

## **MEMORANDUM**

**DATE:** December 15, 2011

**TO:** County Development Review Committee

**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 11-5380 Andy Ortiz Variance

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### **ISSUE:**

Andy Ortiz, Applicant, requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow a Family Transfer Land Division of 3.75 acres into two lots; one lot consisting of 2.25 acres and one lot consisting of 1.5 acres with an existing residence. The property is located off County Road 51E, at 12 Camino Apolonia, in the Canoncito area, within Section 12, Township 15 North, Range 10 East (Commission District 4).

### **SUMMARY:**

The Applicant is seeking a variance to allow him to divide his 3.75 acre parcel into 2 lots for the purpose of a Family Transfer in order to give each of his two sons a piece of property. One lot will consist of 2.25 acres and the other lot will consist of 1.5 acres. The 1.5 acre parcel has an existing residence with a septic system and is served by the Canoncito at Apache Canyon Water Association. A letter from the Water Association has been submitted which states that they can supply water to the second parcel as well.

The property is located within the Homestead Hydrologic Zone where the minimum lot size is 40 acres per dwelling unit. A Small Lot Family Transfer would allow lot sizes of 20 acres per dwelling unit. If a geohydrologic study was conducted and proved that there was adequate water supply the minimum lot size could go down as low as 2.5 acres per dwelling unit.

Article III, Section 10.1.2 (Water Policies Governing Lot Sizes) states: Minimum lot size shall be calculated based either upon ground water storage or recharge of ground water, but not both. Water that is in storage beneath the lot in the Homestead Zone may be depleted over a 100-year lifetime. The lot must be large enough to have ground water in storage beneath the lot for a 100 year supply of water (Exhibit "E").

Article II Section 3 (Variances) of the Land Development 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 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" (Exhibit "F").

The subject property lies within Sustainable Development Area (SDA) 2 of the Santa Fe County Sustainable Growth Management Plan (SGMP). SDAs are areas that have been designated and mapped based on the existing and intended availability of public facilities and services, and the funding that will be available to provide such facilities and services.

**REQUIRED ACTION:**

The CDRC 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:**

Article III, Section 10 of the Land Development Code states the maximum allowable adjustment of density within the Homestead Hydrologic Zone is 40 acres per dwelling unit. Under the Small Lot Family Transfer provisions of the Code, the minimum lot size could be reduced to 20 acres per dwelling unit. The Applicant's parcel is 3.75 acres in size, and therefore is much smaller than the 40 acres that would be required to create two lots by Family Transfer. The Applicant has not adequately demonstrated that strict compliance with the provisions of the Code would result in an extraordinary hardship therefore staff recommends that the request for a variance be **denied**.

If the decision of the CDRC is to recommend approval of the Applicant's request, staff recommends the following conditions be imposed:

1. Water use shall be restricted to 0.25 acre feet per year per lot. 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.
2. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval.
3. No further division of either tract shall be permitted. This shall be noted on the Plat.

**ATTACHMENTS:**

- Exhibit "A" - Letter of Request
- Exhibit "B"-Survey Plat
- Exhibit "C"-Vicinity Map
- Exhibit "D"-Letter from Canoncito at Apache Canyon Water Association
- Exhibit "E" - Article III, Section 10 (Lot Size Requirements)
- Exhibit "F" - Article II, Section 3 (Variances)
- Exhibit "G" – Photos of the site
- Exhibit "H" – Aerial photograph of site and adjacent properties