

MEMORANDUM

DATE: December 14, 2010

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 # V10-5230 Charles Lujan Variance

ISSUE:

Charles Lujan, Applicant, requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow a second dwelling unit on 3.6 acres.

The property is located at 9B Caminito de Pinon, within Section 10, Township 15 North, Range 10 East, (Commission District 4).

SUMMARY:

On August 19th, 2010 the County Development Review Committee (CDRC) met and acted on this case. The decision of the CDRC was to recommend approval of the request by a unanimous vote of 5-0.

The Applicant, requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow a second dwelling unit on 3.6 acres. The property is located within the Mountain Hydrologic Zone. Article III, Section 10 states the minimum lot size in this area is 80-acres per dwelling unit and can be further reduced to 20-acres with water restrictions. The subject property contains a permitted mobile home, a permitted 2,000 square foot detached garage with an office and studio. There is also a business being conducted on the property (Lujan Drilling) which is licensed by the County.

The Applicant requests this variance due to the extreme financial hardship he and his wife are currently undergoing. In March of 2009 the Applicant filed for bankruptcy and is currently losing his home to the bank. In March of 2010, the Applicant's son gave him permission to move his home onto the subject property. Since that time the Applicant's son has passed away in a tragic accident. The Applicant still has permission from his daughter-in-law and would like to enjoy his final years around his family.

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."

RECOMMENDATION:

Staff recommends that the request for a variance be denied; Article III, Section 10 states that the minimum lot size in this area is 80 acres per dwelling unit.

Should the BCC approve the variance, the CDRC recommends the following conditions:

1. The Applicant shall provide updated septic permits at the time of permitting for the second dwelling unit.
2. A shared well agreement shall be recorded in the County Clerk's office.
3. Water use shall be restricted to 0.25-acre feet per year per residence and each residence shall install a water meter. Annual water meter readings shall be submitted to the Land Use Administrator by January 31st of each year.
4. The Applicant shall obtain a business license from Santa Fe County for the Lujan Drilling Company at the current address where business is being conducted.
5. The mobile home shall be for the exclusive use for Mr. and Mrs. Charles Lujan and when the hardship no longer exists, the mobile home shall be removed from the property.

ATTACHMENTS:

- Exhibit "A" - Letter of request for Variance
- Exhibit "B" – Article III, Section 10 of the Land Development Code
- Exhibit "C" - Vicinity Map
- Exhibit "D" – Plat of Survey
- Exhibit "E" – Letter of Support
- Exhibit "F" - Aerial of Site
- Exhibit "G"- August 19, 2010 CDRC Minutes