

**CASE NO. APP 09-5380
MINE SHAFT PROPERTIES APPEAL
MINE SHAFT PROPERTIES, APPLICANT**

ORDER

THIS MATTER came before the County Development Committee of Santa Fe County (“CDRC”) for hearing on October 15, 2009, on the Application of Mine Shaft Properties (“Applicant”) for an appeal of the Land Use Administrators (“LUA”) decision. After conducting a public hearing and reviewing the record, the CDRC makes the following findings of fact and conclusions of law:

1. The Applicant is requesting an appeal of the Land Use Administrators decision to confine all music events on the property to the interior of the Mineshaft Tavern and not to allow any activity outside of the Mineshaft Tavern.
2. Article II, Section 2.3.1a (Administrative Decisions) of the Code states the Code Administrator may approve or deny development permit applications without referring the application to the County Development Review Committee or the Board.
3. Staff testified that several improvements have been made, by the property owner, to the site which has enabled expansion of the historical use. A porch was built, without a development permit, and is used for outdoor seating, serving of alcohol and music events. Terracing of a portion of the property allowed for outdoor seating and entertainment. The owner has converted what was known as the Photography Studio into

a Saloon, where music events are held and alcohol is served. These alterations have prompted the property owner to engage in a variety of outdoor events on the property. These events were permitted by the LUA with the issuance of Special Use Permits. This type of permit is intended to allow an Applicant to have an occasional special event. The regularity of these events has increased the intensity of use of the property and altered the non-conforming character of the site.

4. Article II, Section 2.3.4b (Appeals) of the code states any person aggrieved by a decision of the Code Administrator under Section 2.3.1 may file an appeal to the County Development Review Committee within five (5) working days of the date of the Code Administrator's decision. The County Development Review Committee shall hear the appeal within sixty (60) calendar days of the date the appeal is filed. The County Development Review Committee shall make and file its decision approving or disapproving the application or approving the application with conditions or modifications.

5. In a letter, dated August 19, 2009, the Land Use Administrator (LUA) directed Lori Lindsey and Mineshaft Properties, LLC to confine all music events on the property to the interior of the Mineshaft Tavern. This directive was to take effect immediately upon receipt of the letter. This correspondence also stated that any activity outside of the Mineshaft Tavern will require a Special Use Permit and any further music activities that have not received a Special Use Permit will be issued a Notice of Violation and subject to attendant penalties.

6. At the October 15, 2009 hearing, Staff recommended that the CDRC deny the Appellants request and require Lori Lindsey and Mineshaft Properties, LLC to bring

the property into compliance with the Land Development Code. Code requires a Master Plan, per Article V, Section 5 (Master Plan Procedures), be submitted and approved by the Board of County Commissioners. An approved Master Plan will determine existing and future uses, current and future expansion and allow for extension of the business to incorporate all existing and/or proposed structures on the property. A Master Plan would allow the property owner to disclose, to the County and the community, the type of activity planned for this property.

7. Staff recommends the following conditions of approval if the recommendation of denial meets with CDRC approval:

1. The Applicant shall submit a Master Plan for consideration by the County Development Review Committee and Board of County Commissioners within six (6) months of this meeting date.
2. The Applicant, as a component of the Master Plan, shall submit an after the fact permit(s) for any and all development made on the property.
3. The Applicant shall be restricted to three (3) Special Use Permits per year, subject to the Land Use Administrators approval, prior to approval of the Master Plan.
4. The Applicant shall submit in a timely manner, upon approval and recordation of a Master Plan, a Final Development Plan identifying a phasing schedule for the development on the property.

8. Lori Lindsey testified, on behalf of Mine Shaft Properties, to the history of the Mine Shaft property and that historically outdoor entertainment has been conducted

on the site. Ms. Lindsey also testified that the improvements on the property should not be considered as an expansion but as improvements for safety concerns.

9. Nineteen members from the public spoke in favor of the Application.

10. Joseph Karnes, representing Madrid property owners, testified in opposition of the Application and in support of the LUA decision. Mr. Karnes also testified that the property owners concerns were on the amplified music on the site.

11. After conducting a public hearing on the request and having heard from the Applicant, the County Development Review Committee hereby denies the Applicants request and supports the Land Use Administrator’s directive to Lori Lindsey and Mineshaft Properties, LLC, to confine all music events on the property to the interior of the Mineshaft Tavern.

IT IS THEREFORE ORDERED that the Application is denied, and the Applicant is subject to the conditions set forth herein.

I certify that the Application was denied by the County Development Review Committee on this _____ day of _____, 2010.

The County Development Review Committee of Santa Fe County

By: _____
CDRC Chairperson

ATTEST:

Valerie Espinoza, County Clerk

Approved as to form:

Stephen C. Ross, County Attorney

