

MEMORANDUM

DATE: March 17, 2011

TO: County Development Review Committee

FROM: Wayne Dalton, Building and Development Services Supervisor

VIA: Jack Kolkmeier, Land Use Administrator
Shelley Cobau, Building and Development Services Manager

FILE REF: CDRC CASE # V 11-5030 Ivan Salcido Variance

ISSUE:

Ivan Salcido, Applicant, requests a variance of Article II, Section 4.3.2c (Family Proper) of the Land Development Code to allow a Family Transfer Land Division of 2.8 acres into two 1.4 acre lots from sibling to sibling.

The property is located at 17 Corral Blanco Road off the East Frontage Road, South of the N.M. 599/I-25 Intersection, within Section 4, Township 15 North, Range 8 East, (Commission District 5).

SUMMARY

The Applicant requests a variance of Article II, Section 4.3.2c (Family Proper) of the Land Development Code in order to divide 2.8 acres into two 1.4 acre lots. The Applicant states he would convey 1.4 acres to his brother who originally helped him purchase the property. The Applicant claims, that his brother and his brother's family have been residing with him for nearly eight years and it is time his brother resides in his own home. The division will also enable his brother to leave his children something in the future.

There is currently a residence and conventional septic system on the property. The property is served by an off-site shared well. The property is located within the Basin Hydrologic Zone. Article III, Section 10 (Lot Size Requirements) of the Land Development Code states that the minimum lot size in this Hydrologic area is 10-acres and can be reduced to 2.5-acres with water restrictions. Lot size may be further reduced to 1.25 acres via Small Lot Family Transfer Article II, Section 4.3.5 (Lot Size Standards). The property has been in lawful

possession of the Family Proper for over five years, therefore the Applicant can apply for a Small Lot Family Transfer if the proposed variance is approved by the Board of County Commissioners. Family Proper is described in Article II, Section 4.3.2c, as “lineal relations up to and including the third degree. i.e. grandparent, parent, child. Step relations shall count as natural relationships so long as the step relationship is legally existent at the time of the transfer, including legal guardians who have performed the function of grandparent or parent to the person who is receiving the transferred lot.” (Exhibit “B”)

Article II Section 3 (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 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.” (Exhibit “C”)

REQUIRED ACTION:

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

RECOMMENDATION:

Staff has reviewed this Application and has found the following facts **not to support** this submittal: Article II, Section 4.3.2c (Family Proper) of the Land Development Code states: lineal relations up to and including the third degree. i.e. grandparent, parent, child, lineal in definition is the direct line of descent from an ancestor or hereditary; the Applicant is requesting the variance to allow for a Small Lot Family Transfer Land Division to be deeded from sibling to sibling, which is not considered a line of decent per Code; the purpose of the Code would be nullified; the Applicant has not justified a hardship which is contemplated by the Code therefore staff recommends **denial** of the Applicants request.

If the decision of the CDRC is to recommend approval, 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 both lots this shall be noted on the Plat. 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.
2. The Applicant shall enter into a shared well agreement with the owners of Tract B and Tract C.
3. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval.

4. No further division of either tract shall be permitted. This shall be noted on the Plat.
5. The Applicant shall connect to the County Water System when it becomes available within 200 feet of the property line.

ATTACHMENTS:

- Exhibit "A"- Letter of request
- Exhibit "B"- Article II, Section 4.3.2c (Family Proper)
- Exhibit "C"- Article II, Section 3 (Variances)
- Exhibit "D"- Photos of Site
- Exhibit "E"- Plat of Survey
- Exhibit "F"- Aerial of Site and Surrounding Area
- Exhibit "G"- Vicinity Map