MEETING DATE:  April 14, 2016

CASE NO:     CV16-001/Gomez

REQUEST:     A Variance to road access and improvement standards to pursue a High Intensity Residential Application.

PROPERTY OWNERS: Minerva and Michael Gomez

LOCATION:  16 Warthen Road
            North of Anthony, NM

EXISTING ZONING:  Performance District

AFFECTED PROPERTY SIZE:  2.50-acres

RECOMMENDATION:  Denial

CASE MANAGER:        Albert Casillas,
                      Planner

SUMMARY: The applicant Minerva and Michael Gomez, request a request for a Variance to road access standards and setbacks within the Performance District. The applicant is proposing a 66’ county maintained graded ROW where a 60’ ROW and 36’ of improved roadway is required in order to pursue a High Intensity Residential Application to locate 7 mobile homes on the property. The 2.50 acre lot is located at 16 Warthen Road, north of Anthony, NM. It is within Township 26S, Range 3E, Section 14, recorded in the Office of the Doña Ana County Clerk April 1, 2015, under Instrument # 1506622, and can be further identified by Parcel # 17-05893.

REPORT CONTENTS: (1) Case Analysis and Staff Recommendation. (2) Supporting Documents (3) GIS Information and Maps.
**SURROUNDING ZONING AND LAND USE**

<table>
<thead>
<tr>
<th>SITE</th>
<th>ZONING</th>
<th>LAND USE</th>
</tr>
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<tbody>
<tr>
<td>North</td>
<td>PD, Performance Dist.</td>
<td>Residential Uses</td>
</tr>
<tr>
<td>South</td>
<td>PD, Performance Dist.</td>
<td>High Intensity Residential Uses</td>
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<td>East</td>
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<td>Residential Uses</td>
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<tr>
<td>West</td>
<td>PD, Performance Dist.</td>
<td>High Intensity Residential Uses</td>
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</table>

**BACKGROUND**

The Request: The applicant is requesting a Variance to road access and improvement standards within the Performance District in order to pursue a High Intensity Residential Application, Mobile Home Park to locate 7 mobile homes on the property. The applicant is proposing a:
- 66’ county maintained graded ROW where a 60’ ROW and 36’ of improved roadway is required,
- 25’ wide internal driveway with compacted crusher fine where a 36’ wide (back-of-curto-back-of-curb) paved/concrete internal road is required,
- Distance of 90’ between driveways where a minimum distance of 120’ is required.

Existing Conditions & Land Use/Zoning: The subject property is in the Performance District north of Anthony, NM. There is residential development surrounding the property.

Per the Assessor’s Office there is a 14’x70’ 1973 Adonise mobile home, a 20’x42 and 46’x20’ storage shed, and a 15’x42’ open porch on the property.

The applicant is also applying for a High Intensity Residential, Mobile Home Park Application under Case # PDR (H) 16-003 to install 7 mobile homes.

Water is provided by Lower Rio Grande PWWA and sewer is provided by Doña Ana County.

There is 33’ road and utility easement located on the west boundary of this property.
A Variance (CV10-008/Gamboa) to Road Access standards was approved in 2010 on the property addressed as 16 Los Olivos Road. The variance was to pursue a High Intensity Residential request under Case# PDR(H)10-008/Gamboa to locate four (4) mobile homes on the property.

NOTICE / NOTIFICATION

15 letters of notification were sent out.
Legal Notification was posted in the Las Cruces Sun-News on Sun, March 27, 2016.
Signs were posted on the property on March 25, 2016.
Agenda was posted on County Web Site.
No letters in support or opposition were received as of April 8, 2016.

APPLICABLE PLANS, POLICIES AND CRITERIA FOR APPROVAL

DOÑA ANA COUNTY CODE CHAPTER 250: LAND USE AND ZONING

ARTICLE 2 ADMINISTRATIVE RESPONSIBILITIES

Section 250-18 Variances

Any development proposed that does not conform to any of the standards of development in this chapter must obtain a variance. A variance shall not be granted unless the variance is found to meet the requirements of Subsection E. In granting a variance, any reasonable conditions may be imposed to minimize any adverse effects the variance might otherwise have on property within the area of notification or on the County generally.

Section 250-18.A Application

Applications for variances. An application for a variance shall be submitted to the County by the owner of the property that is the subject of the variance request or by the owner's agent. A completed copy of the application, an appropriate site plan that meets the criteria set forth in this chapter, and a nonrefundable filing fee shall be submitted to the Zoning Administrator.

Section 250-18.D A Denial of Variance

A denial of a Variance by the Planning and Zoning Commission may be appealed to the Board of County Commissioners.

Section 250-18.E Required Findings

The following findings are required for approval of any Variance:

1. Granting of the Variance will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the area of notice.
2. Granting of the Variance is justified because there is a physical hardship or extraordinary economic hardship for the applicant resulting from the size, shape,
existing structures, or topographical or other physical conditions on the site or in the area of notice.

3. Granting the Variance will uphold the spirit and intent of this Chapter and accomplish substantial justice.

Article IV - Performance District

Section 250-24 Purpose

The purpose of the Performance Zone District is to allow flexibility for land use activities in the rural areas of the County, while protecting residents and property values. In the Performance Zone District, any use may be approved, provided that all standards for that particular use are met and the use is consistent with the character of the surrounding areas. Standards for land uses are based on the intensity of the primary use of a parcel of land. The most intense uses with a potential impact on a larger area of the County, or its resources, than the residential or commercial uses will require approval through the planned unit development process (PUD).

Section 250-30 PR-MP High Intensity Residential, Mobile Home Park

A. The PR-MP classification is intended to establish standards that allows for single-wide or double-wide mobile homes equal to or greater than eight feet in width or 40 feet in length, and 11 feet in height and recreational vehicles as licensed by the State of New Mexico. Application and hearing procedures per § 250-17 shall be followed for this land use category. Mobile homes as defined above and RVs are permitted in one of the following conditions in the Performance District:

1. Approved mobile home park;
2. Mobile home park is under unified ownership and management; or
3. Central facilities for use of residents on site are approved

<table>
<thead>
<tr>
<th>Minimum park size</th>
<th>NMED standards, if applicable</th>
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<tr>
<td>Minimum space size</td>
<td>3,500 square feet</td>
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<td>Minimum space width</td>
<td>40 feet</td>
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<tr>
<td>Minimum space depth</td>
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<tr>
<td>Minimum setbacks</td>
<td>25 feet from property line with no perimeter wall or 10 feet with a perimeter wall, per § 250-83</td>
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<tr>
<td>Maximum height</td>
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</table>

Accessory buildings

- See Article IX, § 250-82.

Private access driveway

- Driveways may not exceed 150 feet in length without an approved turnaround unless reviewed and approved by the County Fire Marshal; 30 feet of driveway width for nondedicated streets or driveways within a lot.
Street access       60-foot-wide right-of-way or easement with 36 feet of improved roadway
Off-street parking See Article X.
Erosion control    See Chapter 172, Erosion Control; may require compliance with NPDES per the EPA.
Landscaping and buffering See Article V.
Ponding requirements Must comply with Chapter 157, Design Standards, and the design standards as amended for one-hundred-year flood
Lighting           See Article IX, § 250-87.
Signs              See Article IX, § 250-88.
Site plan/subdivision plat See Chapter 300, Subdivision of Land.
Permitted uses     Community buildings, public or private. See Article XI, Performance District Land Use Classification Matrix.[1]

B. Additional mobile home park development standards: See Article IX, § 250-86. Ten percent, up to 20,000 square feet, of the mobile home development area shall be devoted to usable space for recreational activities. Ponding and drainage may contribute to open space.

Section 250-86 Development Standards for Mobile Home Parks
The following development standards apply to mobile home parks:

A. All mobile home parks shall have vehicular access from a dedicated right-of-way. Secondary access shall be provided where there are more than 31 spaces. Secondary access must be 20 feet wide and must be improved.

B. Each mobile home space, when occupied, shall have direct access to an internal street. Direct access to exterior public streets shall be prohibited.

C. Street layout shall be designed for preservation of natural features, to follow topography to the greatest extent possible consistent with Subdivision Regulations and to encourage the orientation of mobile homes in such a manner as to permit the use of solar energy systems. (Changes shall be approved by the Fire Marshal.)

D. All streets within a mobile home park shall be surfaced with asphalt and/or concrete to a minimum width of 36 feet back-of-curb to back-of-curb. Alternate street designs may be considered, provided that adequate off-street parking and emergency access are provided.
E. No street within a mobile home park shall dead end except for cul-de-sac streets, which shall have a minimum unobstructed turning radius of 50 feet at the termination point, and comply with current County fire protection standards.

F. There shall be a network of off-street pedestrian walks, or pathways, connecting mobile home spaces with each other and with mobile home park (MHP) facilities and which shall comply with current ADA standards.

G. All spaces and streets shall be designed to ensure proper drainage. The County Engineer shall approve a complete drainage plan.

H. Two off-street parking spaces per lot mobile home space shall be required. Guest parking spaces shall be provided in the MHP at a ratio of 0.2 space per mobile home space. All roadway design standards shall comply with current County subdivision road standards.

AGENCY REVIEW COMMENTS

DAC Engineering Department:
1. Improvements along Warthen Road would help with dust control and provide safe driving conditions.
2. Residents in the area have complained about roadway conditions and the amount of traffic it currently has.
3. From 2008-2012 three accidents have occurred.
4. More traffic would cause a negative impact to the roadway.

DAC Flood Commission:
1. Pursuant to FEMA Flood Insurance Rate Map (FIRM) No. 35013C0800 E, the subject property is not located within a FEMA Special Flood Hazard Area. The subject property is located within Flood Zone X, “areas determined to be outside 500-year floodplain”.
2. The Variance is approved on the condition that no runoff caused by the structures on the rear and side of the property shall drain onto neighboring properties.
3. Drainage runoff, as a result of increase to impervious area shall be maintained on property.

DAC Fire Marshal:
1. Variance Approved only. Any future structures will be required to meet all the fire code requirements.

DAC Building Services:
1. All mobile home permits shall be obtained prior to installing mobile homes on property.

DAC Utilities:
1. No Comments
DASO Codes: Approved, no violations observed.

County Rural Addressing: Approved.

Lower Rio Grande PWWA: Each of the seven mobile homes will need to have a separate water service.

NMED: No Comment on Variance request.

**STAFF ANALYSIS**

The Planning and Zoning Commission being duly appointed shall receive, hear and make final determination on all Variance applications, subject to the procedures established within the County Code. A variance shall not be granted unless the variance is found to meet the requirements of Article 2 Section 250-18.E of the Code. In granting a variance, any reasonable conditions may be imposed to minimize any adverse effects the variance might otherwise have on property within the area of notification or on the County generally.

Warthen Road is a 66’ county maintained graded ROW. The High Intensity Residential, Mobile Home Park Land Use requires a 60’ ROW and 36’ of improved roadway to place 7 mobile homes on the property.

The property is identified as Lot No. 3, within the Bureau of Land Management Plat, being the same property recorded in the Office of the Doña Ana County Clerk April 1, 2015, under Instrument # 1506622.

The applicant submitted a Site Threshold Assessment (STA) submitted for this proposal showing the AM peak hour trips as “1 Entering, 3 Exiting” and in the PM peak hour trips “3 Entering, 2 Exiting”. Staff believes that with 7 mobile homes on the property it would add an additional 10 trips/day per household on Warthen Road, for a total of 70 trips a day.

The properties immediately south and west of the subject parcel have received approval for Medium and High Intensity Residential Uses.

A Variance (CV10-008/Gamboa) to Road Access standards was approved in 2010 on the property addressed as 16 Los Olivos Road. The variance was to pursue a High Intensity Residential request under Case# PDR(H)10-008/Gamboa to locate four (4) mobile homes on the property.

The applicant states the following (See Attached):

Reason for Variance

- The Variance would not be detrimental to the public health, safety or welfare or be materially injurious to properties in the area of notice. The existing surface of Warthen Road, which is a compacted subgrade, is an adequate surface for
emergency ingress and egress. There is no evidence of damage due to drainage and the road serves multiple homes along Warthen Road. The proposed development is consistent with the surrounding properties and will not increase traffic significantly. Within the property, the owner has agreed to provide a turnaround drive that will also be adequate emergency access. This driveway and the internal parking spaces proposed will protect Warthen Road from parking obstacles and will allow for a smooth transition from the homes to the main road.

- No other property owners along Warthen Road have been required to make roadway improvements as the neighborhood has developed. As stated previously, the owners have made significant investment to maintain traffic flow and parking within the property. Paving of a single lane, a quarter mile into Warthen Road will provide no benefit to the adjacent landowners and will become a maintenance hardship for the County Road Department. This type of road improvement is costly and ultimately will not be sustainable.
- Due to the fact that the current road surface allows for emergency access and supports the new and existing traffic, the Variance will uphold the spirit and intent of the Ordinance.

The proposed Variance request has met the requirements of the Code for public notification. The Variance application went through all the appropriate agency reviews. The applicant has demonstrated a physical hardship resulting from the size, shape, existing structures, or topographical or other physical conditions on the site or in the area of notice that prevents the applicant from meeting the required road standards.

**FINDINGS:**

1. The request of this application is consistent with the following requirements of the Doña Ana County Land Use Regulations & Zoning Ordinance Section 250-17.C, regarding Applications and Hearing Procedures for Variances.
2. All notification and notice requirements have been met per Section 250-17.C. of the Ordinance.
3. The property is outside of any incorporated municipal zoning authority and the Las Cruces Extra-Territorial Zone, and is within Doña Ana County.
4. The Doña Ana County Planning & Zoning Commission has jurisdiction to review this application.
5. The Variance request has not met the following evaluation criteria under Article 2 Section 250-18.E of the Code:
   - Granting the Variance will be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the area of notice. The proposed roadway will be detrimental to the public health, safety and welfare or be materially injurious to property improvements in the area. Staff believes that with 7 mobile homes on the property it would add an additional 10 trips/day per household on Warthen Road, for a total of 70 trips a day on Warthen Road, a County Maintained graded road and will be detrimental to the public health, safety and welfare.
• Granting the Variance is **not** justified because there is a physical hardship or extraordinary economic hardship for the applicant resulting from the size, shape, existing structures, or topographical or other physical conditions on the site or in the area of notice.

• Granting the Variance will **not** uphold the spirit and intent of this Ordinance and accomplish substantial justice. *Granting of the Variance will not uphold the spirit and intent of this Ordinance and accomplish substantial justice.*

“This Chapter is intended to create orderly harmonious, economically sound development to promote the health, safety and welfare of the citizens.” Approval of the Variance will allow the property owner to pursue a High Intensity Residential, Mobile Home Park Land Use to located 7 mobile homes on his 2.50-acre parcel without the necessary road improvements to guarantee the health, safety and welfare of the public.

**STAFF RECOMMENDATION:**

Staff recommends **Denial** of Case No. CV16-001 based on the findings and the evaluation criteria under Article 2 Section 250-18.E of the Code.

**P&Z OPTIONS**

1. The P&Z can approve the request as submitted.

2. The P&Z can deny the request as submitted

3. The P&Z can approve the request with conditions to minimize any adverse effects the variance might otherwise have on property within the area of notification or on the County generally.
VARIANCE APPLICATION
SUPPORTING INFORMATION

Article 2, Section 2.6E of the Dona Ana County Land Use Regulations and Zoning Ordinance requires the following findings for approval of the Variance:

1. Granting of the Variance will not be detrimental to the public health, safety or welfare, or be materially injurious to properties or improvements in the area of notice:
2. Granting of the Variance is justified because there is a physical hardship or extraordinary economic hardship for the applicant resulting from the size, shape, existing structures, or topographical or other physical conditions on the site or in the area of notice.
3. Granting the Variance will uphold the spirit and intent of this Ordinance and accomplish substantial justice.

The request for a variance from road improvement requirements should be supported under the Ordinance for the following reasons:

1. The variance would not be detrimental to the public health, safety or welfare or materially injurious to properties in the area of notice. The existing surface of Warthen Road, which is a compacted subgrade, is an adequate surface for emergency ingress and egress. There is no evidence of damage due to drainage and the road serves multiple homes along Warthen Road. The proposed development is consistent with the surrounding properties and will not increase traffic significantly. Within the property the owner has agreed to provide a turnaround drive that will also be adequate emergency access. This driveway and the internal parking spaces proposed will protect Warthen Road from parking obstacles and will allow for a smooth transition from the homes to the main Road.
2. No other property owners along Warthen Road have been required to make roadway improvements as the neighborhood has developed. As stated previously, the owners have made significant investment to maintain traffic flow and parking within the property. Paving of a single lane, a quarter mile into Warthen Road will provide no benefit to the adjacent landowners and will become a maintenance hardship for the County Road Department. This type of road improvement is costly and ultimately will not be sustainable.
3. Due to the fact that the current road surface allows for emergency access and supports the new and existing traffic, the variance will uphold the spirit and intent of the Ordinance.
### Section III. Variance Request Information

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<tr>
<th>Type of Variance Request</th>
<th>Required Standard (per Ordinance)</th>
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<td>☐ Rear Yard setback</td>
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<td>☐ Height</td>
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<td>☐ Parking, Loading</td>
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<td>☐ Minimum Distance</td>
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<td>☐ Lot Area</td>
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<td>☒ Road Standards</td>
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<td>66' Graded Road + Utility Easement (existing)</td>
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<td>☐ Buffering/Landscaping</td>
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<td>☐ Other:</td>
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</table>

#### Describe the Reason for the Variance:

1) Undue burden to property owner (financial)
2) Increase of traffic does not warrant level of improvement
3) County Road - sewer addition did not include improvements
4) Adjacent development did require improvement
5) Current road is driveable for emergency services
6) Owner will provide driveable surface w/in MHP

**What hardship (other than monetary) is imposed by the existing Regulation:**

(See above)
## Site Threshold Assessment

**Design and Construction Standards**

157 Attachment 5

Doña Ana County

### Appendix E. Site Threshold Assessment (STA)

A Site Threshold Assessment (STA) is required of all developing or redeveloping properties within Doña Ana County.

#### Permit Application

**Applicant Name:** Michael and Minerva Gomez  
**Business Name:**  
**Business Address:** 16 Warthen Road  
**City:** Anthony  
**State:** NM  
**Zip Code:** 88021

#### Site Description

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<th>Site Information (fill in all that apply)</th>
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<tr>
<td>Residential</td>
<td>Building Size (square feet) 2000 Dwelling Units 7</td>
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<td>Retail</td>
<td>Parcel Size (acre) 2.5 Rooms</td>
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<td>Office</td>
<td>Roadway Frontage (feet) 330 Beds</td>
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<td>Institutional</td>
<td>Employees Seats</td>
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<td>Lodging</td>
<td>Other Fuel Pumps</td>
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<td>Restaurant</td>
<td>Courts</td>
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<td>Convenience/Gas</td>
<td>Storage Units</td>
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<tr>
<td>Other</td>
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</table>

The STA examines existing roadway volumes and anticipated site trip generation for the purpose of determining if additional analyses are required. If the site characteristics and the trip generation estimate for a proposed development do not satisfy the requirements for a TIA, as determined by the County Engineering Services Department, the STA should be approved and the traffic study requirement for the proposed development will be complete. If additional analysis is required based on the results of the STA, the County Engineer should indicate to the applicant the level of analysis that is required.

#### Existing Roadway Data

**Road Name:** Warthen Road  
**Road AADT:** 815  
**Count Year:** 2013  
**Number of Lanes (two-way):** 1

#### Trip Generation

**ITE Trip Generation Land Use Category:** 240 (Mobile Home Park)  
**AM Peak Hour Trips**  
- Enter: 1  
- Exit: 3  
**PM Peak Hour Trips**  
- Enter: 3  
- Exit: 2

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#### To be filled out by the County Engineering Services Department

**Exceeds Threshold?** Y or N  
**If yes, is a TIA Required?** Y or N

#### Notes:

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157 Attachment 5:1  
12-01-2012
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