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Commissioner, District 2

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Commissioner, District 3



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Commissioner, District 5

Katherine Miller
County Manager

DATE: October 10, 2017

TO: Board of County Commissioners

FROM: Mathew Martinez, Development Review Specialist *MM*

VIA: Katherine Miller, County Manager
Penny Ellis-Green, Growth Management Director *PEG*
Vicki Lucero, Building and Development Services Manager *VL*

FILE REF.: CASE # APP 17-5021 Jerry West Appeal

ISSUE:

Santa Fe County, Appellant, is appealing the Santa Fe County Planning Commission's decision to approve a density variance (Jerry West Variance case # V17-5020) of Chapter 9, Table 9-14-4: Dimensional Standards of the San Marcos Community District overlay Rural Residential (SMCD RUR-R) zoning district. The Planning Commission approved a variance to exceed the density requirement of one dwelling unit per ten acres by allowing 4 dwelling units on a 5.963 acre lot. The property is located within the San Marcos Community Overlay District at 2 Loma Oriente Road within, Section 26, Township 15 North, Range 8 East, and (Commission District 5). SDA-2

Vicinity Map:



Site Location

SUMMARY:

On April 27, 2017, the Applicant presented a variance to the Hearing Officer for Public Hearing. The Applicant requested a variance of Ordinance No. 2016-9, the Sustainable Land Development Code, Chapter 9, Table 9-14-4: Dimensional Standards of the San Marcos Community District overlay Rural Residential (SMCD RUR-R) zoning district. The Applicant requested a variance to exceed the density requirement of one dwelling unit per ten acres by allowing 4 dwelling units on a 5.963 acre lot. The Hearing Officer having reviewed the application, staff reports, and having conducted a public hearing on the requests, found that the application is not well-taken and recommended that it should be denied. As memorialized in her findings of fact and conclusions of law in a written order. (Exhibit 11)

On June 15, 2017, the Planning Commission approved the requested variance by a 5-2 vote. (June 15, 2017, Minutes, Exhibit 9)

The Applicant requested a variance to exceed the density requirements of one dwelling unit per ten acres. There are currently 4 dwelling units on the 5.963 acre lot. The Applicant has submitted documentation which demonstrates that 2 dwellings existed prior to 1981 and therefore are considered legal non-conforming. The Applicant was unable to provide documentation for the remaining other two dwelling units.

The Appellant states, "The BCC took action on a variance request to subdivide the subject property in 2006. The BCC granted approval of the variance with the condition that no additional dwellings be allowed on the property. Only 2 dwellings were allowed by the BCC. On May 15, 2017 the Planning Commission approved a variance to allow 4 dwelling units on this property. Therefore the Appellant is appealing the Planning Commission's decision in accordance with the BCC's earlier condition." (Exhibit 1)

On June 13, 2006 the BCC acted upon a variance on this same property to allow a 10.9 acre lot to be divided into 2 lots, one of which is the subject of this appeal. The BCC allowed that variance with conditions that read:

1. Water use shall be restricted to 0.25 acre-feet per lot. A water meter shall be installed on both lots. Annual water meter reading shall be submitted to the Land Use Administrator by January 31st of each year. Water restrictions shall be recorded in the County Clerk's Office.
2. No additional dwellings will be allowed on the property.
3. The existing driveway will serve both homes.
4. The applicant shall submit an updated Environment Department liquid waste permit showing correct lot size and correct number of homes.
5. No further division of this land shall be permitted; this shall be noted on the plat.
6. Failure to comply with all conditions shall result in administrative revocation of the appeal.

As the BCC has already acted upon the density allowed on this lot. Staff is appealing the Planning