

**MINUTES OF THE**  
**SANTA FE COUNTY**  
**DEVELOPMENT REVIEW COMMITTEE**

**Santa Fe, New Mexico**

**May 17, 2012**

This meeting of the Santa Fe County Development Review Committee (CDRC) was called to order by 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  
Dan Drobnis  
Frank Katz  
Sef Valdez

**Member(s) Absent:**

Phil Anaya  
Susan Martin (Excused)

**Staff Present:**

Wayne Dalton, Building & Development Services Manager  
Jose Larrañaga, Development Review Specialist  
John Lovato, Development Review Specialist  
Rachel Brown, Deputy County Attorney  
Buster Patty, Fire Captain

**IV. Approval of the Agenda**

Wayne Dalton announced that the New Business applicant in Case B, the Jay Shapiro Variance has requested tabling due to lack of legal representation. It will be on next month's agenda.

Member Katz moved to approve the agenda as amended. His motion was seconded by Member Drobnis and the motion carried unanimously [5-0].

**V. Approval of the Minutes: April 19, 2012**

Member Gonzales moved to approve the February minutes as submitted. Chair DeAnda seconded and the motion passed by unanimous 5-0 voice vote.

**VI. Old Business**

None was presented.

**VII. New Business**

**A. CDRC CASE # V 12-5090 Lawrence Maes Variance. Lawrence Maes, Applicant, requests a variance of Article III, §10 (Lot Size Requirements) of the Land Development Code to allow three dwelling units on 10.21 acres. The property is located at 85A County Road 44, in the vicinity of Southfork, within Section 31, Township 15 North, Range 9 East (Commission District 5)**

John Lovato read the caption and staff report as follows:

“The Applicant requests a variance of Article III, § 10, Lot Size Requirements, of the Land Development Code to allow three dwelling units on 10.21 acres. The subject lot was created in 1976 and is recognized as a legal non-conforming lot. There are currently two dwelling units on the property and an accessory structure which is a garage. The Applicant states that two homes have been on the property prior to 1981 but has not submitted sufficient documentation that proves the two homes are legal non-conforming. The property also contains two uninhabitable mobile homes in addition to the existing dwellings. The Applicant intends to remove the uninhabitable mobile homes from the property.

“The Applicant states, as a result of a physical and mental traumatizing accident along with other medical conditions his daughter and family have been through, a variance is needed for the financial and trauma burdens accompanied by this accident. The Applicant further states his daughter’s family passes the scene of the accident that took their mother and grandmother and this is traumatizing for his daughter’s family. His son-in-law and grandchildren suffer physically and mentally and both her husband and oldest son suffer with PTSD, post trauma stress disorder. The youngest child suffered a brain injury and has been diagnosed with ADD as a result of this accident.

“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.

“The hydrologic zone, the basin fringe zone: maximum lot size per code is 12.5 acres per dwelling unit. The three proposed dwelling units exceed the number of units allowed on the subject property.

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Mr. Lovato stated staff was recommending denial of a variance from 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 1<sup>st</sup> 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 Development Permit Application (As per Article III, § 2.4.1a.1 (a) (iv)).
4. The placement of additional dwelling units on the property is prohibited. The two uninhabited mobile homes on the property must be removed prior to building permit (As per Article III, § 10).
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).

Duly sworn, Anna Marie Hernandez, daughter of the applicant said she is the wife and mother of those involved in the car accident which happened on Airport Road. She outlined her health problems and the difficulties arising out of the accident, which have led to the need for the variance.

Chair DeAnda asked for details of the current number of dwellings on the property.

Lawrence Maes, under oath explained that he and his wife live in one of the houses and the other is occupied by a younger daughter and her child. The request is for an additional dwelling to be able to take care of Ms. Hernandez as her health declines as well as her children who have multiple problems.

Mr. Lovato pointed out they are waiting for proof that the current dwellings are legal non-conforming; there are no proofs of permits at this point.

Member Katz asked what the zoning requirements were in 1989 and 1991 when the houses were first on the property. Mr. Dalton stated that Mr. Maes has said when he bought the property it already had three houses and they are searching for proof of that, which would grandfather in the two homes.

There was no one from the public wishing to speak on this case.

Chair DeAnda asked if it would be appropriate to table the case pending arrival of the aerial photographs to ascertain if the two existing homes are legal non-conforming. Mr. Dalton said a variance would still be required for the third dwelling unit. Tabling would provide an additional 30 days.

Member Katz moved to table and Chair DeAnda seconded. The motion carried by unanimous 5-0 voice vote.

**B. CDRC CASE # V 12-5080 David Vigil Variance. David Vigil, Applicant, requests a variance of Article III, § 2.4.1a.2.b (Access) of the Land Development Code and a variance of Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to allow the placement of a manufactured home on 2.17 acres. The property is located at 16 Santa Cruz Dam Road, in the vicinity of Chimayo, within Section 7, Township 20 North, Range 10 East, (Commission District 1)**

Mr. Dalton read the caption and gave the staff report as follows:

“The Applicant requests a variance to allow the placement of a manufactured home on 2.17 acres. Access to the subject property would be off County Road 92/ Santa Cruz Dam Road which is a dirt road/private driveway crossing a FEMA designated Special Flood Hazard Area, via an existing arroyo crossing which may be frequently impassible during inclement weather, and thereby is not all-weather accessible.

“Article III, § 2.4.1a.2.b, Access, of the Land Development Code states: ‘All development sites under this Section shall demonstrate that access for ingress and egress, utility service and fire protection whether by public access and utility easement or direct access to a public right-of-way can be provided and meet the requirements of this Code.’

Article V, § 8.1.3 states: ‘Legal access shall be provided to each lot and each lot must directly access a road constructed to meet the requirements of Section 8.2 of the Code. Parcels to be accessed via a driveway easement shall have a twenty foot all weather driving surface, grade of not more than 11 percent, and drainage control as necessary to insure adequate access for emergency vehicles’.

Article 4, § 4.2 of Ordinance No. 2008-10, Flood Damage and Stormwater Management, states: ‘At no time shall a permit be issued for a new dwelling unit, site, lot, parcel or tract of land intended for placement of a habitable structure where the site is absent all weather access.’”

Mr. Dalton said the proposal meets minimum lot size criteria. The Fire Department and the Flood Plain Administrator recommend denial.

He gave the staff recommendation as follows: Denial of a variance from Article III, § 2.4.1a.2.b (Access) of the Land Development Code and denial of a variance of Article 4, § 4.2 of Ordinance No. 2008-10, Flood Damage and Stormwater Management. Article II, § 3, Variances, of the County Code states: "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance." This Section goes on to state "In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified."

If the decision of the CDRC is to recommend approval to the Board of County Commissioners regarding the Applicant's request for variances, staff recommends the following conditions:

1. Water use shall be restricted to 1 acre-foot per year. A water meter shall be installed for the proposed home. Annual water meter readings shall be submitted to the Land Use Administrator by January 1<sup>st</sup> 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 shall comply with all Fire Prevention Division requirements (As per 1997 Fire Code and 1997 Life Safety Code).
3. A restriction must be placed on the Warranty Deed regarding the lack of all weather access to the subject lot. This restriction shall include language as follows: The access to this property does not meet minimum standards set forth by County Ordinance and Code. Site Access, including access by Emergency vehicles, may not be possible at all times. (As per Ordinance 2008-10).

Referring to the aerial map, Member Gonzales asked how many lots are served by the driveway. Mr. Dalton indicated he was unsure how many properties were beyond the arroyo but the majority of land belongs to the BLM. Noting there appeared to be three or four lots, Member Gonzales asked if the road was a County road. Mr. Dalton said it was a private road/private driveway and is off County Road 92, Santa Cruz Dam Road which lies entirely within the floodplain.

Member Gonzales said this appeared to be a non-self-imposed condition.

Member Katz asked if request for a variance could be avoided by using the County Road. Mr. Dalton said they would still need a variance because they lack all-weather access. What is required is a bridge or other structure that can pass a 100-year storm event. Chair DeAnda asked where the bridge could be constructed. Mr. Dalton said the bridge would not have to start at Juan Medina Road; it would have to cover the area in orange on the aerial photograph.

Pamela Criscuolo, daughter of the applicant, was placed under oath and stated the land has been in the family for over 60 years. There was a home on the property until the

1960s. They have been working with staff for over a year in an attempt to develop the property, securing septic and other permits. When they sought a permit to put a mobile home on the property they were told about the problem with the floodplain. She said building a bridge on land that does not belong to them would cost over \$200,000. She added most of the land in Chimayo is subject to flooding. Not granting the variance would result in tremendous financial hardship.

Previously sworn, Thomas Cordova, reiterated that when in rains all the arroyos in Chimayo run. The fire station is close to the property. He said the local residents have been dealing with the situation for hundreds of years.

Member Drobni asked how many other property owners access the area across the arroyo. Ms. Criscuolo said they sent out five notices to near neighbors but she speculated that around ten structures are across the arroyo. In response to Member Drobni's question of who owns there property where the bridge would be built, Mr. Cordova said he believed it was BLM.

Member Drobni asked if the permits already acquired were from the state. Mr. Dalton said the well and septic permits came from the state.

Member Gonzales asked for details on the fire station, and Buster Patty said the volunteer station is very close. He said the permit was denied because of the access problem. In some cases conditional approval can be granted contingent upon things like adequate turnarounds and sprinklering. However, other emergency services would also have trouble access the property in a flood.

Member Gonzales asked how much of a burden it would be for the County if a variance were granted. Mr. Patty said the only burden would be the liability of not being able to get to the property. The existing houses are legal non-conforming.

Member Gonzales said he would hate to see them forced to build a bridge or culvert on property that isn't even theirs.

Chair DeAnda asked what the most common technique for arroyo crossing in the area was. Mr. Patty said it is mostly culverts. An engineer would have to be involved in the design, and it would have to withstand 55,000 pounds. He said there is sufficient land to put in a turnaround.

Mr. Cordova said they would be willing to accept a deed restriction and any conditions. He predicted more requests would be coming in the future due to families wanting to divide their property.

Chair DeAnda asked if it would be possible to get an easement through the adjoining property. Mr. Dalton said they would still need a variance.

The public hearing was opened and Andrew Vigil, son of the applicant, was placed under oath. He said he is the one wishing to place a mobile home on the property. So far he has invested \$3,000 on the septic system and countless hours cleaning up the

land. He called the denial a “slap in the face” adding every lot in Chimayo is in the same situation.

The fact that the County recognized the crossing as dangerous, Member Katz asked whether the County would consider building the bridge in light of the fact there were already residents living in the area.

There were no other speakers and the Chair closed the public hearing.

Member Katz moved to approve the variance for 12-5080 with staff conditions. His motion was seconded by Member Gonzales and passed by unanimous [5-0] voice vote.

Mr. Dalton said the case is scheduled to go to the BCC on June 12<sup>th</sup>.

- D. CDRC Case # 12-5070 MP/PDP MCT Waste Master Plan/Preliminary Development Plan. Sunset Solutions, LLC, Applicant, James Siebert, Agent, request Master Plan Zoning and Preliminary Development Plan approval for the expansion of a non-conforming commercial property. The request also includes the Final Development Plan to be reviewed and approved administratively. The property is located at 5 Erica Road in the Traditional Historic Community of La Cienega, within Section 26, Township 16 North, Range 8 East, (Commission District 3)**

Jose Larrañaga read the caption and gave the following staff report:

“The Applicant requests Master Plan Zoning and Preliminary Development Plan approval to allow the expansion of a non-conforming commercial property on a 2.14-acre site. The expansion will consist of increasing the existing 4,862 square foot building by 3,020 square feet for a total square footage of 7,882. The proposed height of the addition is 24 feet and the height of a portion of the existing structure will be increased from 16 feet to 24 feet. The expansion will increase the use to 60 percent of the site for the business. The Applicant’s request also includes that the Final Development Plan be reviewed and approved administratively.

“The Applicant states that MCT provides waste collection services to construction sites and companies that generate substantial waste volumes. The expansion of the existing structure will accommodate the parking of the trucks within the building during the winter months. Client contact and billing is conducted from the Albuquerque office and the site is generally vacant during the day.

“Historically Schwan’s Food Company occupied this site. On July 15, 2011, the Land Use Administrator determined that MCT’s proposed re-use of this non-conforming commercial site would be allowed provided the re-development or

improvements to the site serve to bring the use into conformance with the purposes of the Code. The Land Use Administrator also determined that any further expansion or extension increasing the intensity of the site shall be subject to a Master Plan and Development Plan submittal and meet all requirements set forth in Article III, Section 4 of the Code.

“This site is within an area which was recognized as a Major Commercial District prior to the adoption of Ordinance 2002-9, La Cienega Traditional Community Zoning District.

“Article III, Section 4.4.1.a states: ‘to zone or re-zone any parcel for a commercial or industrial non-residential district a master plan shall be submitted. Submittals and procedures for master plans are set forth in Article V, Section 5.2.’

“Article V, Section 5.2.1.b states: ‘a master plan is comprehensive in establishing the scope of a project, yet is less detailed than a development plan. It provides a means for the County Development Review Committee and the Board to review projects and the subdivider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a preliminary and final plat approval.’

“Article V, Section 7.1.3.a states: ‘a preliminary development plan may be only a phase or portion of the area covered by an approved master plan, so long as the preliminary development plan substantially conforms to the approved master plan.’

“Building and Development Services staff has reviewed this project for compliance with pertinent Code requirements and has found that the facts presented support this request: the Application is comprehensive in establishing the scope of the project; the Preliminary Development Plan substantially conforms to the proposed Master Plan; the Application satisfies the submittal requirements set forth in the Land Development Code.

“The review comments from State Agencies and County staff has established findings that this Application is in compliance with state requirements and Ordinance No. 2002-9, Article III, Section 4.4, Development and Design Standards, Article V, Section 5, Master Plan Procedures and Article 5, Section 7 Development Plan Requirements of the Land Development Code.”

Mr. Larrañaga gave the following staff recommendation: Conditional approval of Master Plan Zoning to allow the expansion of a non-conforming structure and site, conditional approval of Preliminary Development Plan and approval of Final Development Plan to be reviewed and approved administratively. If the decision of the CDRC is to recommend approval of the Applicant’s request, staff recommends imposition of the following conditions:



1. The Applicant shall comply with all review agency comments and conditions, Article V, Section 7.1.3.c.
2. Master Plan and Preliminary Development Plan, with appropriate signatures, shall be recorded with the County Clerk, as per Article V, Section 5.2.5.

Chair DeAnda asked if the waste was deposited in Albuquerque. Mr. Larrañaga stated the company goes to various construction sites and takes the waste to the nearest disposal site. Occasionally, the trucks have to stay loaded over night and this building will allow them to remain indoors. Most of the waste is collected in Santa Fe County.

Member Gonzales asked what sort of waste they deal in and Mr. Larrañaga said most is from construction sites. If there is recyclable lumber they take that to a recycling plant.

Duly sworn, Jim Siebert, applicant's agent, showed the location of the proposed project using an area map. He said there has been a variety of commercial uses in the area. The existing building is approximately 4,800 square feet and they plan to add 3,000 square feet. They plan to raise a portion of the roof to accommodate trucks. Access is off Erica Road and there are two locations for parking. The site is mostly vacant during the day.

Referring to where the trash will be going, Mr. Siebert said it goes either to the Santa Fe Regional Landfill or Albuquerque. Nothing comes from Albuquerque. Everything is in containers.

Mr. Siebert said there could be some separation of metal and wood waste but recycling on the site would be at some point in the future. Typically, the waste consists of sheetrock, studs and other construction demolition debris. They do not handle household waste.

Member Gonzales asked where the trucks will be washed. Mr. Siebert said water from the truck washing will be filtered and then go into the septic system. Member Gonzales said septic systems are not designed for that kind of wastewater. Mr. Siebert said they may need to plan for two separate tanks before the final development plan is completed.

Member Gonzales asked about connecting to the County water line. Mr. Siebert said the nearby line is at 200 psi which is not designed for individual use; a pressure reduction would be necessary. The next nearest line is 1,200 feet away.

Member Katz inquired about the visibility of the building, particularly from I-25. Mr. Siebert said the building sits well back on the property and vegetation will be planted along the front to provide a buffer.

Mr. Siebert said there will be heaters inside the building to thaw the loads to make them easier to dump.

Chair DeAnda asked about the water use. Mr. Siebert said their estimate was .08 acre-feet. Staff had a more conservative analysis of .15, still below the .25 acre-feet limit. Well water will be used. MCT has been operating on the site for six to eight months and there has been very little use of water. The State Engineer has deemed the well adequate for the proposed use.

There was no one from the public wishing to speak.

Member Gonzales moved approve CDRC Case #MP/PDP 12-5070 with conditions. Member Katz seconded and the motion passed by a 5-0 vote.

**VIII. PETITIONS FROM THE FLOOR**

None were offered.

**IX. COMMUNICATIONS FROM THE COMMITTEE**

None were offered.

**X. COMMUNICATIONS FROM THE ATTORNEY**

None were presented.

**XI. COMMUNICATIONS FROM STAFF**

The next meeting was scheduled for June 21, 2012 and Mr. Dalton said they anticipate a very heavy agenda of potentially 13 cases.

**XII. ADJOURNMENT**

Having completed the agenda and with no further business to come before this Committee, Chair DeAnda declared this meeting adjourned at approximately 5:25 p.m.

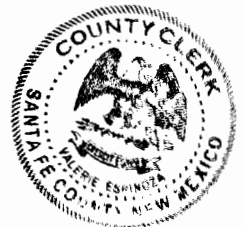
COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

CDRC MINUTES  
PAGES: 11

I Hereby Certify That This Instrument Was Filed for  
Record On The 25TH Day Of June, 2012 at 10:19:19 AM  
And Was Duly Recorded as Instrument # **1673167**  
Of The Records Of Santa Fe County

Deputy Marcella Dalton )  
Witness My Hand And Seal Of Office Valerie Espinoza  
County Clerk, Santa Fe, NM

Approved by:  
Maria DeAnda  
Maria DeAnda, Chair  
CDRC



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ATTEST TO:

COUNTY CLERK

Before me, this \_\_\_\_ day of \_\_\_\_\_, 2012.

My Commission Expires:

\_\_\_\_\_  
Notary Public

Submitted by:

*Karen Farrell*  
Karen Farrell, Wordswork

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