

MINUTES OF THE
SANTA FE COUNTY
DEVELOPMENT REVIEW COMMITTEE

Santa Fe, New Mexico

September 20, 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 4:03 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
Susan Martin
Sef Valdez [late arrival]

Member(s) Excused:
Phil Anaya

Staff Present:
Vicki Lucero, Building & Development Supervisor
John Lovato, Building & Development Services
Jose Larrañaga, Development Review Specialist
Rachel Brown, Deputy County Attorney
Buster Patty, Fire Captain

IV. APPROVAL OF THE AGENDA

Vicki Lucero announced that VIII. B, Case #Z/S 08-5430, Spirit Wind West Subdivision, and VIII. C. Case #Z/S 08-5440, Tierra Bello Subdivision, were tabled.

The remainder of the agenda was adopted by consensus.

V. APPROVAL OF THE MINUTES: July 19, 2012

Referring to page 11, Chair DeAnda stated the sentence should read the following: "Chair DeAnda indicated it appeared the only question was that of the definition of "family proper transfer."

Member Gonzales noted that on page 13 it should read: "Member Gonzales asked if there as a way to split this proeess property...."

With those changes Chair DeAnda moved to approve the minutes as corrected. Her motion was seconded by Member Katz and passed by unanimous [5-0] voice vote. [Member Valdez was not present for this action.]

VI. ELECTION OF CHAIR AND VICE CHAIR

Chair DeAnda nominated J.J. Gonzales to serve as chair citing his long-standing membership and reliability. Member Katz seconded and there were no other nominations. Mr. Gonzales was unanimously [5-0] acclaimed chair. [Member Valdez was not present for this action.]

Chair Gonzales nominated Susan Martin as vice chair saying she was very knowledgeable. Member DeAnda seconded and the motion carried by unanimous [5-0] voice vote. [Member Valdez was not present for this action and arrived immediately thereafter.]

Chair Gonzales thanked Member DeAnda for her many years of service, and thanked the committee members for voting him chair. He assumed the chairmanship.

VII. CONSENT FINAL ORDER

- A. CDRC CASE # APP 12-5110 William Frederick Wagner Appeal. William Frederick Wagner, Applicant, (Sommer, Karnes & Associates, LLP), Joseph Karnes, Agent, Requested an Appeal of the Land Use Administrator's Decision to Deny a Family Transfer Land Division (Case # 11-3090) Of 31.824 Acres Into Two Lots; One Lot Consisting of 20.990 Acres and One Lot Consisting Of 10.834 Acres. The Property is Located At 45 La Barbaria Trail, Within Section 9, Township 16 North, Range 10 East, (Commission District 4). Denied 4-3, Wayne Dalton.

Member DeAnda moved approval and Member Martin seconded.

Member Katz suggested changes to the order. In Section 6 he recommended that it specifically state the property is in area 16. He said Section 16 was incorrect in stating that it meant the density requirements of the Mountain Special Review District or in the Land Development Code.

Attorney Brown stated she would review the sections to make sure what was drafted reflected the discussion and decision of the CDRC.

Member Katz moved to table approval of the findings and Member Martin seconded. The motion to table passed by 6-0 voice vote.

VIII. NEW BUSINESS

A. CDRC CASE # V 12-5060 Jay Shapiro Variance. Jay Shapiro, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow Two Dwelling Units on 10.21 Acres. The Property is Located At 94 Cloudstone Drive, Within Section 5, Township 16 North, Range 10 East, Commission District 4

Ms. Lucero read the case caption and the following staff report:

“The Applicant requests a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 10.21 acres. The property is located in the Mountain Hydrologic Zone where the minimum lot size is 20 acres per dwelling unit with water restrictions of 0.25 acre feet per year. The 10.21-acre lot was created as part of a pre-code subdivision in 1976. At that time there were no water restrictive covenants imposed on these lots.

“There are currently two dwelling units on the subject property. The structures consist of a main residence and an accessory structure. The accessory structure which was permitted on May 13, 2010, (Permit # 10-189) showed a bathroom, but no kitchen facilities. At the time of permitting, the Applicant signed a Development Affidavit stating that the accessory structure would not be converted at any time into a dwelling unit. The accessory structure has been converted into a dwelling with both kitchen and bathroom facilities.

“The State Construction Industries Division (CID) informed the County that the accessory structure was constructed as a residence after they conducted a Final Inspection. The County issued a Notice of Violation for exceeding density and the Applicant immediately came in to submit a request for a variance.

“During the final stages of design, after permits were issued, the Applicant added an area for a kitchen, which the Agent states was approved by the Homeowner’s Association. The Agent also states that the structure in question is keeping with the character of the neighborhood and the other accessory dwelling units in the subdivision, and that the Applicant’s guesthouse is smaller than the principal residence on the lot, is located near the principal dwelling and subordinate in character and use to the principal dwelling unit.”

Ms. Lucero stated staff was recommending denial of the variance. 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 amend the development permit from the Building and Development Services Department for the second dwelling unit (As per Article II, § 2.1)
3. The Applicant shall provide an updated liquid waste permit from the New Mexico Environment Department with the Amended 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 Article III, § 10).
5. The Applicant shall comply with all Fire Prevention Division requirements (As per 1997 Fire Code and 1997 NFPA Life Safety Code).
6. No more than two electric meters shall be allowed on the property (As per Article III, § 10).

Chair Gonzales asked when the notice of violation was issued. Ms. Lucero said she did not have copy of the violation but she believed it was in January or February. Chair Gonzales asked why there was such a long period of time between taking out a building permit and calling for a final inspection since generally building permits are good for one year only.

Member DeAnda noted that in previous packets where this case had been tabled there was a copy of the permit stating it referred to a single family dwelling and a second dwelling was not permitted. Ms. Lucero stated that was Exhibit 8.

Duly sworn, Jay Shapiro stated he has worked as an architect for 50 years. The project took so long due to the dip in the economy. After the slab was put in the bank withdrew funding. The slab sat for over a year and the nearby homeowners complained it was an eyesore. Upon obtaining additional funds he completed the project as a dwelling unit, after receiving assurance from the prior president of the homeowners association that he could build a guesthouse with a kitchen. Of the 21 homes in the association, six have guesthouses and four of those have kitchens. He said he hoped he had contributed to the community and he hoped he would be afforded forbearance from the committee.

Lee Shapiro, under oath and wife of the applicant, said the house really was beautiful and she hoped they would approve it.

Mr. Shapiro explained the circumstances through which notice of violation came to be issued.

Member Katz expressed his concern that Mr. Shapiro specifically signed an affidavit saying he would not build a second dwelling on the property. Mr. Shapiro agreed that he was contravening County regulations but he was relying on advice from someone in the homeowners association. "I would just like to have a clean slate across the board. If I have to remove my kitchen I have no problem with that." However, he felt that the others in the area with similar circumstances should have to remove theirs as well.

Member DeAnda pointed out the committee had no way of knowing the circumstances of the other cases. Neither Mr. Shapiro nor his attorney have direct knowledge whether the others received variances or were legal non-conforming. She recommended Mr. Shapiro report those people to the Code Enforcement Division and they will deal with it.

Mr. Shapiro reiterated that he was under the impression a precedent had been set.

There being no other speakers the public hearing was closed.

Captain Buster Patty from the Fire Prevention Division indicated that Mr. Shapiro complied with the only requirement placed on him by the Fire Department, namely a turnaround. The road exceeds grade but it is legal non-conforming.

Member DeAnda moved to deny CDRC Case #V 12-5060. Member Martin seconded and the variance requested was unanimously [6-0] denied.

Ms. Lucero stated this case would be heard by the BCC, probably at the November 13th meeting.

VIII. PETITIONS FROM THE FLOOR

None were offered.

IX. COMMUNICATIONS FROM THE COMMITTEE

Member Drobnis noted that he would not be in attendance at the next meeting.

Member DeAnda thanked the committee for their support during her term as chair. She appreciated the support and attendance. She also thanked staff.

X. COMMUNICATIONS FROM THE ATTORNEY

None were presented.

XI. COMMUNICATIONS FROM STAFF

None were presented.

XII. ADJOURNMENT

Having completed the agenda and with no further business to come before this Committee, Chair Gonzales declared this meeting adjourned at approximately 4:37 p.m.

Approved by:

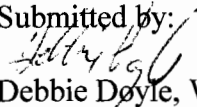

D.J. Gonzales, Chair
CDRC

ATTEST TO:

COUNTY CLERK

Before me, this ____ day of _____, 2012.

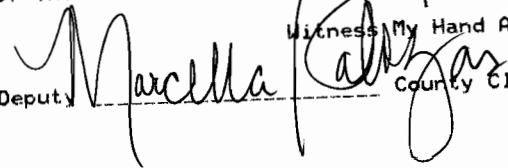
My Commission Expires: _____
Notary Public

Submitted by:

Debbie Doyle, Wordswork



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
CDRC MINUTES
PAGES: 6

I Hereby Certify That This Instrument Was Filed for Record On The 19TH Day Of October, 2012 at 09:21:01 AM And Was Duly Recorded as Instrument # 1685016 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office

Deputy Valerie Espinoza
County Clerk, Santa Fe, NM