

## **MEMORANDUM**

**DATE:** November 18, 2010

**TO:** County Development Review Committee

**FROM:** Jose E. Larrañaga, Commercial Development Case Manager

**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 10-5430 Ray Armenta Variance.

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### **ISSUE:**

Ray Armenta, Applicant, requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow for five, 5 acre tracts and one ten acre tract, to be divided below the maximum allowable lot size, as a family transfer.

The property is located on Hidden Valley Road, within Sections 4&5, Township 16 North, Range 10 East, (Commission District 4).

### **SUMMARY:**

On September 16, 2010, the CDRC met and acted on this case. The recommendation of the CDRC was to table the case so that the Applicant could meet with staff and discuss alternative options to resolve the Applicants request (Exhibit "J").

The Applicant requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow five 5 acre lots to be reduced to ten 2.5 acre lots and for a 10 acre parcel to be reduced to two 5 acre lots. The Applicant is proposing to deed the 2.5 acre lots to his daughters and grandchildren and one of the 5 acre lots to his sister.

The Applicant states the property is of great sentimental value to his family due to the history of their ancestors occupying the land. The Applicant also states that his wish is to transfer this family treasure (the land) to his loved ones (Exhibit "A").

The property is located within the Mountain Hydrologic Zone where the maximum allowable lot size is 20 acres with .25 acre foot water restrictions. All six lots are below the maximum

allowable lot size depicted by the Land Development Code. The lots were created pre-code, therefore are considered non-conforming legal lots of record (Exhibit "B").

The property is located in a mountainous area where the terrain is very steep and may be difficult to access. Staff has analyzed a 2008 Orthophoto at contour intervals of two feet and has determined that these lots may not have a suitable buildable area which would comply with the Code and that the grade of the access roads may not meet Code criteria (Exhibit "C"). The existing lots may require variances to establish buildable sites and to exceed the grade allowed for access roads to the sites.

For the creation of new lots the Code requires the following: the Applicant demonstrate existence of a buildable area on each lot for structures and support facilities (water supply, liquid waste disposal, access and utilities); development on a lot shall only occur within an approved development site; no development shall occur on natural slope of thirty percent (30%) or greater; each lot shall have a designated buildable area which shall meet the criteria set forth in Article VII, Section 3.4 Terrain Management Performance Standards (Exhibit "F").

Article VII, Section 3.4 (Performance Standards) states: "new lots shall contain an area suitable for building, including areas suitable for access corridor and utility sites and corridors which can be developed in accordance with these terrain management regulations and other requirements of the Code" (Exhibit "D").

Article II (4.3 Small Lot Inheritance and Small Lot Family Transfer), Section 4.3.5a (Lot Size Standards) states: "No lot shall be smaller than one half of the standard minimum lot size allowed in the particular location or hydrologic zone" (Exhibit "M").

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" (Exhibit "E").

### **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:**

Staff has reviewed this application and has found the facts presented **not** to support this application: a lot that is created, which has not established compliance with Code requirements, may not be eligible for application for a variance to the buildable area standards per Article III, Section 2.3.2d; the Applicant has not demonstrated the existence of a buildable area on each lot for structures and support facilities; the existing lots may require variances to establish

buildable sites and to exceed the grade allowed for access roads to the sites; the property is located within the Mountain Hydrologic Zone where the maximum allowable lot size is 20 acres; staff's analysis of the Applicants interpretation of the variance criteria does not justify the approval of this application; strict compliance with the requirements of the Code would not result in extraordinary hardship to the Applicant; to allow these lots to be reduced further below the density requirements allowed by the Code, the purpose of the Code would be nullified; the Applicant has not justified a hardship which is contemplated by the Code. The variance requested by the Applicant is not considered a minimal easing of the requirements of the Code therefore staff recommends **denial** of the Applicants request.

**ATTACHMENTS:**

- Exhibit "A" - Letter of request for Variance
- Exhibit "B" - Pre-code Plat
- Exhibit "C" - Orthophoto
- Exhibit "D" - Article VII, Section 3.4
- Exhibit "E" - Article II, Section 2 (Variances)
- Exhibit "F" - Article III, Section 2
- Exhibit "G" - Vicinity Map
- Exhibit "H" - Aerial Photo
- Exhibit "I" - Article III, Section 10 (lot size requirements)
- Exhibit "J" - CDRC Minutes
- Exhibit "K" - GIS Slope Analysis
- Exhibit "L" - Photos of Site
- Exhibit "M" - Article II, Section 4.3.3
- Exhibit "N" - Material Submitted by the Applicant