

MEMORANDUM

DATE: March 8, 2011

TO: Board of County Commissioners

FROM: Vicki Lucero, 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 10-5530 James Sturrock Variances

ISSUE:

James Sturrock, Applicant, requests approval of three variances of Article VII, Section 3 (Terrain Management) and Article III, Section 2.3 (Site Planning Standards for Residential Use) of the Land Development Code: 1) to allow the height of a residence to exceed 18' feet and to allow the overall height (from highest parapet to lowest natural or finished cut grade) to exceed 30 feet; 2) to allow disturbance of slopes of 30% and greater; and 3) to allow disturbance of rock outcroppings. The property is located at 120 Camino del Canyon in Cundiyo, within Section 21, Township 20 North, Range 10 East (Commission District 1).

SUMMARY:

On November 18, 2010, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of this request (Refer to Meeting Minutes in Exhibit "E").

The subject property is an existing 2.849-acre legal lot. There is currently an existing barn, an equipment bay and a tack room located on the property, which were constructed by a previous owner. The Applicant is proposing to construct a 3,750 sq. ft. 3-story residence which includes a basement with a building footprint of approximately 1,617 sq. ft.

The Rio Frijoles runs through the northern portion of the property (Refer to FIRM in Exhibit "H"). The remaining areas of the parcel consist of difficult terrain with some small areas of 0%-20%, and 20%-30%; but the majority of slopes on the site exceed 30%.

Article VII, Section 3.4.1.c.1.c of the County Land Development Code (Code) states that natural slopes of 30% or greater are no build areas and shall be set aside from use for development. The proposed lot contains some scattered areas that are less than 30% slopes. The Applicants are requesting a variance to allow disturbance of 30% slopes (approximately 9,312 sq. ft.) in order to construct a residence and to install a septic tank and drain field.

Article III, Section 2.3.6.b.1 of the Code states that the height of any dwelling or residential accessory structure located on land which has a natural slope of fifteen percent (15%) or greater shall not exceed eighteen feet (18') and that the vertical distance between the highest point of a building and the lowest point of a building at natural grade or finished cut grade, whichever is lower, shall not exceed thirty feet (30'). The Applicants are proposing a maximum building height of 34'-9" and an overall building height (from highest point of building to lowest point of building at finished cut grade) of 34'-9." The Applicants state that since the area available to build upon is very limited it was necessary to use multiple stories to achieve the desired square footage and therefore, a height variance is needed.

Article VII, Section 3.4.1.c.1.a of the Code states that areas of rock outcropping are no-build areas and shall be set aside from use for development. The applicant states that there are no apparent rock outcroppings on the surface, however, rock outcroppings have been found on neighboring properties during excavation and therefore, taking a conservative approach the applicant is requesting a variance.

Article II, Section 3.1 (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 non-self-inflicted conditions or that these conditions would result in inhibiting in achievement of the purposes of the Code, an applicant may file a written request for a variance."

REQUIRED ACTION:

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

RECOMMENDATION:

The Applicant is proposing a 3,750 sq. ft. multi level residence. The subject property is a legal lot of record. The lot is limited by excessively steep terrain which makes it difficult to construct a residence that meets County Code Requirements. Land Use staff has conducted a site visit and reviewed the slope analysis and has determined that there is no other buildable area on the site. It is staff's position that the variances requested are unavoidable due to the rugged terrain and small buildable area on the property. Strict compliance with the requirements of the Code could result in extraordinary hardship to the Applicant as stated in Article II, Section 3.1 of the Code. Therefore, staff recommendation and the decision of the CDRC is to recommend approval of the variances of Article VII, Section 3 (Terrain Management).

The Applicant is also seeking a height variance. Staff conducted a site visit and determined that the structure would not be visible from minor arterial roads. If the Applicant were required to reduce the height of the structure they would have to increase the footprint of the residence which would result in more disturbance of 30% slopes. Therefore, staff recommends approval of the requested variances of Article III, Section 2.3 (Site Planning) to allow the height of the residence to exceed 18' and an overall height of 30' subject to the following conditions:

1. No grading or disturbance of ground beyond grading limits shown shall occur. Except for developable areas for building envelopes, roads, or driveways, disturbance of natural vegetation shall be prohibited. Cleared or graded areas, or cut and fill areas shall be re-vegetated to the approximate original density and type of vegetation existing prior to disturbance.
2. The well shall be relocated outside of the existing access/utility easement. If the required 100 foot separation from well to septic cannot be achieved due to the steep terrain an advanced liquid waste disposal system will be required in accordance with NMED requirements.
3. A Storm Water Pollution Prevention Plan (SWPPP) shall be submitted with application for building permit.

ATTACHMENTS:

- Exhibit "A" – Developer's request
- Exhibit "B" - Developer's plans/site plan
- Exhibit "C" – Vicinity Map
- Exhibit "D"- Photos of the Site
- Exhibit "E"- November 18, 2010, CDRC Minutes
- Exhibit "F"-Survey Plat
- Exhibit "G"-Slope Analysis
- Exhibit "H"-FIRM and Aerial Map