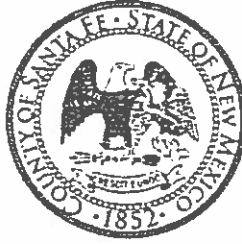


Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

**CDRC CASE # Z/P&FDP/V 14-5470 Ernest Luna Water Tower Master
Plan/Preliminary/Final Development Plan/Variance**

ORDER

THIS MATTER came before the Board of County Commissioners (BCC) of Santa Fe County for hearing on April 14, 2015, on the Application of Ernest Luna (Applicant) for a Master Plan Zoning, Preliminary and Final Development Plan approval in accordance with Santa Fe County Ordinance 1996-10, the Santa Fe County Land Development Code (Code), as amended by the Santa Fe County Ordinance No. 1998-15, and to request a variance of Article III § 4.4.4.c (Development and Design Standards) as amended by Santa Fe County Ordinance No. 2002-6, to allow a water storage tank to be constructed sixty-six (66') feet in height for the Greater Glorieta Mutual Domestic Water Consumers Association (the MDWCA). The water storage tank will be located in a fenced 4,400 square foot area, with a 17,802 square foot access driveway. Associated water lines will be within an easement on 10.82 ± acres. The BCC, having reviewed the Application, supplemental materials, staff reports, and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted, subject to conditions, and makes the following findings of fact and conclusions of law:

1. The Applicant requests Master Plan Zoning, and Preliminary and Final Development Plan approval for a water storage tank, as well as a variance of the Code for maximum permitted height of a water storage tank in a fenced 4,400 square foot area, a 17,802 square feet access driveway, associated water lines within an easement, on a 10.82± acre site.

2. The Property is located in the Traditional Community of Glorieta, within Section 2, Township 15 North, Range 11 East, at 65 La Joya Road.
3. Ernest Luna acquired the Property by warranty deed, recorded on December 23, 1969, in Book #269, Pages 888-889 in the Santa Fe County Clerk's records.
4. The Applicant complied with the notice requirements of Article II, Section 2.4.2 of the Code. In advance of a hearing on the Application, the Applicant provided a certification of posting of notice of the hearing and confirmed that public notice posting regarding the Application was made for twenty-one days on the property, beginning on February 26, 2015. Additionally, notice of the hearing was published in the legal notice section of the Santa Fe New Mexican on February 26, 2015, as evidenced by a copy of that legal notice contained in the record. Receipts for certified mailing of notices of the hearing were also contained in the record for all adjacent property owners and Home Owners Associations.
5. The water storage tank is classified as Other Development and requires zoning approval and a development permit. Santa Fe County Ordinance No. 1998-15, amends Article III, Section 8 of the Code, for Other Development and states:

Subject to the requirements of this Section, all uses not otherwise regulated by the Code are permitted anywhere in the County provided a request for zoning approval is granted per Article III, except for utility lines which may be approved administratively per subsection 8.3.7 set forth below. Such uses specifically include, but are not limited to utilities, parking facilities, and cemeteries. Notwithstanding the fact that these uses are permitted, a development permit is still required... Development standards and criteria and submittal requirements are set forth in Subsection 4.4...

6. Article III, Section 4.4 of the Code is the design standard and review criteria for the application; Applicant is in compliance with all criteria except the maximum height requirement. Article III, Section 4.4.4 c, as amended by Santa Fe County Ordinance No. 2002-6, states that the maximum height for structures shall be limited to thirty-six (36') feet.
7. Article V, Section 5.2.1.c, explains:

A master plan submittal will consist of both plans and written reports which include the information required in 5.2.2 below. A typical submittal would include a vicinity map, a plan showing existing site data, a conceptual environmental plan with written documentation, a master plan map, a master plan report, a schematic utilities plan and the phasing schedule. Maps and reports may be combined or expanded upon at the discretion of the applicant to fit the particular development proposal as long as the relevant information is included.

8. In order to approve a master plan according to Article V, Section 5.2.4.b states:

The County Development Review Committee and Board shall consider the following criteria in making determinations and recommendations for approval or amendment of master plans:

1. Conformance to County and Extraterritorial Plan;
2. Suitability of the site to accommodate the proposed development;
3. Suitability of the proposed uses and intensity of development at the location;
4. Impact to schools, adjacent lands or the County in general;
5. Viability of proposed phases of the project to function as completed developments in the case that subsequent phases of the project are not approved or constructed;
6. Conformance to applicable law and County ordinances in effect at the time of consideration, including required improvements and community facilities and design and/or construction standards.

9. Article II, Section 3.1 of the 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 such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the [BCC] and the [BCC] may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. Section 3.1 concludes that, In no event shall a variance...be recommended by [the] Development Review Committee nor granted by the [BCC] if by doing so the purpose of the Code would be nullified.

10. Article II, Section 3.2 states, "In no case shall any variation or modification be more than a minimum easing of the requirements."

11. The height for the water storage tank must be sixty-six (66') feet because when a hydraulic analysis was conducted, it indicated sixty-six (66') feet as the minimum height for the water flow needed to comply with Article 9, Section 903 of the 1997 Uniform Fire Code's requirements for fire flow.
12. In accordance with the Code, on March 19, 2015, the County Development Review Committee (CDRC) held a public hearing on the Application and unanimously recommended approval of the Application.
13. On April 14, 2015, the BCC held a public hearing on the Application. A staff report was presented to the BCC, the staff report recommended approval and included conditions.
14. No objection to the Application was identified by the Office of the State Engineer, New Mexico Environment Department, or the Santa Fe County Fire Prevention Division.
15. At public hearing, no one from the public spoke in opposition to the Application, and both the Applicant and Marian Markham, a Glorieta community member, spoke in support of the application.
16. Commissioner Holian noted that this is a case where a variance promotes the health, safety, and welfare of the community because it will improve the Glorieta water system.
17. The Master Plan and Preliminary and Final Development Plan conforms to the eligible uses associated with "Other Development" of Ordinance No. 1998-15, these plans additionally conform to all the submittal requirements except the maximum height requirement.
18. Other than height, the Application complies with all requirements under Article V for a master plan as follows:
 - a. The Application does not propose phasing;
 - b. The height of the water storage tank is needed to comply with Article 9, Section 903 of the 1997 Uniform Fire Code's requirements for fire flow;

- c. At the conceptual level required for master plan approval, the Application conforms to the Code and other applicable law and ordinances in effect at the time of consideration;
- d. At the design level required for preliminary and final development plan approval, the Application conforms to the Code and other applicable law and ordinances in effect at the time of consideration.

19. A height variance is necessary to provide an additional water source to the Glorieta community, and if it was not granted it would exact a hardship on the Glorieta water system. The granting of this variance constitutes a minimal easing of the Code because this water tank will provide safe, reliable drinking water to the Glorieta community.

20. The following conditions of approval shall be applicable and have been agreed to by Applicant:

- a. The Applicant shall obtain all required development permits;
- b. The water storage tank shall be painted in an earth-toned color in order to camouflage the exterior of the tank;
- c. The Applicant shall comply with all conditions set forth by the Santa Fe County Fire Prevention Division;
- d. Master Plan with appropriate signatures shall be recorded with the County Clerk as per Article V, Section 5.2.5.

WHEREFORE, the BCC hereby approves the request for Master Plan Zoning, Preliminary, and Final Development Plan approval to allow a water storage tank for the Greater Glorieta MDWCA in a fenced 4,400 square foot area, a 17,802 square foot access driveway, associated water lines within an easement on 10.82 ± acres, and a variance of Article III § 4.4.4.c to allow a proposed water storage tank to be constructed at sixty-six (66') feet in height which exceeds the maximum permitted height of 36 feet. The motion to approve the Application passed by a unanimous 5-0 vote, with Commissioners Anaya, Holian, Stefanics, Roybal and Chavez present.

IT IS SO ORDERED.

This Order was approved by the Santa Fe County Board of County Commissioners on this 30th day of June, 2015.

SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS

By: _____
Robert A. Anaya, Chair

Attest:

Geraldine Salazar, County Clerk

Approved as to form:



Gregory S. Shaffer, County Attorney

