



Memorandum

Date: April 23, 2020

To: SOUTHERN NEVADA DISTRICT BOARD OF HEALTH

From: Robert Fyda, P.E., REHS, *Environmental Health Engineer/Supervisor* RF
Herbert Luis Sequera, REHS, *Environmental Health Manager*
Chris Saxton, MPH-EH, REHS, *Environmental Health Director* CS
Fermin Leguen, M.D., MPH, *Acting Chief Health Officer*

Subject: Variance Request for an Application to Construct a Septic System located at 2201 Via Spes Nostra Street, Mount Charleston, Nevada with the following provisions: 1) allow installation of a septic system on an undersized lot; 2) allow a reduced property line setback; and 3) waiver to a design standard regard trench separation.

I. BACKGROUND:

Michael Javier, trustee of The Javier Irrevocable Spendthrift Trust ("Petitioner"), is requesting a variance to permit and install an individual sewage disposal system (ISDS) on an undersized lot ("Subject Property") served by municipal water, located at Assessor's Parcel Number 129-02-410-014, also known as 2201 Via Spes Nostra Street, Mount Charleston, NV 89124.

Petitioner requests a variance from Section 11.20.2 of the *Southern Nevada District Board of Health Regulations Governing Individual Sewage Disposal Systems and Liquid Waste Management* ("SNHD ISDS Regulations"), which requires a minimum lot size of 0.25 acre for the installation of an ISDS on a lot served by a public water system. The Subject Property has an area of approximately 0.13 acres.

Petitioner further requests a variance from Section 19.2.1 of the SNHD ISDS Regulations, which states that "no septic tank or soil absorption system shall be located within ten feet (10') of any property line." Petitioner proposes reducing this setback to five feet (5').

Petitioner further requests a variance from Section 9.7.1 of the SNHD ISDS Regulations, which defines design criteria for absorption trenches. Petitioner's proposed absorption trench design would normally require fourteen feet (14') of separation between the two trenches, but Petitioner proposes separating the trenches by six feet (6') to meet site constraints.

The petitioner states the following with regards to 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:

"Square footage of the lot and normal setback requirements greatly hinder the ability to construct a S.F.R. [single family residence] on this property."

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):

"This property was purchased with the sole intent of constructing a S.F.R. upon it. The variance is being requested to allow-construct the S.F.R. upon what would otherwise be considered an unusable lot."

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:

"The variance approval and installation of a new ISDS will allow the current owner the ability to build and use a S.F.R. on this property."

II. RECOMMENDATION:

The Subject Property is depicted in Attachment B as Lot 12 of Block 1 of the recorded subdivision known as Camp Lady of the Snows which was approved in 1959. The existing subdivision was created prior to the adoption of the current SNHD ISDS Regulations in 2006 and no recorded changes to the Subject Property have been recorded. There are three (3) existing public water system wells located downgradient and an additional well located upgradient within fourteen hundred feet (1400') of the proposed ISDS. The Subject Property is also located in an area where the density of existing ISDS is 51 lots with an active, traceable ISDS permit within one square mile of the property boundaries (see attached ISDS Density Map).

Staff is of the opinion that granting the variance would not endanger public health or safety. Staff recommends approval of the variance. If the Board of Health approves the variance, staff recommends approval with the following conditions outlined in Section III.

III. CONDITIONS:

If approved, staff recommends the following conditions:

1. 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.

2. The applicant and his successor(s) will abide by the operation and maintenance requirements of the most current SNHD regulations governing individual sewage disposal systems.
3. Construction 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.

Attachments:

- A. Authorization Letter
- B. Recorded Plat for Camp Lady of the Snows
- C. Justification Letter from the Petitioner
- D. Proposed Site Plan submitted by the Petitioner
- E. Proposed ISDS Plan
- F. Percolation Test for 2201 Via Spes Nostra
- G. Cone of Influence Letter
- H. Variance Candidate Application
- I. Public Notice

Attachment A: Authorization Letter from the Petitioner

Authorization Letter

August 12, 2019

Southern Nevada Health District
280 S Decatur Blvd
Las Vegas, NV 89107

I, Michael Javier, do hereby authorize Hardin & Sons to make application for a septic system variance in the matter of 2201 Via Spes Nostra St, Mount Charleston, NV Assessor's Parcel Number 129-02-410-014. Also, in the event that I cannot be present at the October, 2019 Southern Nevada District Board of Health meeting, Hardin & Sons is authorized to speak on my behalf. However, we understand that both of us must sign both the letter of request and the variance order.


(Owner)

State of Nevada
County of Clark

On 8/13/2019, before me, James Vales
(notary)

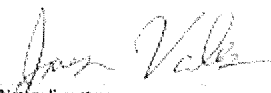
Personally appeared: Michael D. Javier
(signers)

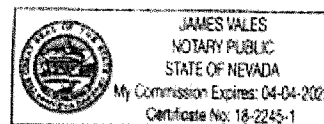
☐ Personally known to me

OR

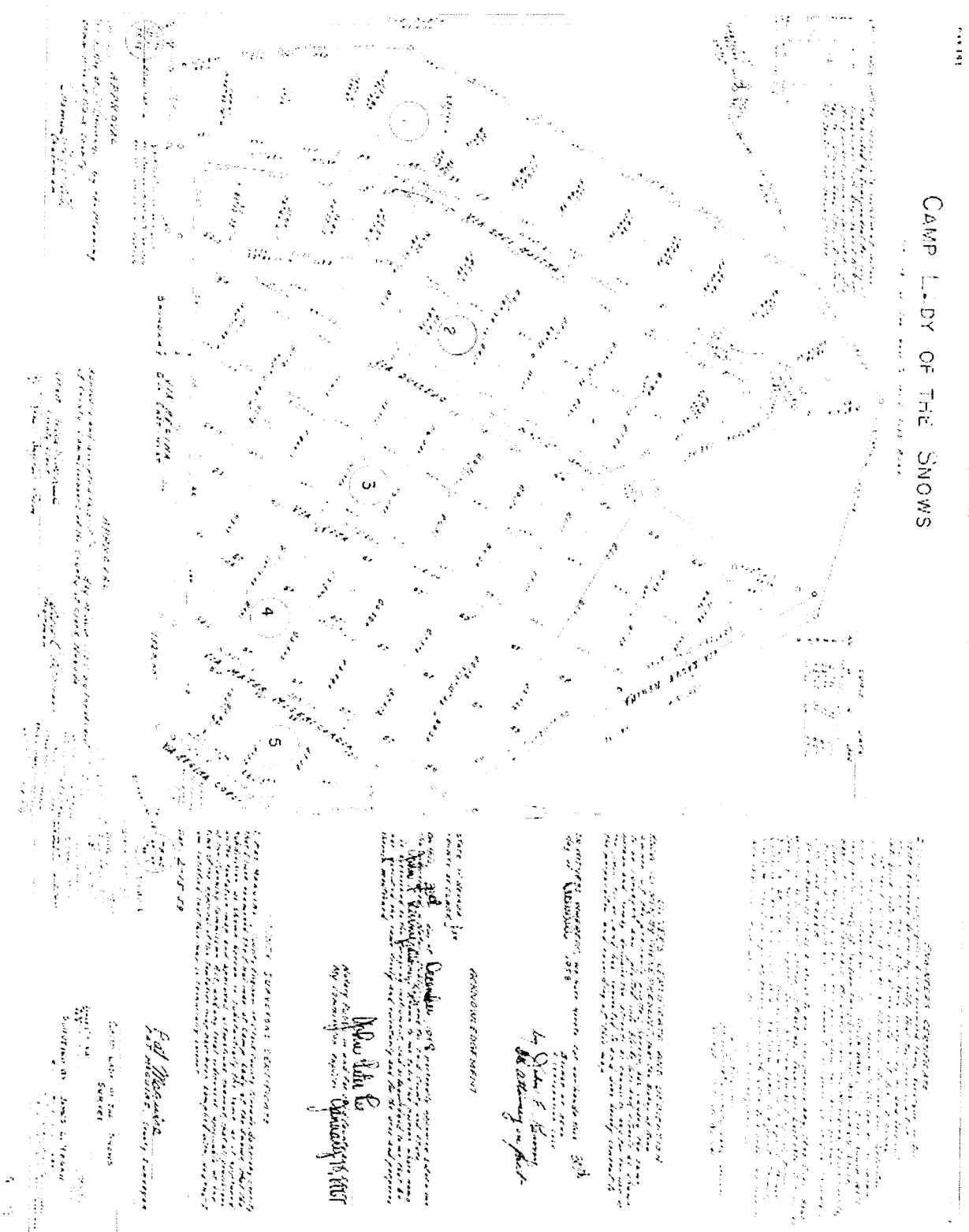
☒ Proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and has hereby acknowledged to me that he/she/they have executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument

Witness my hand and official seal


Notary Signature



James Vales
Print Name



Attachment C: Justification Letter from the Petitioner

Justification/Hardship Letter

August 23, 2019

To: Southern Nevada Health District
280 S. Decatur Blvd.
Las Vegas, NV 89107

From: Javier Irrevocable Spendthrift Trust/Michael & Kimberly Javier TRS
RE: Parcel # 129-02-410-014
2201 Via Spes Nosta St

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 Sections 11.20.2, requiring a minimum of one fourth (1/4) acre (10,900 sq. ft.) for the installation of an individual sewage disposal system (ISDS) on a lot served by an off-site water supply; and Section 5.2, requiring that no septic tank be within 5' of a building or a deep absorption field be located within 20' of a building without a Cone of Influence letter submitted by a State of Nevada registered professional engineer; and Section 5.1, requiring that no septic tank or leach field be within 10' of a property line.

This variance request is made to permit construction of an ISDS on a lot 5,663 sq. ft. The septic system is to be located 5 ft. from the proposed structure and no closer than 5 ft. from the nearest property line.

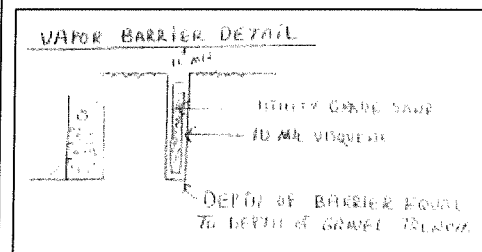
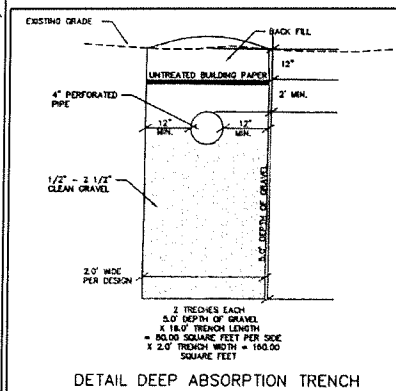
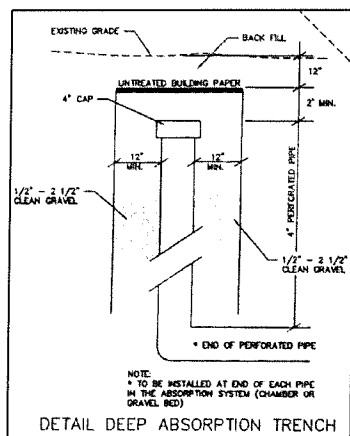
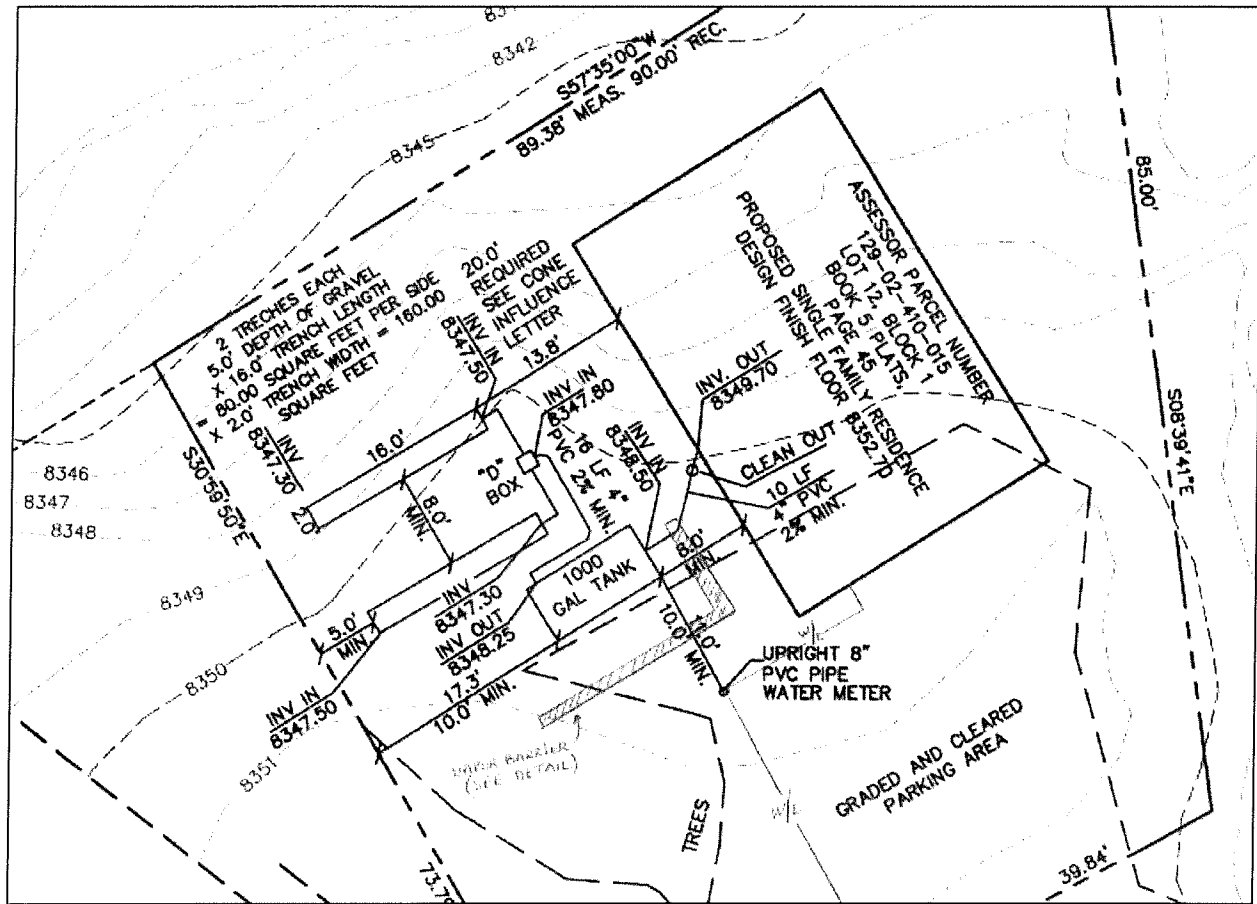
The legal description of said property is APN # 129-02-410-014, further described as Lot twelve (12) in block one (1) of camp lady of the snows subdivision, as shown by map thereof on file in book 5, of plats, page 45, in the office of the County Recorder of Clark County, Nevada

I have owned the property since September 12, 2018 and wish to apply for this variance.

Thank you for your consideration,


MICHAEL JAVIER / OWNER

Attachment E: Proposed ISDS Plan



Attachment F: Percolation Test for 2201 Via Spes Nostra (Page 1 of 5)

DLC Consulting

November 20, 2019

Hardin Excavating
2010 Cheyenne Avenue
Las Vegas, Nevada

Attention: Dale Martin

RE: Percolation Verification Test for The Single Family Residence Located at 2201
Via Spes Nostra, Mount Charleston, Nevada. APN 129-02-410-014.

Mr. Martin:

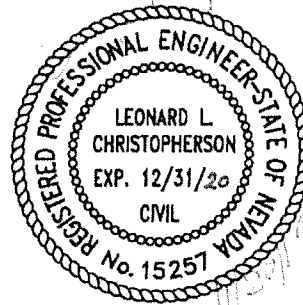
Following is the Percolation Verification Test for the referenced location. Field work was conducted by DLC Consulting in accordance with Southern Nevada Health District guidelines.

Based on the field data, percolation rates are approximately 3 minutes/inch. Soil data from the test pits indicates the presence of gravels and cobbles with sands and silt.

DLC is grateful for the opportunity to provide this report and welcomes any questions or comments regarding this report that may arise.

Sincerely,

DLC Consulting,



Michael W. Payne, C.E.M.
Principal Scientist

Landon Christopherson, P.E.
Project Engineer

Attachment F: Percolation Test for 2201 Via Spes Nostra (Page 2 of 5)

Perc Test
Hardin

November 20, 2019
2201 Via Spes Nostra

PERCOLATION TEST RESULTS

Boring B-2

Project Name: 2201 Via Spes Nostra

Project Location: 2201 Via Spes Nostra
Las Vegas, Nevada

Test Location: See Plan Map

Test Performed By: Michael Payne C.E.M.

Test Reviewed By: Landon Christopherson, P.E.

Date of Test: November 20, 2019

Borehole

Diameter: 6 inches

Borehole Depth: 36 inches

Time of Presoaking: NA

Depth of Water at beginning of test: 30 inches

Time of Reading	Time Difference (1)	Depth Water to	Depth Difference (2)	Percolation Rate (1)/(2)	Comments
08:00	0	30"	----	-----	Begin Test
08:10	10 min	34"	4.0	2.5	
08:10	0 min	30"	0		Refill
08:20	10 min	33.7"	3.7	2.7	
08:20	0	30"	0		Refill
08:30	10 min	33.7"	3.7	2.7	
08:30	0	30"	0		Refill
08:40	10 min	33.57"	3.57	2.8	
08:40	0	30.0	0		Refill
08:50	10 min	33.45"	3.45	2.9	
08:50	0	30.0	0		Refill
09:00	10 min	33.45"	3.45	2.9	
09:00	0 min	30"			Refill
09:10	10 min	33.45"	3.45	2.9	

Soil Data:

Cobbles with gravelly and sands to the maximum boring depth of 10 feet below grade. Soils drained freely from surface. Complete soil borings are attached.

Attachment F: Percolation Test for 2201 Via Spes Nostra (Page 3 of 5)

Perc Test November 20, 2019
Hardin 2201 Via Spes Nostra

Boring B-1

Project Name: 2201 Via Spes Nostra
Project Location: 2201 Via Spes Nostra
Mount Charleston, Nevada
Test Location: See Plan Map
Test Performed By: Michael Payne C.E.M.
Test Reviewed By: Landon Christopherson, P.E.
Date of Test: November 20, 2019
Borehole Diameter: 6 inches
Borehole Depth: 36 inches
Time of Presoaking: NA
Depth of Water at beginning of test: 30 inches

Time of Reading	Time Difference (1)	Depth to Water	Depth Difference (2)	Percolation Rate (1)/(2)	Comments
08:02	0	30"	----	-----	Begin Test
08:12	10 min	34.16"	4.16	2.4	
08:12	0 min	30"	0		Refill
08:22	10 min	34.0"	4.0	2.5	
08:22	0	30"	0		Refill
08:32	10 min	33.7"	3.7	2.7	
08:32	0	30"	0		Refill
08:42	10 min	33.57"	3.57	2.8	
08:42	0	30.0	0		Refill
08:52	10 min	33.57"	3.57	2.8	
08:52	0	30.0	0		Refill
09:02	10 min	33.57"	3.57	2.8	
09:02	0 min	30"	0		Refill
09:12	10 min	33.57"	3.57	2.8	

Soil Data:

Cobbles with gravel and sands to the maximum boring depth of 10 feet below grade. Soils drained freely from surface. Complete soil borings are attached.

Attachment F: Percolation Test for 2201 Via Spes Nostra (Page 4 of 5)

Client: Hardin
Project: 2201 Via Spes Nostra
Test Pit: 1

a. Depth/Feet b. Sample Type c. Moisture d. Density e. USCS Class.					HCC No. 5012050 Date: 11/20/2019 Elevation Existing Grade Datum: Existing Equipment: Case 580 Operator: Hardin Groundwater: None
a	b	c	d	e	SOIL DESCRIPTION
1	Bulk	Dry	Loose	GP	Cobbles with Sand and Gravels, slightly moist, light brown. Density increasing with depth. Gravel content decreasing. No groundwater encountered. Total depth of test pit 10 feet.
2			Med.		
3					
4					
5					
6					
7					
8			Dense		
9					
10					

Attachment F: Percolation Test for 2201 Via Spes Nostra (Page 5 of 5)



te Location:129-02-401-014	Test Boring Location Map
oring Location : B-1 ●	11/20/2019

GISMO

Attachment G: Cone of Influence Letter

CONE OF INFLUENCE LETTER

November 14, 2019

Robert Fyda
Southern Nevada Health District
Valley View Boulevard
Las Vegas, Nevada

Subject: Evaluation of the impact of the location and depth of the deep absorption leach field on the foundation of a proposed cabin located at 2201 Via Spes Nostra Street, Lady of the Snows, Lee Canyon, Assessor Parcel Number 129-02-410-014

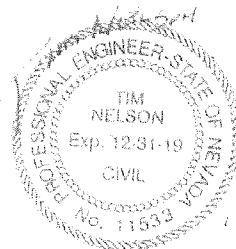
Sir:

This letter is written at your request to address the impact of the deep absorption leach field location and depth on the a proposed single family residence as referenced above. Design measurements established that the distance from the edge of the foundation for the proposed cabin is 13.8' to the proposed deep absorption leach field when a standard minium distance is 20 feet for a deep absorption system leach field. This system will be 7 feet deep at the highest corner and 7 feet deep at the adjacent corner. The proposed leach field is not affected by any standard setback dimensions.

Based on the location of the leach field relative to the structure, the type of footing of the proposed foundation slab, the design grades for the building pad and considering the conditions of the soil that the proposed structure is located on, it is my opinion that the location of the leach field is impacted minimumply by the foundation stress influence and will not adversely impact the structure, nor will the structure adversely impact the septic tank or the leach field. In addition, no adverse impact will occur if the soils adjacent to the structure becomes saturated by the leach field.

Respectfully submitted,

Tim Nelson, PE
RR Consultants, Inc.
4882 West Lone Mountain Road
Las Vegas, Nevada 89130



Attachment H: Variance Candidate Application (Page 1 of 3)



VARIANCE CANDIDATE WORKSHEET

PART I:

ESTABLISHMENT INFORMATION

Name of Facility/Establishment: Javier Irrevocable Spendthrift Trust
Health Permit Number: _____ Date of Inquiry: _____
Name of Operator/Agent: Hardin & Sons, Inc
Address of Operator/Agent: 201 W. Cheyenne Ave, N. Las Vegas, NV 89030
Contact Information of Operator/Agent:
Office Phone: 702-399-3878 Cell Phone: 702-379-9156
Fax Number: 702-399-2032 Email Address: Hardin.Sons@gmail.com
If corporation, the name/title of individual to sign for Variance document:
Name: Dale Martin
Title: President

OWNER INFORMATION

Javier Irrevocable Spendthrift Trust
Name of Property Owner: Michael & Kimberly Javier TRS
Address of Property Owner: 3 Dry Brook Trail, Henderson, NV 89052
Contact Information of Property Owner:
Office Phone: _____ Cell Phone: 702-217-8339
Fax Number: _____ Email Address: micjavi@hotmail.com

PROPERTY INFORMATION

Property Address: 2201 Via Spes Nostra St, Mount Charleston
Assessor's Parcel Number (APN): 129-02-410-014
Describe location within larger facility (i.e. hotel/casino/resort, etc.):
Camp Lady of the Snows, S.F.R.

Describe Variance Issue (s): (Include sections of the Regulation or Nevada Administrative Code that applies to the request for a variance)

REG. 5.1 WE WILL NEED TO USE A 5' SETBACK FOR ISDS TO PROPERTY LINE
WHERE A 10' SETBACK IS NORMALLY REQUIRED.
REG. 9.7.1 - WILL NEED TO ALLOW 8' BETWEEN 2 DEEP TRENCHES. A 6' SEPARATION
IS NORMALLY USED ON A LEACHED STYLE SYSTEM.
REG. 11.20.2 THIS PROPERTY IS 0.13 ACRES = 5663 SQ. FT. WHERE THE
MINIMUM REQUIRED IS 10,900 SF, INCL. R.O.W. PROPERTY IS ON MUNICIPAL WATER.

Attachment H: Variance Candidate Application (Page 2 of 3)

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 the regulations:

SQUARE FOOTAGE OF THE LOT AND NORMAL SETBACK REQUIREMENTS
GREATLY HINDER THE ABILITY TO CONSTRUCT A S.F.R. ON THE PROPERTY.

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):

THIS PROPERTY WAS PURCHASED WITH THE SOLE INTENT OF CONSTRUCTING
A S.F.R. UPON IT. THE VARIANCE IS BEING REQUESTED TO ALLOW
CONSTRUCT THE S.F.R. UPON WHAT OTHERWISE WOULD BE
CONSIDERED AN UNUSABLE LOT.

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:

THE VARIANCE APPROVAL AND INSTALLATION OF A NEW ISDS WILL ALLOW
THE CURRENT OWNER THE ABILITY TO BUILD AND USE A S.F.R. ON
THIS PROPERTY.

Attachment H: Variance Candidate Application (Page 3 of 3)

NAC 439.240 Approval by State Board of Health. (NRS 439.150, 439.190, 439.260)

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)