




Memorandum

Date: March 28 2019

To: SOUTHERN NEVADA DISTRICT BOARD OF HEALTH

From: Daniel LaRubio, Jr., P.E., REHS, Environmental Health Engineer/Supervisor 
Herbert Luis Sequera, REHS, Environmental Health Manager #LJ
Chris Saxton, MPH-EH, REHS, Environmental Health Director 
Joseph P. Iser, M.D., DrPH, MSc, Chief Health Officer 

Petitioner: Joe Franco, Owner

Subject: Variance Request to Permit and Install a New Individual Sewage Disposal System (ISDS) on an Undersized Lot Served by a Municipal Water Supply with a Shallow Absorption Field (APN 129-36-510-085)

I. BACKGROUND

Joe Franco, Owner, is requesting a Variance to permit and install an individual sewage disposal system (ISDS) on an undersized lot served by Municipal Water. The lot is approximately 0.06 acres gross located in Mt. Charleston, Nevada where one quarter (1/4) acre is required for the installation of an ISDS on a lot served by a Municipal Water Supply per SNHD ISDS Regulation 11.20.2. Also, the lot is varying from SNHD ISDS Regulation Section 19.2.1 requiring that no septic tank or absorption field shall be located within ten (10) feet of any property line. The lot is located at 4438 Yellow Pine Ave., legal described as Lot Ten (10), Block Two (2) of Charleston Park Resorts unrecorded subdivision located within the N1/2 of the NE1/4 of Section 36, Township 19 South, Range 56 East, M.D.M.; Mount Charleston, Nevada, Assessor's Parcel Number 129-36-510-085.

II. DISCUSSION

The owner has an undersized lot in Mount Charleston with less than the required area for a septic system on a lot with Municipal Water. He is requesting a Variance to permit and install a new septic system on his lot. Lot is in Old Town, Mount Charleston that doesn't have a recorded subdivision map. Lot is only 50'x50' in Old Town per Clark County Building Department. Setbacks are 15' in the front, 10' in the rear and 5' on the sides. This leaves an area of 25'x40' in which to build a house.

The petitioner states the following regarding these requirements:

1. There must be circumstances or conditions which are unique to the petitioner, and do not generally affect other persons subject to the regulation: Please indicate how your request is unique to your situation; therefore, not likely to affect other persons subject to specific regulation:

Area called Old Town was subdivided into 50'x50' lots in the 1910's; therefore, in order to have required setback and to have a septic system, I can only build on a 25'x40' area with 15' setback in the front, 10' setback in the rear and 5' setback on the sides. These setbacks were reviewed and approved by the Clark County Building Department.

2. There must be circumstances or conditions which make compliance with the regulation unduly burdensome and cause a hardship to and abridge a substantial property right of the applicant and the variance is necessary to render substantial justice to and preserve the property rights of the applicant. Please indicate in what manner compliance with the regulation would be burdensome or cause a hardship on your business or how the free use of your property may be affected (if economic factors are an issue, please include estimates regarding the costs that would be incurred by compliance):

The lot is a legal lot within a legal subdivision of 50'x50' lots. I cannot build unless this Variance is approved by the Southern Nevada District Board of Health.

3. Granting the variance will not be detrimental or pose a danger to the public health and safety. Please provide evidence that the variance request, if approved, will not adversely affect the safe and sanitary operation of the applicant(s) pool, spa or food establishment:

This development will not be detrimental or pose a danger, since all the lots in this subdivision are also too small.

III. RECOMMENDATION

Therefore, staff recommends Approval with the following conditions:

1. The ISDS will be limited to a new one thousand (1,000) gallon septic tank with a new leach field consisting of 21 Quick 4 (3' wide by 4' long) Chambers.
2. The proposed absorption leach field may not be in an area that is subject to vehicular traffic, to be paved, or within ten (10) feet of any tree.
3. Construction of the ISDS leach field and connection to the existing septic tank must be commenced within one (1) year of the date hereof. If the construction has not been commenced within one (1) year, this variance will automatically expire and be of no further force and effect, unless application is made and approved for the extension of time prior to the expiration date by the applicant or the applicant's successor(s) in

interest.

4. The applicant and his succor(s) in interest shall abide by all local governmental regulations requiring connection to community sewage systems. Use of the ISDS shall be discontinued and the structures it serves shall be connected to the community sewage system constructed in the future to within four-hundred (400) feet of the applicant's nearest property line when connection can be made by gravity flow and the owner(s) are notified and legally required to do so by the public entity owning and operating the community sewage system.

IV. CONDITIONS

1. The ISDS will be limited to the a one thousand (1,000) gallon septic tank with a proposed shallow absorption leach field UNTIL Municipal sewer is available.
2. The ISDS may not be in an area subject to vehicular traffic, any area to be paved or within ten (10) feet of any tree.
3. Permitting of the ISDS must be commenced within one (1) year of the date hereof. If the construction has not been commenced within that period, this variance shall automatically expire and be of no further force and effect, unless application is made and approved for an extension of time prior to the expiration date by the applicant or the applicant's successor(s) in interest.
4. The applicant and his successor(s) in interest shall abide by all local governmental regulations requiring connection to community sewage systems. Use of the ISDS shall be discontinued and the structure it serves shall be connected to any community sewage system constructed in the future to within four hundred (400) feet of the applicant's property line when connection can be made by gravity flow and the owner(s) are notified and legally required to do so.

Attachments:

- A. Clark County Assessor's Map
- B. Clark County Assessor's Ownership History
- C. Justification/Hardship Letter
- D. Cone of Influence Letter Dated
- E. Variance Candidate Worksheet
- F. Septic Density Map
- G. Architectural Plans
- H. Plot Plan
- I. SNHD Public Notice

ATTACHMENT

A

ATTACHMENT

B

Briana Johnson, Assessor

PARCEL OWNERSHIP HISTORY

[Assessor Map](#)
 [Aerial View](#)
 [Comment Codes](#)
 [Current Ownership](#)
 [New Search](#)

ASSESSOR DESCRIPTION
CHARLESTON PARK RESORT (UNREC) PLAT BOOK 9999 PAGE 1 LOT 10

CURRENT PARCEL NO.	CURRENT OWNER	%	RECORDED DOCUMENT NO.	RECORDED DATE	VESTING	TAX DIST	EST SIZE	COMMENTS
129-36-510-085	FRANCO JOSEPH		20120829:01734	8/29/2012	NS	115	.06 AC	SF 200-70

PARCEL NO.	PRIOR OWNER(S)	%	RECORDED DOCUMENT NO.	RECORDED DATE	VESTING	TAX DIST	EST SIZE	COMMENTS
129-36-510-085	PERICH JOYCE		20061204:04729	12/04/2006	NS	115	SUBDIVIDED LOT	DF 11-2007
129-36-510-083	PERICH JOYCE		20061204:04729	12/04/2006	NS	115	SUBDIVIDED LOT	
129-36-510-083	MONACO LOUIS E TRUST ROSSI JOSEPH N TRS		19980821:00771	08/21/1998	NS	115	SUBDIVIDED LOT	FR 129-36-510-067,068; CF 106-2006

Click the following link to view the parcel genealogy
[Parcel Tree](#)

Note: Only documents from September 15, 1999 through present are available for viewing.

NOTE: THIS RECORD IS FOR ASSESSMENT USE ONLY. NO LIABILITY IS ASSUMED AS TO THE ACCURACY OF THE DATA DELINEATED HEREON.

ATTACHMENT

C

Justification /Hardship Letter

To: Southern Nevada Health District

280 S. Decatur Blvd. Las Vegas, NV. 89107

Re: Parcel # 129-36-510-085

Date:2/20/2019

To whom it may concern:

I hereby make application and petition the Southern Nevada District Board of Health for a variance to the Regulations Governing Individual Sewage Disposal and Liquid Waste Management Section 11.20.2.

This variance request is made to permit construction of an ISDS on a lot with a septic density greater than the maximum for a conventional septic system.

The legal description of said property is APN#129-36-510-085, further described as Lot 10.

I have owned the property since 2012 and I wish to Build a small house.

Thank you for your consideration,

Joseph Franco

ATTACHMENT

D

3B, Inc.

March 4, 2019

Joe Franco
2200 Beacon Ridge Drive
Las Vegas, NV 89134

Project: Proposed Single Family
4429 Yellow Pine Avenue
Mount Charleston Area
Clark County, Nevada

3B Job No.: 18152-G

Subject: Evaluation of Location and Depth of Leach Field and Septic Tank on Foundations

Dear Mr. Franco:

As authorized, this letter is written to address the impact the leach field location and depth may have on the structure foundations. You provided a site plan showing the location of the house and leach field on the property. Based on this plan, the leach lines and septic tank will be located within approximately two feet of the house foundations on the front side of the house. The material encountered is classified as GP-GM, and is medium dense to dense in consistency.

The building code requires that all foundations be a minimum of 3 feet below the lowest adjacent grade. 3B recommends that the foundations along the front of the house be a minimum of 5 feet below grade. At this depth, it is our opinion that the location of the leach field will be outside the foundation stress influence, and will not adversely impact the structure, nor will the structure adversely impact the leach field. In addition, no adverse impact will occur if the soil adjacent to the structure becomes saturated by the leach field.

We appreciate the opportunity to be of service to you on this project. Please do not hesitate to contact us if you have any questions, or if we can be of further service.

Respectfully Submitted,
3B, Inc.

Raymond E. Brannen, PE
President

Copies 5 - Joe Franco
1 - file



ATTACHMENT
E

VARIANCE CANDIDATE WORKSHEET
(Follow Variance Procedure Worksheet Steps on Page 4)

PART I

Name of Facility/Establishment:
Health Permit No.: Date of Inquiry:
Name of Operator/Agent:
Address of Operator/Agent:
Phone Nos. of Operator/Agent:
Office Cell Fax

If corporation, the name/title of person to sign Variance document:
Name:
Title:

Name of Property Owner: Joseph Franco
Address of Property Owner: 2200 Beacon Ridge, Las Vegas, NV 89134
Phone Nos. of Property Owner:
Office Cell 702-580-8871 Fax 702-838-8873
Property Address:

Assessor's Parcel Number (APN): 129-36-510-085

Describe location within larger facility (i.e., shopping mall, hotel/casino/resort, etc.):

(Attach labeled map/site/floor plan with north arrow and engineering or architectural scale)

Describe Variance issue(s): Lot is in Old Town, Mount Charleston that doesn't have a subdivision map. Lot is only 50'x50' in Old Town per Clark County Building Department. Setbacks are 15' in the front, 10' in the rear and 5' on the sides. This leaves an ares of 25'x40' in which to build a house.

PART II

Nevada Administrative Code 439.240 states in general that certain conditions or circumstances must be shown to exist in order for a Board of Health to approve a request for a Variance from adopted public health regulations. A variance application letter (as noted below in PART III) MUST specifically address each of the following issues:

1. There must be circumstances or conditions which are unique to the applicant, and do not generally affect other persons subject to the regulation. Please indicate how your request is unique to your situation and is, therefore, not likely to affect other persons subject to specific regulation:
Area called Old Town was subdivided into 50'x50' lots in the 1910's; therefore, in order to have required setbacks and to have a Septic System I can only build on an 25'x40' area with 15' setback in the front, 10' setback in the rear and a 5' setback on the sides. These setbacks were reviewed and approved by the Clark County Building Department.

2. There must be circumstances or conditions which make compliance with the regulation unduly burdensome and cause a hardship to and abridge a substantial property right of the applicant, and the variance is necessary to render substantial justice to and preserve the property rights of the applicant. Please indicate in what manner compliance with the regulation would be burdensome or cause a hardship on your business or how the free use of your property may be affected (if economic factors are an issue, please include estimates regarding the costs that would incurred by compliance):
The lot is a legal lot within a legal subdivision of 50'x50' lots. I cannot build unless this Variance is approved by the Southern Nevada District Board of Health

3. Granting the variance will not be detrimental or pose a danger to public health and safety. Please provide evidence that the variance request, if approved, will not adversely affect the safe and sanitary operation of the applicant(s) pool, spa, or food establishment:
This development will not be detrimental or pose a danger, since all the lots in this subdivision are also too small.

NAC 439.240 Approval by State Board of Health. (NRS 439.150, 439.190, 439.200)

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
 - (a) There are circumstances or conditions which:
 - (1) Are unique to the applicant;
 - (2) Do not generally affect other persons subject to the regulation;
 - (3) Make compliance with the regulation unduly burdensome; and
 - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
 - (b) Granting the variance:
 - (1) Is necessary to render substantial justice to the applicant and enable the applicant to preserve and enjoy his or her property right; and
 - (2) Will not be detrimental or pose a danger to public health and safety.
2. Whenever an applicant for a variance alleges that he or she suffers or will suffer economic hardship by complying with the regulation, the applicant must submit evidence demonstrating the costs of compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable.
[Bd. of Health, Variances Reg. §§ 2.7-2.8, eff. 10-16-80; A 2-5-82; 1-19-84]

PART III:

A Variance Application Letter, which includes all information provided by the applicant on his worksheet, must be submitted in writing to the Environmental Health Division (EHD) Director no later than 40 days before the monthly Board of Health Meeting. The Application letter must be on the owner's letterhead signed by the Owner/Corporate Officer specifically listing which part(s) of the Regulation the proposed Variance covers with this completed Worksheet as an attachment. The written Application Letter must take particular care in providing statements and evidence of circumstances or conditions and reasons why the District Board of Health should grant the Variance as listed in NAC 439.240 as shown at the top of this page. *ALL information you have provided in PART I and II of this Worksheet must be included in the body of the letter.* The evidence required may include 8 1/2" x 11" or 11" x 17" detailed drawings and/or photographs.

The Variance process is outlined in Nevada Administrative Code (NAC) 439.200 through 439.260 with the exception that an application fee is payable to SOUTHERN NEVADA HEALTH DISTRICT (SNHD).

This section to be completed by SNHD staff ONLY

Next closing date is: _____ for the _____ BOH Meeting.

Referred by: _____
(Print Name of REHS)

Completed by: _____ Date: _____
(Print Name of REHS if not by supervisor)

Received by: _____ Date: _____
(Owner/Operator/Agent)

Reviewed by: _____ Date: _____
(Signature of SNHD Manager)

VARIANCE PROCEDURE

WORKSHEET STEPS:

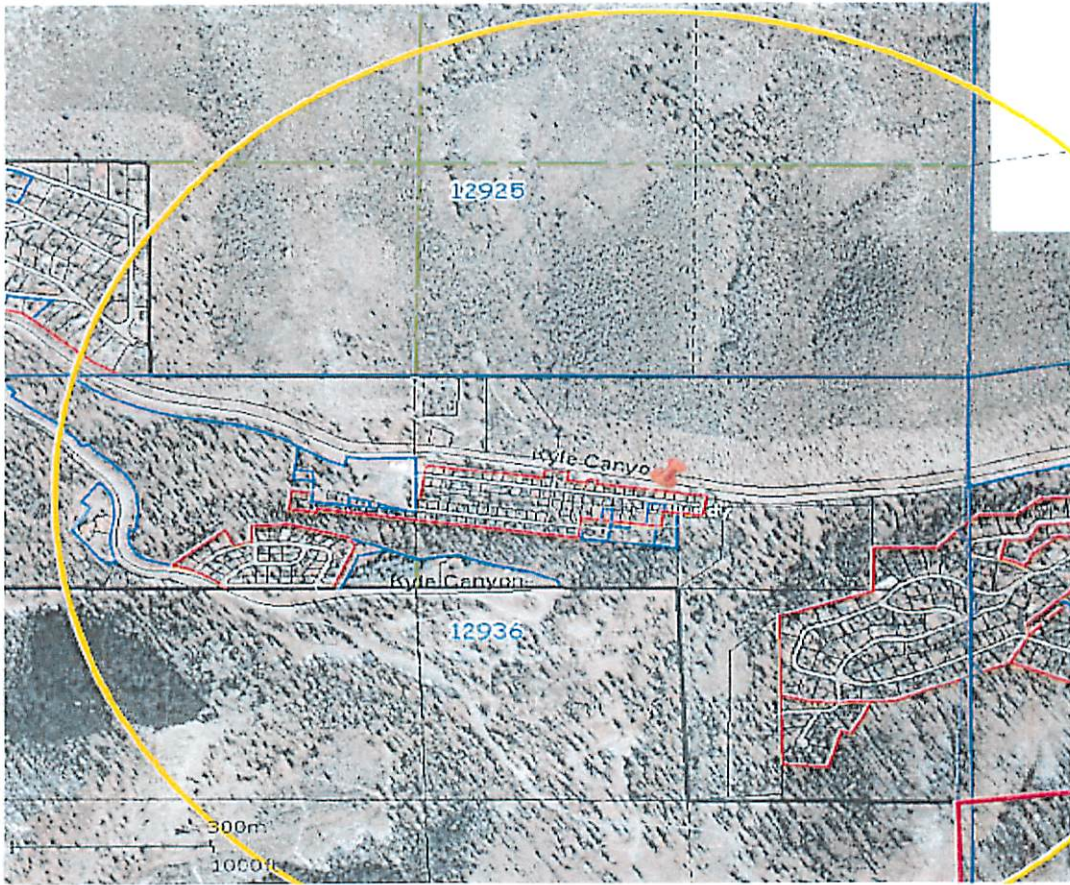
1. If the Assigned Plan Reviewer (APR) or District Environmental Health Specialist (DEHS), after reviewing a Plan Review Application or learning about an operational situation that is in apparent conflict with existing regulation(s), respectively, finds in the process of pursuing compliance that the owner/operator/agent claims circumstances or conditions described in NAC 439.240 that may support approval by the Board of Health for a Variance from said regulation(s), then the APR or DEHS first discusses the possible Variance with his Supervisor.
2. If the Supervisor, after exploring any other feasible possibilities to achieve compliance, fails to persuade the owner/operator/agent that at least one (1) of the possibilities is feasible due to the circumstances and conditions noted in Step 1, then the Supervisor **completes all applicable information on the "... VARIANCE CANDIDATE WORKSHEET" from existing file(s) and conference call(s) or meeting(s) with the Variance candidate's representative(s), and forwards the completed WORKSHEET to the Department Manager. A Variance Candidate Worksheet Meeting fee will be required prior to completing the VARIANCE CANDIDATE WORKSHEET.**
3. If after the Manager reviews the WORKSHEET and researches any possible questions of policy and law with the Division Director and District Legal Counsel, respectively, he then signs and dates the WORKSHEET and either faxes it with confirmation or arranges to have in person owner/operator/agent sign and date for receipt of WORKSHEET.
4. After the WORKSHEET fax confirmation is received or is signed received in person, one (1) copy of each is sent to Permit File, Division Director, and Department Manager.
5. The Department's Administrative Secretary establishes a new Variance Candidate File as the repository for ALL documents generated by EHD staff and received from the Variance candidate's representative(s) during the Variance process.

VARIANCE APPLICATION STEPS:

1. When the Application for Variance as described at the bottom of the "... VARIANCE CANDIDATE WORKSHEET" is received by the Division Director and is date stamped received and the Variance Application Fee received, it should be forwarded as soon as possible to the appropriate Division Manager for determination of completeness.
2. If the Application is determined by the Manager to be incomplete, then the Manager must document communication of necessary additions and/or corrections to the Variance applicant's representative(s) in a timely enough manner to allow for the possibility of a second submittal prior to the published "Closing Date" for the earliest available Board of Health Meeting date.
3. Once the Application for Variance is determined by the Department Manager to be complete, the Department's Administrative Secretary prepares, on a blank sheet of paper, the letter petitioning the District Board of Health of Clark County, as drafted by the Manager for signature by the property owner/corporate officer or authorized operator/agent. (Operator/agent may sign this document only if written authorization on letterhead signed by property owner/corporate officer has been received.)

ATTACHMENT

F

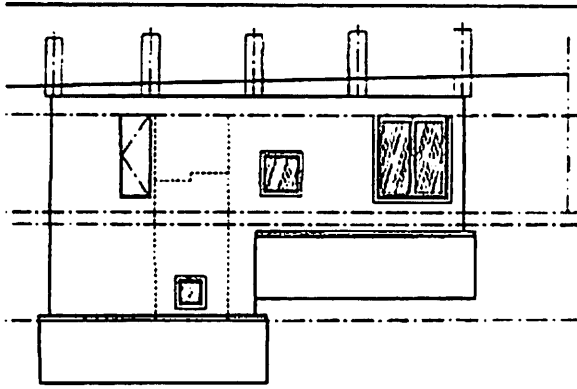


Septic Density Map

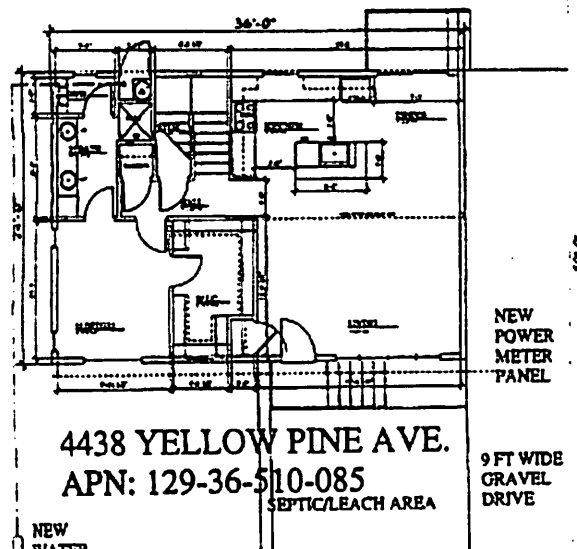
208 Septic Systems and 3 wells within a circular sq. mile of the property

ATTACHMENT

G



30'-0"



4438 YELLOW PINE AVE.
 APN: 129-36-510-085

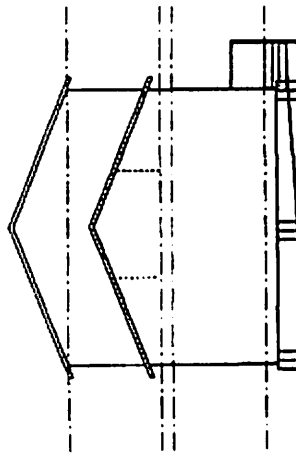
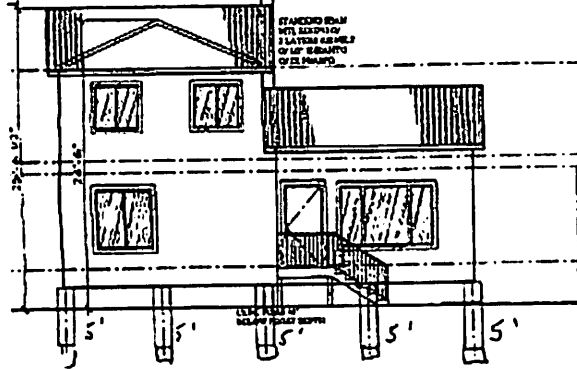
SEPTIC/LEACH AREA

NEW POWER METER PANEL

9 FT WIDE GRAVEL DRIVE

NEW WATER METER

FRANCO PAV
 WITH 200#/SQ
 3 LAYER GRADU
 OF 1/2" REBAR
 @ 24" ON-CENT



30'-0"

AREA TAKEOFF:

LEVEL 1 AREA:	864 CSF
LEVEL 2 AREA:	413 CSF
TOTAL AREA	1277 CSF TOTAL LVLDG

PROJECT NO.	
DATE	
BY	
CHECKED BY	
SCALE	
PROJECT NAME FRANCO, I. 4438 YELLOW PINE AVE MT CHARLESTON WV	
PROJECT TYPE New Residence	
APN: 129-36-510-085	
DRAWING TITLE SITE PLAN FLOOR PLAN ELEVATIONS SECTIONS NOTES	
PROJECT NO.	
DATE	11-18-18
BY	
CHECKED BY	
SCALE	
A1.0	

ATTACHMENT

H

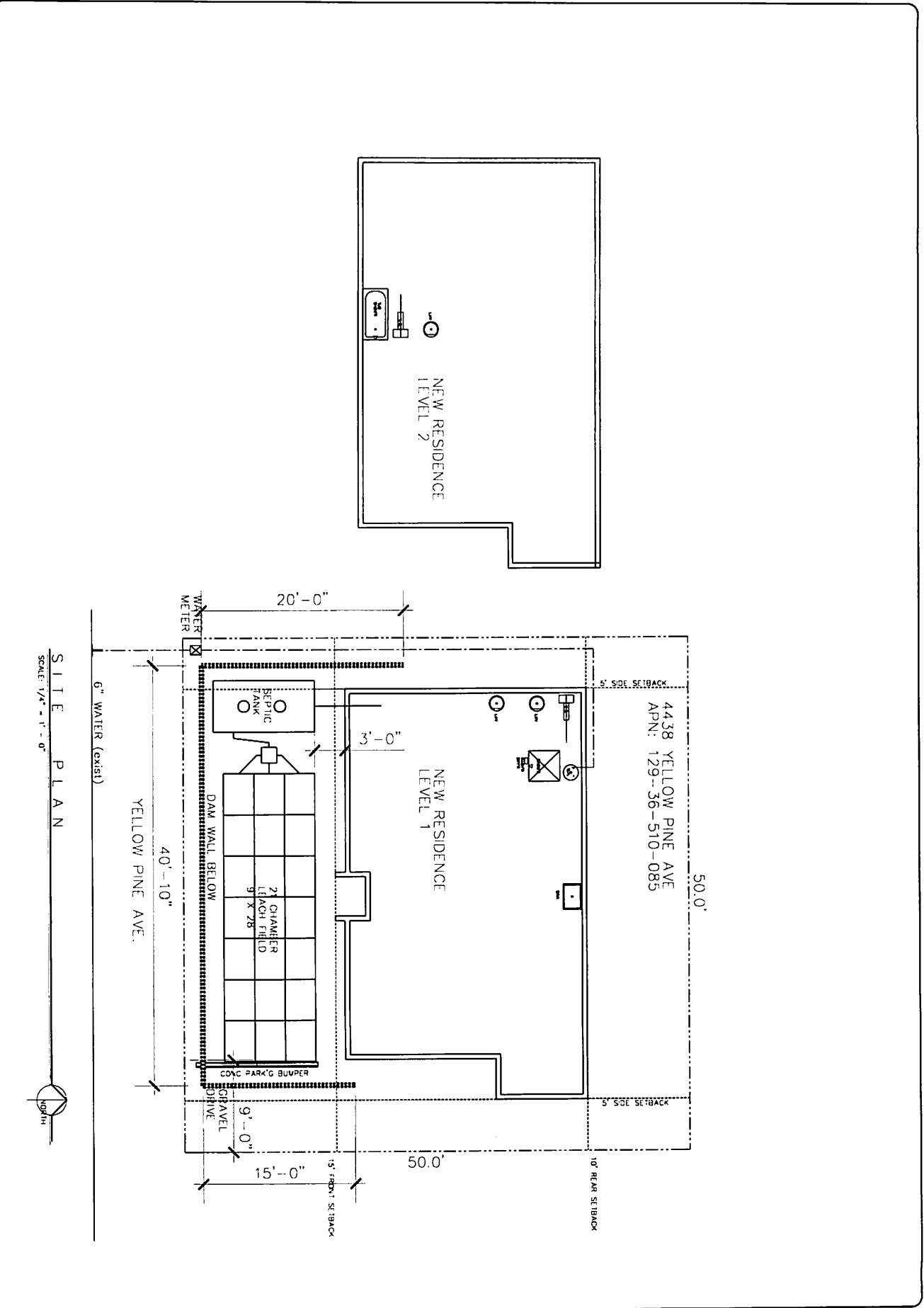
NO.	DATE	REVISION

PROJECT NO.
JOE FRANCO
 4438 YELLOW PINE AVE
 418 CONQUEST, IN
 PROJECT DATE
 NEW CABIN
 I.S.D.S. PLAN

APPLIC: 129-36-510-085
 SHEET NO.
SITE PLAN

TOTAL SHEETS
 DATE: **3-7-19**
 DRAWN BY
 CHECKED BY
 TITLE NO.

A1.0



ATTACHMENT

I

PUBLIC NOTICE

The Southern Nevada District Board of Health will conduct a PUBLIC HEARING on Thursday, March 28, 2019 at 8:30 a.m. during its regular monthly meeting in the Red Rock Conference Room at the Southern Nevada Health District at 280 S. Decatur Blvd., Las Vegas, Nevada, to approve or deny a variance request filed by Joseph Franco, married man as sole owner, to permit and install a new individual sewage disposal system on the property 4438 Yellow Pine Ave. legally described as Lot Ten (10) of Group Two (2) of Charleston Park Resort an unrecorded subdivision located within the North Half (N1/2) of the Northeast Quarter (NE1/4) of Section 36, Township 19 South, Range 56 East, M.D.M., Mount Charleston, Clark County Nevada, Assessor Parcel Number 129-36-510-085.

The District Board of Health Regulations Governing Individual Sewage Disposal Systems and Liquid Waste Management Section 19.2.1 requiring that no septic tank or deep absorption field shall be located within ten (10) feet of any property line; AND Section 11.20.2 requires a minimum one quarter (1/4) acre 10,890 sq.ft. including public streets and easements) for the installation of an ISDS on a lot served by a municipal water supply. Section 19.5 requires the Board to consider the relative interest of first, the public; second, other property owners likely to be affected; third, the applicant; in that order. No variance shall be granted in the absence of showing that: (1) The variance would not endanger or tend to endanger human health or safety. (2) Compliance with regulations from which the variance is sought would produce serious hardship without equal or greater benefit to the public.

The variance application request is available for review at the Southern Nevada Health District, 280 S. Decatur Blvd, Las Vegas, Nevada 89107. Please contact Mallory Jett-Edwards at 702-759-0660 to schedule an appointment to review the application request during normal business hours of 8:00 a.m. to 4:30 p.m. All interested persons may appear at the hearing and state their positions. Written comments will be considered by the District Board of Health and must be forwarded by March 14, 2019 to:

Daniel LaRubio, Jr., P.E., EHS
Environmental Health Engineer/Supervisor
Southern Nevada Health District
P.O. Box 3902
Las Vegas, Nevada 89127
larubio@snhd.org

All written and oral submissions will be considered by the District Board of Health of Clark County.

Chris Saxton, MPH-EH, REHS
Environmental Health Director

Date