



Memorandum

Date: May 28, 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* HS
Chris Saxton, MPH-EH, REHS, *Environmental Health Director* CS
Fermin Leguen, M.D., MPH, *Acting Chief Health Officer* FZ

Subject: Variance request for an existing septic system, SNHD Permit #ON0014259, located at 3202 Montecito Dr, Las Vegas, NV to allow an existing tree to encroach on the septic system.

I. BACKGROUND:

Tom and Holly Umbach ("Petitioners") are requesting a variance to obtain the approval for a Tenant Improvement in accordance with Section 3 of the *Southern Nevada District Board of Health Regulations Governing Individual Sewage Disposal Systems and Liquid Waste Management* ("SNHD ISDS Regulations") and to allow future building permits to be issued for the property located at Assessor's Parcel Number 177-01-811-025, also known as 3202 Montecito Dr, Las Vegas, NV 89120. The existing septic system was approved on September 3, 1982.

Petitioners request a variance from Section 3.7 of the SNHD ISDS Regulations, which states that a "Tenant Improvement approval request shall be denied if the existing individual sewage disposal system (ISDS) is in violation of any of these Regulations." The existing septic system is currently in violation of Section 11.3 of the SNHD ISDS Regulations.

Petitioners further request a variance from Section 11.3 of the SNHD ISDS Regulations, which states that "All trees shall be at least ten feet (10') from both the septic tank and leach field." There is an Olive tree directly above the leach field. Petitioners would like to proceed with their Tenant Improvement approval request and allow the Olive tree to remain.

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:

"The 20+ year old olive tree has not posed any concern to date. The root system of Olive trees are non-invasive in nature and one of the few trees deemed safe to reside in close proximity of septic systems. There has been no harm caused by this tree of 20+ years and indicates no harm moving forward if left as is."

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):

"There is extreme value in having a mature tree established and is a beautiful addition to the lush landscape and curb appeal to this property. To dismiss this tree and up-root it will cause unnecessary (sic) financial hardship. This tree has seen many years with no harm and has added substance to the children and their friends (sic) and family who climb, picnic, and care for the tree on a daily basis. This tree adds to the maturity of the neighborhood and is drought [a] tolerant tree which coincides with the desert lanscape (sic) goals throughout the city."

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 outcome of keeping the tree would result in no harm to the public health and safety as proven since the trees inception over 20 years ago."

Examination of the Clark County Assessor's records and parcel genealogy show that Petitioners are the 5th owners of the septic system and obtained the property in June 2014. An analysis of available aerial photography shows the encroaching tree was present in the Fall of 1998. The property has not been improved since the adoption of the current regulations in 2009.

An analysis of the surrounding area shows that there is 52 recorded well logs and 188 permitted septic systems within a square mile of the subject property.

II. RECOMMENDATION:

The existing Olive tree located on the leach field poses a risk to the septic system via root intrusion. Root intrusion can cause hydraulic failure, which may result in sewage backup into the structures being serviced by the septic system or surfacing of sewage over the leach field. However, the presence of trees allows for uptake of the effluent by the roots, which may improve treatment of the effluent. Petitioners also contend that Olive trees have less intrusive root systems than other trees, but staff does not have sufficient information to verify or disprove this claim.

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 their 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 their successor(s) will abide by the operation and maintenance requirements of the most current SNHD regulations governing individual sewage disposal systems.
3. No more additional trees are allowed within 10 feet of the existing septic system.
4. The variance will be in effect until the existing residential septic system is inactivated, removed, or if the property changes land use. Conversion of the existing septic system for commercial use will result in the variance becoming null and void.
5. The applicant and their successor(s) must provide a copy of the variance to potential buyers as part of the disclosure process per NRS 113.

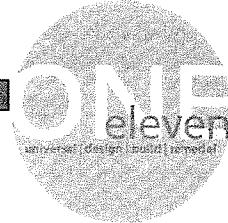
Attachments:

- A. Authorization Letter
- B. Variance Candidate Application
- C. Justification Letter
- D. Site Plan
- E. VAX Archive for ON0014259
- F. Site Investigation Photos submitted by the Petitioners
- G. Public Notice

Attachment A: Authorization Letter

ONE eleven ltd. | NEVADA #81133
Authorization Letter

3202 MONTECITO DR.



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

From: Tom and Holly Umbach
3202 Montecito Dr.
Las Vegas, NV 89120

Re: Parcel # 177-01-811-025

Date: 5-13-2020

To whom this may concern:

I Tom and Holly Umbach do hereby authorize ONE eleven ltd. to make application for a septic system variance in the matter of 3202 Montecito Dr. Las Vegas, NV 89120. Assessor's Parcel Number APN #177-01-311-025. Also, in the event that neither of us can be present at the (SNDBOH meeting date_____) Southern Nevada District Board of Health meeting, Eddie and/or Julie Leverett of ONE eleven ltd. are authorized to speak on my/our behalf. However, we understand that both of us must sign both the letter of request and variance order.

(Owner)

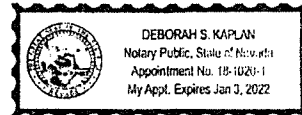
(Notarized)

(Owner)

(Notarized)



Deborah S. Kaplan 5/13/20



Deborah S. Kaplan 5/13/20

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



VARIANCE CANDIDATE WORKSHEET

PART I:

ESTABLISHMENT INFORMATION

Name of Facility/Establishment: 3202 Montecito Dr.
Health Permit Number: _____ Date of Inquiry: n/a
Name of Operator/Agent: ONE eleven ltd. (GC)
Address of Operator/Agent: 2618 Heathrow st Las Vegas, NV 89135
Contact Information of Operator/Agent:
Office Phone: _____ Cell Phone: 702-324-2691
Fax Number: _____ Email Address: julie@oneeleventd.com
If corporation, the name/title of individual to sign for Variance document:
Name: Julie Leverett
Title: Owner

OWNER INFORMATION

Name of Property Owner: Tom and Holly Umbach
Address of Property Owner: 3202 Montecito Dr.
Contact Information of Property Owner: Holly Umbach
Office Phone: _____ Cell Phone: 702-426-2419
Fax Number: _____ Email Address: hollyumbach@icloud.com

PROPERTY INFORMATION

Property Address: 3202 Montecito Dr. Las Vegas, NV 89120
Assessor's Parcel Number (APN): 177-01-811-025
Describe location within larger facility (i.e. hotel/casino/resort, etc.):

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

We are requesting a variance to Keep the Front yard Olive tree in place on property 3202 Montecito. Dr.
The tree is near septic. In the Southwest, there are some fibrous rooted trees which are considered safe near septic systems,
such as: American Acacias, Cherry, Crabapple, Dogwood, OLIVE, Palms, and/or Pines. The opposite is true of shallow
invasive rooted trees, such as Australian Acacias, ash, beech, birch etc. which cause harm to septic systems.

Sections 3.7, 5.1, and 11.3 of the Southern Nevada Health District Regulations
Governing Individual Sewage Disposal Systems and Liquid Waste

Attachment B: 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:

The 20+ year old olive tree has not posed any concern to date. The root system of Olive trees are non-invasive in nature and one of few trees deemed safe to reside in close proximity of septic systems. There has been no harm caused by this tree of 20+ years and indicates no harm moving forward if left as is.

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):

There is extreme value in having a mature tree established and is a beautiful addition to the lush landscape and curb appeal to this property. To dismiss this tree and up-root it will cause unnecessary financial hardship. This tree has seen many years with no harm and has added substance to the children and their friends and family who climb, picnic, and care for the tree on a daily basis. This tree adds to the maturity of the neighborhood and is drought tolerant tree which coincides with the desert landscape goals throughout the city.

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 outcome of keeping the tree would result in no harm to the public health and safety as proven since the trees inception over 20 years ago.

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

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)

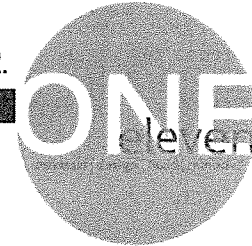
Reviewed by: _____ Date: _____

(Signature of SNHD Manager)

Attachment C: Justification Letter

ONE eleven ltd. | NEVADA #81133

Justification | Hardship Letter 3202 MONTECITO DR.



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

From: Tom and Holly Umbach
3202 Montecito Dr.
Las Vegas, NV 89120

Re: Parcel # 177-01-811-025

Date: 5-13-2020

To whom this 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 10 and Nevada Department of Environmental Protection Policy. Variance request: For an existing Olive Tree to remain in place at said property. The legal description of said property is APN #177-01-811-025, further described as a single family dwelling.

We have owned the property since 2014 and we wish to keep the front yard Olive Tree in place on the property at 3202 Montecito. Dr. The 20 + year old olive tree has not posed any concern to date. The root system of Olive trees are non-invasive in nature and are one of few trees deemed safe to reside in close proximity to septic systems. There has been no harm caused by this tree of 20+ years and indicates no harm moving forward if left as is. To dismiss this tree and up-root it will cause unnecessary financial hardship. There is extreme value in having an established and mature tree, it is a beautiful addition to the lush landscape and curb appeal to this property. This tree has seen many years of enjoyment and has added sustenance to the children and their friends and family who climb, picnic, and care for the tree on a daily basis. This tree adds to the maturity of the neighborhood and is a drought tolerant tree which coincides with the desert landscape goals throughout the city. The outcome of keeping the tree would result in no disservice to the public health and safety as proven since the tree's inception over 20 years ago.

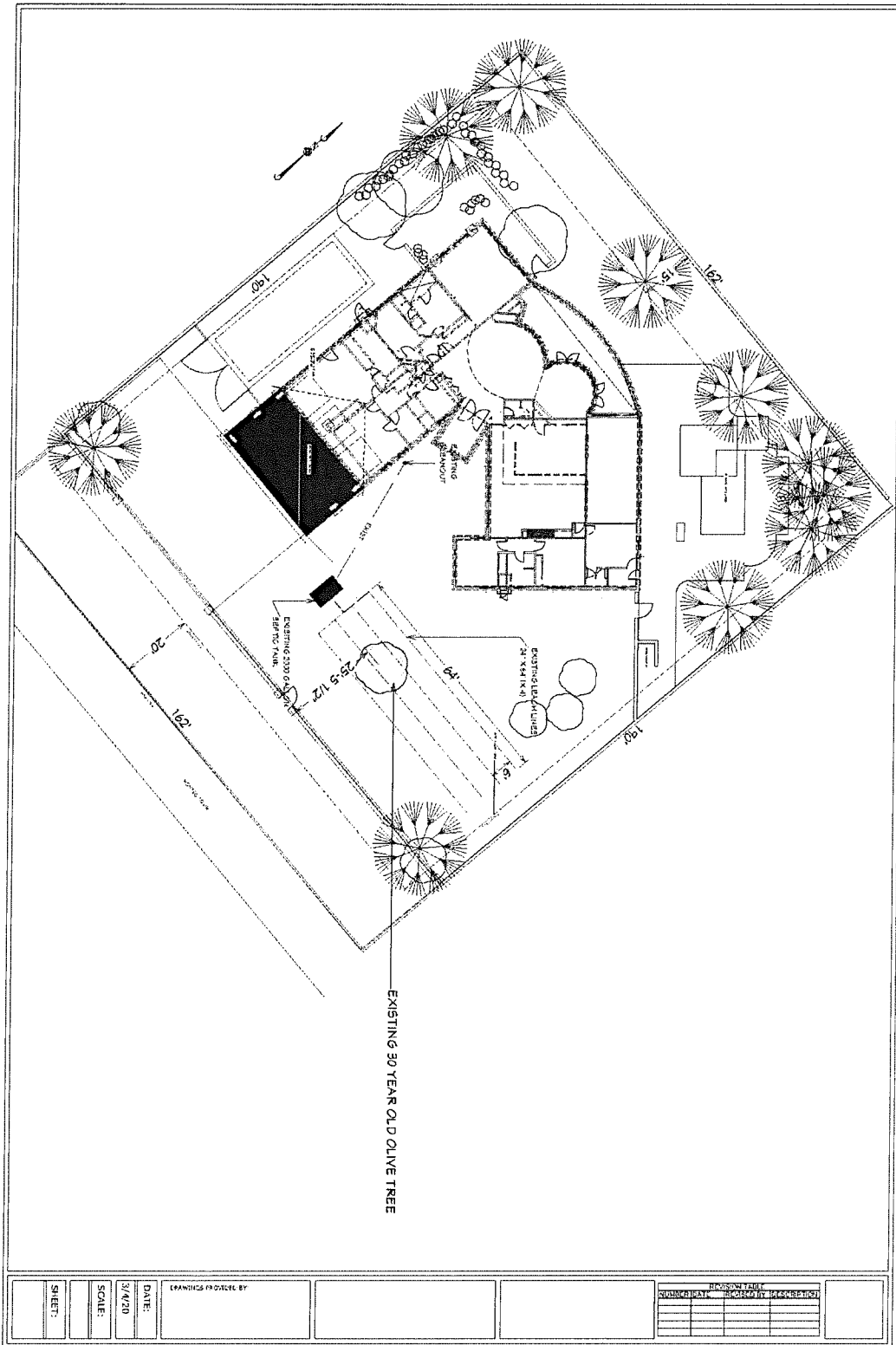
Thank you for your consideration.

Kindly,

Tom and Holly Umbach

Two handwritten signatures in black ink. The top signature is for Tom Umbach and the bottom signature is for Holly Umbach. Both are written in a cursive, flowing style.

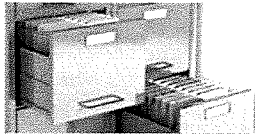
Attachment D: Site Plan



Attachment E: VAX Archive Record for ON0014259 (Page 1 of 2)

SNHD - EH VAX - Historical Archive

Page 1 of 1



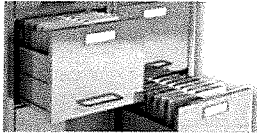
VAXarchive

Historical VAX Information										Options
ESTAB-Permit-----					HTE Date-----					E Screen ISDS Screen Inspections Screen Search Screen
S691Y-JHA-00					RECORD STATUS A DATE					
Property Owner					Subdivision/Parcel Map /PAC					
BAUMGARDNER, BERNICE A					SIERRA VISTA RANCHOS UNIT #2					
Type	Cat	Lot	Blk	Lot sz	Fix	Liq Cap	Tot Abs	MPR	Installer	
8811	085	6	2	25920	45	2000	1536			
Structure Type										
160-671-006										
LOCAT-Permit					TECH -----					
S691Y-JHA					RECORD STATUS A DATE					
Dist City					Approval Date(s)					
33 09					09-03-82					
Well/ Misc. Info										
Cross Streets					St No Frc D Street Name Rdwy					
MIRA VISTA ST/WARM SPRINGS RD					3202 MONTECITO DR					
City State Zip					Water Permit Tp Sewage Permit Tp					
LAS VEGAS NV 89120					M1267-JHA-00 3 3					
OWNER-Permit					Full Phone Ext					
S691Y					RECORD STATUS DATE					
Contact Name					AEN/ Legal					
					177-01-811-025 22 61 01 SE SW					
Address 1 (free form)										
St No Frc D Street Name					Rdwy City State Zip					
Imported into EnvisionConnect										
Owner Id: CW0031698										
Facility Id: FA0034605										
General Program Id: PR0046194										
Account Receivable Id: AR0031376										

Attachment E: VAX Archive Record for ON0014259 (Page 2 of 2)

SNHD - EH VAX - Historical Archive

Page 1 of 1



VAXarchive

Historical VAX Information		Options
ESTABLISHMENT----- Permit ----- S691Y-JHA-00		E Screen
Property Owner BAUMGARDNER, BERNICE A		ISDS Screen
Subdivision /Parcel Map/ PAC SIERRA VISTA RANCHOS UNIT #2		Inspections Screen
Type Cat	Lot Blk Lot sz Fix Liq Cap Tot Abs Bill To Installer	Search Screen
8811 085 6	2 25920 45 2000 1536 E O	
Structure Type 160-671-006		
Septic Tank Info:		
#Compartments	Material C	
InsideDimensions: Length 10' 6" Width 6' 4" Liq Depth 3' 8"		
Well	' Dir Foundation 15	' Dir Lot Line 15 ' Dir F/S/R F
Soil Absorption:		
Well	' Dir Foundation	'Dir Lot Line ' Dir F/S/R
Type B # Lines	4 Length 60' Between 6.	Tot Length 240' "
Mat G Below 1' 6" Over	' 2" W/D 24' "	Length 64' " Depth 4' "

Attachment F: Site Photos submitted by the Petitioner



Attachment G: Public Notice



PUBLIC NOTICE

The Southern Nevada District Board of Health will conduct a PUBLIC HEARING on Thursday, May 28, 2020 at 9:00 AM 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 Tom and Holly Umbach ("Petitioners"), to allow an existing tree to remain within 10 feet of the existing septic system (SNHD Permit #ON0014259) on the property located at 3202 Montecito Dr, Las Vegas, NV 89120, APN 177-01-811-025.

The variance is requested to allow the Petitioners to obtain approval for a Tenant Improvement in accordance with Section 3 of the *Southern Nevada District Board of Health Regulations Governing Individual Sewage Disposal Systems and Liquid Waste Management* and to allow future building permits to be issued. The variance will allow the existing tree to encroach on the septic system.

All interested persons may appear at the hearing and state their positions. All written and oral submissions will be considered by the Southern Nevada District Board of Health. Written comments must be forwarded by May 27, 2020 to:

Robert Fyda, P.E., REHS
Environmental Health Engineer/Supervisor
Southern Nevada Health District
P.O. Box 3902
Las Vegas, Nevada 89127
fyda@snhd.org

The variance application 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 during the normal business hours of 8:00 AM to 4:30 PM.

- S -

Chris Saxton, MPH-EH, REHS
Environmental Health Director

May 13, 2020
Date

