

MINUTES OF THE
SANTA FE COUNTY
DEVELOPMENT REVIEW COMMITTEE

Santa Fe, New Mexico

January 16, 2014

This meeting of the Santa Fe County Development Review Committee (CDRC) was called to order by Vice Chair Susan Martin on the above-cited date at approximately 4:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico. Elections for new officers occurred following roll call.

Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Dan Drobnis, Chair
Susan Martin, Vice Chair
Phil Anaya [arrival after elections]
Bette Booth
Louie Gonzales
Frank Katz
Manuel Roybal

Member(s) Excused:

None

Staff Present:

Rachel Brown, Assistant County Attorney
Wayne Dalton, Building and Development Services Supervisor
Jose Larrañaga, Development Review Specialist
Vicki Lucero, Building and Development Services Manager
Buster Patty, Fire Marshal
John M. Salazar, Development Review Specialist
Karen Torres, County Hydrologist

Vice Chair Martin welcomed the new CDRC members Bette Booth and Louie Gonzales.

SEE OTHER RECORDED 01/28/2014

IV. ELECTION: CDRC Chair and Vice Chair

Member Katz nominated Dan Drobns for the position of CDRC Chair. Member Roybal seconded the nomination. Member Drobns was elected Chair by unanimous voice vote with Member Drobns abstaining. [Member Anaya was not present for this action.]

Member Katz nominated Susan Martin for the position of CDRC Vice Chair. Member Gonzales seconded. Member Martin was elected Vice Chair by unanimous voice vote with Member Martin and Chair Drobns abstaining. [Member Anaya was not present for this action.]

V. APPROVAL OF AGENDA

Ms. Lucero informed the Committee that New Business item C, CDRC MIS 13-5390, Louie Rael Exemption, has been tabled due to applicant's improper notice.

Upon motion by Member Katz and second by Member Martin the agenda was approved [5-0] as amended. [Chair Drobns did not vote and Member Anaya was not present for this action and arrived immediately thereafter.]

VI. APPROVAL OF MINUTES: December 19, 2013

Member Katz moved to approve the December minutes as submitted. Member Martin seconded and the motion passed by unanimous [6-0] voice vote with the Chair not voting.

VII. NEW BUSINESS

- a **CDRC CASE # V 13-5350 Joseph Lujan Variance. Joseph Lujan, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow Three Dwelling Units on 2.371 Acres. The Property is Located at #27262 I-25 East Frontage Road, in the Chuck Taylor Subdivision, within Section 4, Township 15 North, Range 8 East (Commission District 5)**

Wayne Dalton provided the staff report as follows:

“The subject lot was created in 1977, and is recognized as a legal non-conforming lot. There are currently three dwelling units and two accessory structures on the subject property. The Applicant states their residence was constructed shortly after the purchase of the property in 1977, an aerial photograph from 1981 shows only one residence on the property. A 1992, aerial photograph shows that an addition was added to the main residence, a detached garage was constructed for the main residence and a singlewide mobile home was placed on the property

where the Applicant's son lives. None of these structures were permitted by Santa Fe County.

"A 2001 aerial photograph shows that the Applicant's daughter had already moved her manufactured home, which is the third residence, onto the property without a Development Permit from Santa Fe County. An aerial photograph from 2005, shows that the Applicant's son had constructed an addition to his residence and built a detached garage without permits from Santa Fe County.

"According to the Applicant, approximately 16 years ago the Applicant's daughter moved her manufactured home onto the property due to a divorce and financial hardship. The Applicant, along with his son and his daughter all reside in their individual homes on the subject property.

"On September 27, 2013, the Applicant applied for a Development Permit for roof mounted solar panels to be placed on his residence. On October 24, 2013, Santa Fe County Code Enforcement conducted an inspection at the Applicant's residence pertaining to the Development Permit Application and observed multiple dwelling units and accessory structures on the property. During the inspection Code Enforcement staff reviewed the Application to find that the Applicant only listed one residence on the Development Permit Application. At that time Code Enforcement issued the Applicant a Notice of Violation for Unpermitted Development and Exceeding Density.

"In 1991 the Applicant requested a variance to allow two dwelling units on 2.37 acres. At that time staff recommended recognizing the lot as 2.5 acres so the Applicant could qualify for a Family Transfer. The BCC approved the variance for a Family Transfer and to recognize the lot as 2.5 acres with staff conditions and you can refer to BCC Minutes attached as Exhibit 8. Since that time, the Applicant has not moved forward with the Family Transfer nor has he complied with staff conditions. The Applicant has been informed by staff that they can still move forward with the small-lot family transfer. However, the Applicant now states that rather than divide the property, it is their intention to move forward and request a variance to allow three homes on their property."

Mr. Dalton stated that the Growth Management staff has reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request. Staff recommends denial of a variance of Article III, §10, Lot Size Requirements, of the Land Development Code. If the decision of the CDRC is to recommend approval of the Applicant's request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre-feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (as per Article III, § 10.2.2 and Ordinance 2002-13).

2. The Applicant must obtain a development permit from the Building and Development Services Department for all structures on the property (as per Article II, § 2).
3. The placement of additional dwelling units or division of land is prohibited on the property (as Per Article III, Section 10).
4. The Applicant shall comply with all Fire Prevention Division requirements at time of Development Permit Application (as per 1997 Fire Code and 1997 Life Safety Code).
5. All Junk Vehicles, Litter and Debris must be removed from the property (as Per Ordinance 1993-6 and Ordinance 1993-11).
6. The Applicant shall comply with all conditions of approval within 90 days. [Condition added by staff during report.]

Duly sworn, husband and wife, Joseph and Henrietta Lujan of 27262 I-25 East Frontage Road, Santa Fe, appeared before the CDRC. Ms. Lujan said her husband suffers from PTSD. She assured the CDRC that it was never their intent to disregard Santa Fe County's requirements but "we just had to do what we have to do." She said she was confused by the 1977 requirements and they were appearing before the CDRC to do whatever is necessary to maintain the structures on the property.

Speaking to Ms. Lujan, Member Katz said he understood the County granted a lot split providing for two residences, one on each lot. He asked whether that was not sufficient for them at this time. Ms. Lujan responded that that was possible; however, they currently have three residences on the property and they were at the CDRC's mercy with what to do.

Member Katz asked whether any of the homes were manufactured and could be relocated and Ms. Lujan said her daughter's home is but they have improved it over the years and would be difficult to move.

If the applicants followed through with the previous lot split approval could a guesthouse be added to the lots, asked Member Gonzales. Mr. Dalton said the approval was a small-lot family transfer, dividing the property into two lots allowing one residence per lot.

Joseph Lujan said the trailer required remodeling because it was falling apart. He said there was a metal shed on the property that fell apart and a garage was constructed in its place. He said it was never their intent to willfully disobey the ordinances of the County and he was never advised that he was in violation until he came forward for the installation of solar panels on one of the houses.

Mr. Lujan said there is one well on the property with 3 acre-feet that satisfies their needs. Each unit has its own septic system and are individually metered for utilities.

Duly sworn, Vincent Salazar, Santa Fe expressed his support for Mr. Lujan. He said there was enough land for the residences for the applicant to take care of his family. He urged the CDRC to support the variance.

Mr. Lujan said he read the conditions and while he would try to abide accomplishing them within 90 days it would be challenging. He requested 120 days.

There were no further comments from the public.

Member Gonzales moved to approve CDRC #V 13-5350 with staff imposed conditions and allowing 120 days for compliance. Member Anaya seconded. The motion failed by majority [3-4] voice vote with members Drobnis, Katz, Martin and Booth voting against.]

Member Katz moved to deny CDRC #V 13-5350. Member Booth seconded and the motion to deny the variance passed by majority [4-2] voice vote with Members Gonzales and Roybal voting against. [Chair Drobnis abstained.]

Mr. Dalton advised the applicants that this item will be on the March 11th BCC agenda.

Ms. Lucero advised the Chair that according to committee procedures the chair was permitted to vote. Chair Drobnis said he preferred not to vote unless it was necessary to break a tie.

B. CDRC CASE # V 13-5340 Vincent Salazar Variance: Vincent Salazar, Applicant, requests a variance of Ordinance 2002-9 (La Cienega /La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Zoning District), Section 6.4.3 to allow two dwelling units on 1.00 acre. The property is located at 73 Camino Torcido Loop, Within Section 17 & 20, Township 16 North, Range 8 East (Commission District 3)

Mr. Dalton reviewed the staff report as follows:

“The subject lot was created on January 8, 1968 by subdivision, and there is currently a residence and a garage on the property. The garage was permitted in 1999 and is being converted into a dwelling unit. On August 16, 2013 Building and Development services received a complaint regarding unpermitted development. On August 19, 2013 code enforcement conducted an inspection on the property and issued a Notice of Violation for exceeding density.

“The Applicant states his son is attending Santa Fe Community College pursuing an education in nursing. The Applicant further states he has another son and his family is residing in his house which interferes with his son’s education and study time. The Applicant also states he cannot afford to pay for housing for his son so that he can continue his education and concentrate on achieving his goal of graduating.

“Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request.”

Mr. Dalton stated that staff recommends denial of a variance of Ordinance 2002-9, Section 6.4.3 to allow two dwelling units on one acre. If the decision of the CDRC is to recommend approval of the Applicant’s request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre-feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the additional dwelling unit. (As per Article II, § 2).
3. The Applicant shall provide an updated liquid waste permit from the New Mexico Environment Department with the Development Permit Application (As per Article III, § 2.4.1a.1 (a) (iv)).
4. The placement of additional dwelling units or Division of land is prohibited on the property. (As per Ordinance 2002-9, § 6.4.3).
5. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application (As per 1997 Fire Code and NFPA Life Safety Code).
6. The Applicant shall comply with all conditions of approval within 90 days.

Member Katz asked whether the garage could be turned into a non-dwelling studio. Mr. Dalton said that was possible and it would be limited to having either a kitchen or bathroom but not both.

Previously sworn, Vincent Salazar corrected the staff report noting the house was permitted and built in 1999 and the garage constructed in 2006. He provided history about his son’s education and explained that he currently shares his home with three young grandchildren and their parents and it not a conducive environment for studying. The garage was converted to an apartment to help him continue his education. He mentioned another son who is presently homeless.

Member Katz pointed out to the applicant that the garage could serve as a study/studio for his son. Mr. Salazar said he understood and in the event the variance is not granted he would consider that option.

Previously sworn, Joseph Lujan said he fully supports Mr. Salazar’s request.

Duly sworn, the applicant’s brother, Michael Salazar, 1067 Willow Way, Santa Fe, said his brother has suffered financial hardships and merely wants to do what’s right

for his family. Mr. Salazar said he serves as a deacon at the Catholic church and has been working through those channels to help find shelter for his brother's homeless child.

Under oath, Ignacio Salazar, father of Vincent and Michael, said in 1991 he applied for a similar variance when Vincent needed a home. The BCC approved the variance and he contended that action set a precedent. He noted there have been many variances of this nature in the area where he lives.

Duly sworn Tomas Jimenez, Vincent Salazar's son, stated that his father, although not a blood relation, has been there for him since the beginning. He provides a loving home and has always provided for the family. His father has helped him financially over the years in pursuing his dream of being a nurse. Trying to study in a home with three young children has been very difficult.

Michael Salazar returned to the podium and said his brother has raised these children as his own.

There was no further public input.

Member Katz commended the entire Salazar family. His concern was setting the precedent and the importance of upholding County rules. He appreciated the student required an appropriate study environment and that could be accomplished by converting the garage into a studio.

Member Katz moved to recommend denial of CDRC Case V 13-5340. His motion was seconded by Member Martin and passed by majority (4-2) voice vote with Members Roybal and Gonzales voting against and Chair Drobnis abstaining.

Mr. Dalton said converting the garage into a studio is handled administratively. This application will go before the BCC on March 11th.

B. Petitions from the Floor

None were presented.

C. Communications from the Committee

Member Roybal advised the Committee that he recently bid a proposal for the Nambe Community Center and he would continue bidding on County projects. Ms. Brown said with disclosure and abstention on voting matters where there is a financial interest she saw no problem.

D. Communications From the Attorney

Ms. Brown referred to the County's Code of Conduct Ordinance 2010-12. She reviewed provisions of the ordinance to keep the members conscious of it and in compliance. She isolated two definitions: conflict of interest: a situation in which a person exercising a duty has an interest, financial or otherwise, that potentially conflicts with the exercise of that duty or that maybe be perceived as conflicting with the exercise of that duty; and conflict of interest and disclosure statement: volunteers, employees and elected officials strictly avoid transactions and relationships that create a conflict of interest and where the conflict of interest is unavoidable it must disclosed and subordinated to the public interest.

Ms. Brown encouraged the members to read the ordinance and proffer disclosures to increase public confidence.

In regard to *ex parte* communications, Ms. Brown said it was imperative that members avoid communications with people interested in the application in any way. Those communications have to occur in the public hearing. In the event *ex parte* communications do occur it is important to disclose and abstain from participating in the case. Ms. Brown advised the members that going to look at the property must be done in a formal Board noticed meeting.

Violation of this ordinance is a criminal offense and Ms. Brown repeated her encouragement that the members become familiar with and honor the ordinance. She invited questions at rabrown@santafecounty.org or 986-6326.

In response to question posed by Member Martin, Ms. Brown stated it was important that any information that could be perceived as *ex parte* communication be forwarded to land use staff or the attorney.

E. Matters From the Land Use Staff

Member Gonzales asked whether the requests that came before the CDRC this evening would be permitted and not require a variance with the new code. Ms. Lucero responded that the SDA area these requests were located in as defined in the new code would not permit the variances.

Ms. Lucero said unless located within a designated traditional community or the Community College District, minimum lot size is 2.5 acres.

Ms. Lucero said the SLDC will become effective once the zoning map is adopted which will occur this year.

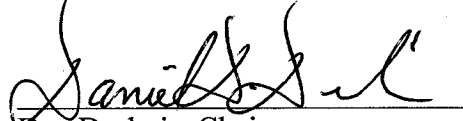
Ms. Lucero welcomed the new CDRC members.

F. Next CDRC Regular Meeting: February 20, 2014

VIII. ADJOURNMENT

Having completed the agenda and with no further business to come before this Committee, Chair Drobnis declared this meeting adjourned at approximately 5:00 p.m.


Approved by:


Dan Drobnis, Chairman
CDRC

ATTEST TO:


COUNTY CLERK
2/24/2014

Submitted by:

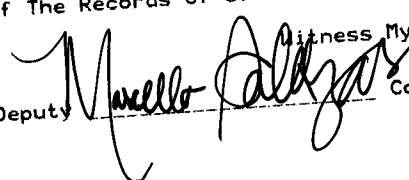

Karen Farrell, Wordswork



CDRC MINUTES
PAGES: 9

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

I Hereby Certify That This Instrument Was Filed for
Record On The 26TH Day Of February, 2014 at 02:41:16 PM
And Was Duly Recorded as Instrument # 1730874
Of The Records Of Santa Fe County

Deputy  Witness My Hand And Seal Of Office
Geraldine Salazar
County Clerk, Santa Fe, NM

THIS INSTRUMENT WAS RECORDED BY ME AT 02:41:16 PM FEB 26 2014