

## **MEMORANDUM**

**DATE:** August 11, 2009

**TO:** Board of County Commissioners

**FROM:** John M. Salazar, Development Review Team Leader

**VIA:** Jack Kolkmeier, Land Use Administrator  
Shelley Cobau, Building and Development Services Manager  
Wayne Dalton, Building and Development Services Supervisor

**FILE REF.:** CDRC CASE # V 09-5110 Ortega Variance

---

### **ISSUE:**

Rigoberto and Gildardo Ortega, Applicant's, request a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow two dwellings on 2.5 acres.

The property is located at 8 East Sunset Trail, within Section 24, Township 15 North, Range 8 East, (Commission District 5).

### **SUMMARY:**

The Applicant's are requesting a variance of Article III, Section 10 of the Land Development Code to allow two dwelling units on 2.5 acres. Currently there are two (2) dwellings, and four (4) accessory structures on the property. The property is served by an onsite well and a conventional septic system. The property has received a Notice of Violation from Santa Fe County Code Enforcement for exceeding density.

The property is located within the Basin Hydrologic Zone. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is 10 acres per dwelling unit. Lot size may be reduced to 2.5-acres with water restrictions of 0.25-acre feet per year. Lot size can further be reduced by way of a small lot family transfer to an adult child. The Applicant's do not have adult children and do not qualify for a small lot family transfer land division.

The Applicant's state that they purchased the property in 2007 so both their families could reside on the property. The Applicant also admits he converted the garage into a dwelling and didn't know he needed a permit to convert the garage into a dwelling.

Article II Section 3 (Variances) of the County Code states that "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."

At its regularly scheduled meeting on June 18, 2009, the County Development Review Committee (CDRC) recommended denial.

**REQUIRED ACTION:**

The BCC should review the attached material and consider the recommendation of staff; take action to approve, deny, approve with conditions, or table for further analysis of this request.

**RECOMMENDATION:**

Staff agrees with the CDRC's recommendation that the request for a variance be denied. Article III, Section 10 of the Land development Code states the maximum allowed adjusted lot size in this area is 2.5 acres with .25 acre feet water restrictions.

**ATTACHMENTS:**

- Exhibit "A" - Letter of request for Variance
- Exhibit "B" -Article III, Section 10 (lot size requirements) of the Code
- Exhibit "C" -Article II, Section 2 (Variances) of the Code
- Exhibit "D" -Vicinity Map
- Exhibit "E" - Site Plan
- Exhibit "F" - Notice of Violations
- Exhibit "G" – June 18, 2009 CDRC Minutes