

MEMORANDUM

DATE: April 15, 2010

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

RE: CDRC CASE V 06-4572 Grabowski Variance

ISSUE:

Edward and Pam Grabowski, Applicants, Javier Ortega, Agent, request three variances of the County Land Development Code: 1) to allow disturbance of 30% slopes and greater; 2) to allow the height of the residence to exceed 18'; and 3) to allow retaining walls to exceed 10' in height in order to construct a 6,862 sq. ft. residence on 1.12 acres. The property is located off Old Santa Fe Trail at 59 Cloudstone Drive within Section 6, Township 16 North, Range 10 East (Commission District 4).

SUMMARY:

On November 30, 2006, the EZA denied the Applicants' previous request for variances of slope standards, building height and visibility for a 9,876 sq. ft. residence (refer to Exhibit "D").

The Applicants' revised their proposal and submitted a new application in January of 2007 for variances regarding slope disturbance, height of building, height of retaining walls and visibility standards to allow construction of an 8,345 sq. ft. residence. On March 29, 2007, the EZA granted approval of the variances requested (refer to Exhibit "E").

The decision of the EZA was appealed to District Court by neighbors of the Applicant. The EZA's decision was overturned by the District Court. The Applicants appealed the District Court's decision, however, before a ruling was made the Applicants entered into

a Settlement Agreement with the neighbors (Refer to Exhibit "F"). The result was a revised proposal which is before the CDRC today. With this proposal the applicant has decreased the size of the house by almost 1,500 sq. ft. and is asking for the same variances that were previously approved by the EZA with the exception of the variance on visibility (which is not a requirement of the County Code).

The Applicant is requesting three variances of the County Land Development Code: 1) to allow disturbance of 30% slopes and greater; 2) to allow the height of the residence to exceed 18'; and 3) to allow retaining walls to exceed 10' in height in order to construct a 6,862 sq. ft. residence on 1.12 acres.

Article VII, Section 3.4.1.c.1.c of the Code states that natural slopes of 30% or greater are no build areas and shall be set aside from development. Based on the slope analysis submitted, the applicant states that the majority of the slopes on the lot are near or at 30% or greater. Therefore, a variance is being requested.

Article III, Section 2.3.6.b.1 of the Code states "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')."

The Applicant is handicapped and due to the steep terrain, in order to keep the entire house on one level to allow handicap accessibility a height of up to 24'9" is being requested where a maximum of 18' is allowed by Code.

Article VII, Section 3.4.3.d of the Code states "Retaining walls shall not exceed ten feet (10') in height..." The applicant states that in order to minimize the height of the structure it will have to be cut into the slope to provide a low profile appearance. In order to accomplish this, a retaining wall of up to 24'9" feet in height will be required therefore, a variance is being requested.

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."

RECOMMENDATION:

The subject property is a legal lot of record and therefore would be entitled to a development right for a single residence. Article II, Section 3.1 (Variances) of the

County Code supports granting of variances for this circumstance. The staff objective is to maintain a compact low profile residence in order to minimize environmental and visual impacts. Staff considers the requested variances to be reasonable within the terms of County Land Development Code due to the unusual topography present on the site.

Staff recommends approval of the variances requested.

ATTACHMENTS:

- Exhibit "A" – Applicant's Letter
- Exhibit "B" – Site Plan/Building Elevations
- Exhibit "C" – Vicinity Map
- Exhibit "D" – November 20, 2006 EZA Minutes
- Exhibit "E" – March 29, 2007 EZA Minutes
- Exhibit "F"- Settlement Agreement