

MINUTES OF THE
SANTA FE COUNTY
DEVELOPMENT REVIEW COMMITTEE

Santa Fe, New Mexico

March 17, 2011

This meeting of the Santa Fe County Development Review Committee (CDRC) was called to order by Chair Maria DeAnda, on the above-cited date at approximately 4:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

Maria DeAnda, Chair
 Juan José Gonzales, Vice Chair
 Phil Anaya
 Frank Katz
 Susan Martin
 Ivan Pato
 Sef Valdez

Member(s) Excused:

[None]

Staff Present:

Rachel Brown, Assistant County Attorney
 Shelley Cobau, Building & Development Services Manager
 Wayne Dalton, Building & Development Services Supervisor
 Linda Trujillo, Assistant County Attorney
 Jose Larrañaga, Development Review Specialist
 John Michael Salazar, Development Review Specialist

IV. APPROVAL OF AGENDA

Ms. Cobau announced that the along with the tabled items shown on the agenda, New Business Case CDRC #V 11-5030, Ivan Salcido Variance, has been tabled. The applicant failed to meet notice requirements.

Member Gonzales moved to approve the agenda as amended and Member Martin seconded. The motion carried unanimously.

V. APPROVAL OF MINUTES

February 17, 2011 - Special Meeting

Upon motion by Member Gonzales and second by Member Martin, the minutes of the February 17, 2011 special meeting were unanimously approved.

February 17, 2011 - Regular Meeting

Member Pato moved to approve the minute as presented. Member Martin seconded, and the minutes of the February 17, 2011 regular meeting were unanimously approved.

The applicant for the only case on the agenda was not yet present. John Michael Salazar, case manager, said he talked to the applicant earlier and advised him that if he did not appear, his case would be removed from the agenda and the County would proceed with court action. Awaiting his arrival, the Committee recessed for 10 minutes.

VI. NEW BUSINESS

C. CDRC CASE # V 10-5560 Juan Lozoya Variance. Juan Lozoya, Applicant, requests a variance of Article III, Section 10 (Lot size Requirements) of the Land Development Code to allow four dwelling units on 1.24 acres. The property is located at 31 Cerro del Alamo, within Section 28, Township 16 North, Range 8 East

John Michael Salazar, case manager, read the caption and staff report as follows:

“The Applicant received a Notice of Violation from County Code Enforcement on July 21, 2010 on a received complaint for exceeding density and unpermitted development.

“The subject property was created through a small-lot family transfer and is under a .25 acre-foot per year water restriction which is sufficient for a family of four and could not sustain three additional dwelling units. No meter readings have been submitted to the Land Use Administrator since the lot was created so it is uncertain at this time how much water is actually being used on the property. Code Enforcement checked and this no water meter on the property.

“The Applicant states that he bought the property in its current state with a three-unit apartment building and a single-wide mobile home. All four units are currently rented and the Applicant states that he needs the income at this time. Staff has researched the property and found that it was originally owned by the Applicant’s brother. The prior owner applied for and received a development permit for a garage in 1998. The permitted garage has since been remodeled into a three-unit apartment building consisting of one one-bedroom unit and two two-bedroom units. All three units have a kitchen, a bathroom and share a laundry facility accessed from the outside. All facilities are currently served by a single conventional septic system. Code Enforcement has been working with NMED because the septic system has become saturated.

“The minimum lot size required for a conventional septic system is 0.75 acres for a three-bedroom home. The lot size minimum increases with each additional bedroom. The State Environment Department has specific regulations regarding maximum design flow based on parcel size; NMED has indicated that the maximum number of bedrooms that could be allowed on a 1.25-acre parcel is five. More than five bedrooms might not be permitted by the NMED, and the Applicant is herein advised that an advanced liquid waste treatment system might be required, dependant on the number of bedrooms present, and the number proposed. Permitting of the liquid waste disposal is through NMED and must be addressed prior to application for a County Development Permit.”

Mr. Salazar reviewed Code Article III, Section 10, addressing maximum allowable lot size within the Basin Hydrologic Zone which is 2.5 acres per dwelling. The 1997 small-lot family transfer permitted the 1.25-acre lot. Article II, Section 3 regarding variances was outlined by Mr. Salazar indicating that in no event shall a variance, modification or waiver be recommended by a DRC if by doing so the purpose of the Code is nullified.

Mr. Salazar said County staff is recommending denial of this case based on lot size: the subject property is restricted to .25 acre-feet per year which cannot sustain four dwelling units, and there is not enough acreage to sustain septic systems that are required for each dwelling unit. He noted that this property is not within a commercial node and cannot be rezoned for apartments.

Mr. Salazar confirmed that the property was zoned residential.

Member Pato asked whether the conversion from garage to living unit underwent inspections, i.e., electrical, plumbing, structural. Mr. Salazar said the State CID inspected the structure as a garage. Plumbing and electric were not inspected by CID or County staff. He explained that with only three code enforcement officers, the County usually learns of unpermitted development when a complaint is filed.

Member Pato said the health and safety issues within this unpermitted development caused him concern.

There were no further questions and the applicant was invited forward.

Duly sworn, Juan Lozoya, 31 Cerro del Alamo, Santa Fe, stood for questions.

Member Katz asked when the garage was converted into apartments, whom he purchased the property from and whether he assisted in converting the garage. Mr. Lozoya estimated the conversion occurred three years ago, more than two years before he purchased the property from his brother and that he did not participate in the conversion. He offered that his brother was unable to take care of the property so he purchased it from his brother who has diabetes.

Duly sworn, Lorrie Ogan, 33 Cerro del Alamo, said she lives kitty-corner to Mr. Lozoya's property and is one of four lots that share a well with Mr. Lozoya. Per the well agreement, each lot is allowed one family unit to share in the well. She pointed out that the applicant has four units using his one share of the well.

Ms. Ogan said she knew the applicant's brother and apologized for having to refute the Applicant's statement but the conversion were made after the Applicant purchased the property. She said all traffic to the Applicant's property must cross her easement and that has caused a great deal of noise and trash. The police have been called four times in the past year because of loud music.

Ms. Ogan said the septic system is uphill from her lot and this concerns her. She indicated that her neighborhood is not conducive to an apartment complex. "It's a very quiet and very peaceful La Cienega neighborhood."

Under oath, Susan Chavez, a resident of 35 Cerro del Alamo said her property is situated below the Applicant and she was concerned about the saturated septic system. She identified herself as one of the four lots sharing a well and that situation greatly concerned her.

Ms. Chavez said she was concerned about the health and safety of the people living in the unpermitted structure. Acknowledging it is hard to find housing, Ms. Chavez said granting this variance would set a precedent for the entire area to place four units on 1.25 acres. She urged the CDRC to oppose the request.

Bob Young, duly sworn, also a resident of 35 Cerro del Alamo said the density, septic system, and condition of the shared well are of great concern to him. Recognizing there are appropriate times to ask for forgiveness rather than permission, Mr. Young said this is not one of those times.

Duly sworn, David Watson, 2 Caminito Vigil, stated that in the past three years since the Applicant has had the property there has been an increase in noise. He mentioned a party of 150 people and rumor of a drug bust on the property.

Mr. Watson pointed out that that the Applicant has been making money on these illegal apartments for the past three years and "it has to stop...The authority needs to do what it needs to do to make this right."

Chair DeAnda invited the Applicant to make closing comments, he declined and the public input was concluded.

Member Pato moved to deny case #V 10-5560. His motion was seconded by Member Martin.

Member Anaya asked how many people were residing in the apartments. Mr. Salazar said he didn't have a count but including the three-bedroom trailer there are eight bedrooms on the property.

The motion to deny the application passed by unanimous [7-0] voice vote.

Mr. Salazar announced that the CDRC's recommendation will be forwarded to the Board of County Commissioners.

VIII. PETITIONS FROM THE FLOOR

None were presented.

IX. COMMUNICATIONS FROM THE COMMITTEE

Birthday wishes were extended to Susan Martin.

X. COMMUNICATIONS FROM THE ATTORNEY

None were presented.

XII. COMMUNICATIONS FROM LAND USE STAFF

The next meeting was scheduled for April 21, 2011.

X. ADJOURNMENT

Having completed the agenda and with no further business to come before this Committee, Chair DeAnda declared this meeting adjourned at approximately 4:30 p.m.

Approved by:

[Signature] 4/21/11
Maria DeAnda, Chair
CDRC



Before me, this ____ day of _____

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

CDRC MINUTES
PAGES: 5

My Commission Expires: _____

I Hereby Certify That This Instrument Was Filed for
Record On The 22ND Day Of April, 2011 at 09:17:05 AM
And Was Duly Recorded as Instrument # 1633047
Of The Records Of Santa Fe County

Submitted by:
[Signature]
Karen Farrell, Wordswork

Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy County Clerk, Santa Fe, NM
[Signature]