

MEMORANDUM

DATE: April 16, 2008

TO: County Development Review Committee

FROM: Jose E. Larranaga, Commercial Development Case Manager

VIA: Shelley Cobau, Building and Development Services Manager
Wayne Dalton, Building and Development Services Supervisor

FILE REF.: CDRC CASE # V 09-5090 Roibal Variance

ISSUE:

Gerald and Carolyn Roibal, Applicants', request a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow a land division of 5.11 acres into two lots.

The property is located at 101B South Fork Road, within Section 31, Township 15 North, Range 9 East, (Commission District 5).

SUMMARY:

The Applicants' are requesting a variance of Article III, Section 10 (lot size requirements) of the Land Development Code to allow a family transfer land division of 5.11 acres into two lots. There are currently two dwellings, two septic systems, and a well on the property. The Applicants' state the dwellings on the property were in existence prior to 1981 and have submitted aerial photographs which display two structures on the property prior to 1981 (Exhibit "F").

The Applicants' state that their daughter and son in law reside on the 5.11 acre parcel in a mobile home and the intent of the Family Transfer land division is to deed 2.5 acres to the daughter so they may obtain a loan to build a home on the property.

The property is located within the Basin Fringe Hydrologic Zone where the minimum lot size is 12.5 acres per dwelling unit. The 5.11 acre parcel was created prior to 1981 and is acknowledged by county staff as a legal non conforming lot that would be allowed one single family dwelling. The aeriels submitted by the Applicant does not demonstrate the existence of a second dwelling on the property prior to 1981, therefore staff is unable to verify legal non conforming status for the second dwelling.

Article II Section 3 (Variances) of the County Code states that “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 condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance.” This Section goes on to state, “In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.”

REQUIRED ACTION:

The CDRC should review the attached material and consider the recommendation of staff; take action to approve, deny, approve with conditions, or table for further analysis of this request.

RECOMMENDATION:

Article III, Section 10 of the Land Development Code states the maximum allowable adjustment of density within the Basin Fringe Hydrologic Zone is 12.50 acres with water restrictions. Staff does acknowledge the 5.11 acre parcel as a legal lot of record allowing for one single family dwelling. The 5.11 acre lot is currently exceeding the density requirements with two dwellings and it is staffs opinion that the aeriels as submitted by the Applicant do not prove pre 1981 status, therefore the proposed request is not in conformance with the Code. The Applicant does not adequately demonstrate that the need for the variance is based on unusual topography or other such non-self inflicted condition as set forth in Article II, Section 3, therefore staff recommends that the request for a variance be **denied**.

ATTACHMENTS:

Exhibit “A” - Letter of Request
Exhibit “B” - Article III, Section 10 (Lot Size Requirements)
Exhibit “C” - Article II, Section 3 (Variances
Exhibit “D” - Site Plan/Survey Plat
Exhibit “E” - Vicinity Map
Exhibit “F” – Aerial Photos
Exhibit “G” – Letters of support

CDRC

April 16, 2009

Gerald and Carolynn Roibal, Variance

Page 3