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County Manager

DATE: February 15, 2018

TO: Santa Fe County Planning Commission

FROM: Miguel "Mike" Romero, Development Review Specialist Sr.

VIA: Penny Ellis-Green, Growth Management Director ✓ for PEG
Vicki Lucero, Building and Development Services Manager ✓

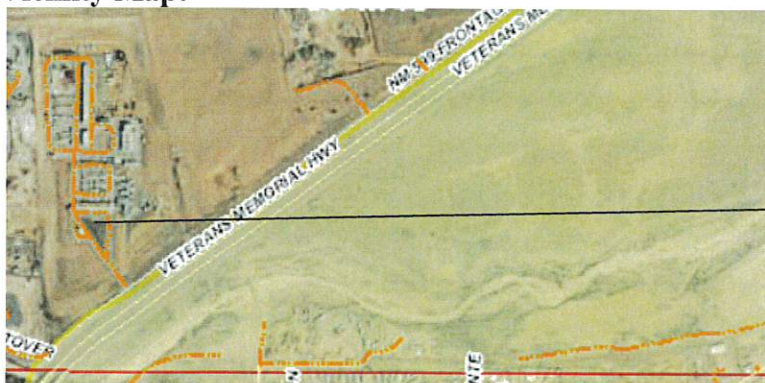
FILE REF.: CASE # V17-5350 Santa Fe County Public Works Variance

ISSUE:

Santa Fe County, Applicant, Baer Architecture NM, (Allan Baer) Agent, request a variance of Chapter 7, Section 7.11.11.3.2 Access to Subdivisions, Non-Residential Development and Multi-Family Development of Ordinance 2016-9, the Sustainable Land Development Code to allow one access point rather than the required two minimum access points for non-residential development exceeding 25,000 square feet.

The site is zoned as Public Institutional (PI) within the Airport Noise Zone (O-AN60 DNL). The site is located at 424 NM 599 Frontage Road, within Section 2, Township 16N, Range 8E (Commission District 2).

Vicinity Map:



Site
Location

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SUMMARY:

On January 11, 2018 the Application was presented to the Hearing Officer. The Hearing Officer supported the application based on the evidence and testimony presented at the public hearing. The Hearing Officer finds there is sufficient evidence of extraordinary and exceptional conditions of the Property that would result in undue hardship to the Applicant from the strict application of the Code and that the Applicant has met the variance criteria of the SLDC. Therefore, the Hearing Officer recommended approval of a variance of Chapter 7, Section 7.11.11.3.2 Access to Subdivisions, Non-Residential Development and Multi-Family Development of Ordinance 2016-9, the Sustainable Land Development Code (SLDC) to allow one access point rather than the required two minimum access points for non-residential development exceeding 25,000 square feet.

On October 25, 2017, the Applicant submitted an application for a Site Development Plan (SDP/DP 17-673) and under a separate application submitted a request for a variance of Chapter 7, Section 7.11.11.3.2 Access to Subdivisions, Non-Residential Development and Multi-Family Development of Ordinance 2016-9, the Sustainable Land Development Code (SLDC) to allow one access point rather than the required two minimum access points for non-residential development exceeding 25,000 square feet.

Chapter 7, Section 7.11.11.3.2 Access to Subdivisions, Non-Residential Development and Multi-Family Development of the SLDC states Major subdivisions of thirty-one (31) lots or more, those with 31 or more development units, or those non-residential developments consisting of 25,000 square feet or more, shall provide access to an existing County road, highway, state highway or federal highway and shall provide a minimum of two (2) access points to the referenced roadway. Such development shall also provide for connections to roads and highways identified on the Official Map.

The property at 424 NM 599 Frontage Road, consist of 38.856 acres that lies within the Public Institutional (PI) zoning district within the Airport Noise Zone (O-AN60 DNL). The property is leased by the State of New Mexico to Santa Fe County, which is occupied and operated by the operations of the County Public Works Department. The property is accessed off NM 599 Frontage Rd., which is surrounded by primarily State owned properties and privately owned and operated commercial, light, and heavy industrial uses. The Santa Fe County Public Works Facility consists of 49,825 sq. ft. The Site Development Plan request is to approve a 5,434 sq. ft. property control building and a 4,800 sq. ft. vehicle shelter to the existing 49,825 sq. ft., which will bring the total to 60,060 sq. ft.

Applicant's Statement

The site for the Public Works Campus was developed prior to the adoption of SLDC 7.11.11 in a configuration that makes providing a meaningful secondary access impossible as illustrated in the attached drawing. The narrow frontage site was designed with a single access road through three zones of increasingly restricted access: first is the public zone with parking, beyond the first set of gates is the employee parking, and past the next gates are the yard facilities. The Property Control Facility is located in this third zone of restricted access.

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The property frontage is 830 feet and the existing driveway entrance is close to the middle of that line. On the west side of the property frontage, easements on this property granted previously by the state to the adjacent landowner for an access driveway to their property would result in access points to the state highway frontage road that would be too close together. In addition a secondary access on this west side would not provide real access to the campus, as it would enter the majority of the property through the same first control gate between the public zone and the employee zone as the current access.

The original construction on this site leveled the property, cutting down the existing slope to the north and east property lines by some 30 feet from front to rear. On the east side of the property, a secondary access road would have to be cut down into the existing grade by some 10 feet, involving extensive earth removal and significant retaining walls, at a prohibitive cost. In addition, this road would have to be access controlled since it circumvents the site security in place, and would add no useful purpose for normal operations.

Staff Response:

The public works facility was built during the prior code, which allowed only one access point for this type of use. Staff confirms that due to the topography of the site and terrain constraints a secondary access point would be difficult to construct. The Applicant would have to hire an engineer to address existing slope issues to the east and north side of the site that would require the Applicant to remove extensive amounts of dirt and construct retention walls throughout the excavation site that would then possibly encroach into setback requirements. The site also contains a large detention pond to the west side of the site that is utilized for overflow protection. The adjacent property to the west does have a 50 foot Right-of-Way easement. Therefore, if the secondary access were constructed on the west side of the site, the access would be problematic due to separation of driveways from the adjacent access easement. The minimum distance between driveways for non-residential use would be between 287 feet to 375 feet. This would create a safety issue between driveways. Staff has confirmed with Santa Fe County Fire Prevention that if the variance request is approved by the Planning Commission, the existing access accommodates the use for non-residential development and the existing access does not present a safety issue.

The applicable requirements under the Santa Fe County Sustainable Land Development Code, Ordinance No. 2016-9 (SLDC), which governs this Application are the following:

7.11.11.3. Access to Subdivisions, Non-Residential Development and Multi-Family Development.

1. Where a subdivision is divided into large tracts and/or phased development is planned to occur, then a coordinated road system shall be designed with reference to all tracts and/or phases.
2. Major subdivisions of thirty-one (31) lots or more, those with 31 or more development units, or those non-residential developments consisting of 25,000 square feet or more, shall provide access to an existing County road, highway, state highway or federal highway and shall provide a minimum of two (2) access points to the referenced roadway. Such development shall also provide for connections to roads and highways identified on the Official Map.

3. A major subdivision, non-residential development exceeding 10,000 square feet and multi-family development shall provide all-weather access during a 100 year storm event to all lots or development sites.

Chapter 4, Section 4.9.7.1, Variances, Purpose, states:

The purpose of this Section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements and standards of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

Chapter 4, Section 4.9.7.4, Variance Review criteria states:

A variance may be granted by only a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) based upon the following criteria:

1. where the request is not contrary to public interest;
2. where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

Chapter 4, Section 4.9.7.5 Conditions of approval.

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of property owners and area residents.
2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.
3. All approved variances automatically expire within one year of the date of approval, unless the applicant files a plat implementing the variance or substantial construction of the building or structure authorized by the variance occurs within that time.

The Applicant has addressed the variance criteria as follows:

Secondary Access

1. Where the request is not contrary to the public interest;

Applicant's Statement: because the existing access road is straight, clear, 40 feet wide and has adjacent paving in the form of turnouts to parking areas, the public

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interest in safety is served without creating a separate secondary access to the facility.

Staff Response: Staff confirms that if the Applicant were to construct an access point to the west side of the property, it would present a separation issue between the two access points. The minimum distance between driveways for non-residential use would be between 287 feet to 375 feet. This would create a safety issue between driveways. Staff has confirmed with the Santa Fe County Fire Prevention that if the variance request is approved by the Planning Commission, the existing access accommodates the use for non-residential development and it does not present a safety issue.

2. Where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties and undue hardship to the owner;

Applicant's Statement: the very real practical difficulties presented by the extraordinary grade difference conditions of the property at the only location available to consider a secondary access road would result in excessive cost for construction and would compromise the security of the campus.

Staff Response: Staff confirms that due to the topography of the site and terrain constraints, a secondary access point would be difficult to construct. The Applicant would have to hire an engineer to address existing slope issues to the east and north side of the site. This would require the Applicant to remove excessive amounts of dirt and construct retention walls throughout the site which would then possibly encroach into setback requirements. The site also contains a large detention pond to the west side of the site utilized for overflow protection.

3. So that the spirit of the SLDC is observed and substantial justice is done.

Applicant's Statement: the spirit embodied in the "SLDC is designed to protect and promote the health, safety and general welfare of the present and future residents of the County" is observed at this campus as it was built, and the addition of this Property Control Facility does not in any way compromise that spirit, and substantial injustice would be done by requiring the County to spend excessive funds on a redundant secondary access.

Staff Response: Staff confirms that constructing an additional access point would be costly because the Applicant would have to hire an engineer to address existing slope issues to the east and north side of the site. The Applicant would have to remove excessive amounts of earth and construct retention walls throughout the site which would then possibly encroach into setback requirements.

As required by the SLDC, the Applicant presented the Application to the Technical Advisory Committee (TAC) on September 21, 2017, at the regularly scheduled monthly meeting, which satisfied the requirements set forth in Chapter 4, Section 4.4.4.3, Pre-application TAC Meeting.

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Notice requirements were met as per Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing, of the SLDC. In advance of a hearing on the Application, the Applicant provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for fifteen days on the property, beginning on December 26, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on December 26, 2017, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject property and a list of persons sent a mailing is contained in the record.

This Application was submitted on November 22, 2017.

RECOMMENDATION:

The Applicant addressed the variance review criteria. Staff recommends approval of a variance of Chapter 7, Section 7.11.11.3.2 Access to Subdivisions, Non-Residential Development and Multi-Family Development of Ordinance No. 2016-9, the Sustainable Land Development Code to allow one access point rather than the required two minimum access points for non-residential development exceeding 25,000 square feet. A single access point can be considered a minimal easing of the code due to the existing topography of the site, and the fact that the fire department confirms there is no safety issue and fire protection measures are in place.

This matter went before the Hearing Officer for a hearing on January 11, 2018. The Hearing Officer supported the application based on the evidence and testimony presented at the public hearing. The Hearing Officer finds there is sufficient evidence of extraordinary and exceptional conditions of the Property that would result in undue hardship to the Applicant from the strict application of the Code and that the Applicant has met the variance criteria of the SLDC. Therefore, the Hearing Officer recommended approval of a variance of Chapter 7, Section 7.11.11.3.2 Access to Subdivisions, Non-Residential Development and Multi-Family Development of Ordinance 2016-9, the Sustainable Land Development Code (SLDC) to allow one access point rather than the required two minimum access points for non-residential development exceeding 25,000 square feet.

If the decision of the Planning Commission is to approve the application, staff recommends that the Planning Commission make its own findings of fact and conclusions of law, including findings of fact and conclusions of law to support each of the three variance criteria in Chapter 4, Section 4.9.7.4 of the SLDC.

EXHIBITS:

1. Applicant's Request
2. State of New Mexico Commercial Lease/Survey Plat
3. Aerial of Site and Surrounding Area
4. Chapter 7, Section 7.11.11.3.2 Access to Subdivisions, Non-Residential Development and Multi-Family Development
5. Noticing
6. Santa Fe County Fire Prevention Letter
7. Hearing Officer Final Order/Meeting Minutes