIRE PROTECTION:** Pojoaque Fire District.

**WATER SUPPLY:** Domestic Well  
**LIQUID WASTE:** Conventional Septic System

**VARIANCES:** Article III, §10 (Lot Size Requirements) of the Land Development Code.

**AGENCY REVIEW:** None

**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.
2. The Applicant must obtain a development permit from the Building and Development Services Department for the second dwelling unit and the studio.
3. Prior to submitting for a Development Permit, an inspection must be conducted to ensure the additional kitchen facilities have been removed. This will consist of core filling drain pipes and capping all gas lines. Code Enforcement must be present at that time.
4. The Applicant shall provide an updated liquid waste permit from the New Mexico Environment Department with Development Permit Application.
5. The placement of additional dwelling units on the property is prohibited.
6. The Applicant shall comply with all Fire Prevention Division requirements.
7. No more than two electric meters shall be allowed on the property. Additional electric meters must be removed from property.

**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

