

MEMORANDUM

DATE: April 16, 2009

TO: County Development Review Committee

FROM: John Lovato, Development Review Specialist

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

FILE REF.: CDRC CASE # V 08-5390 Montoya Variance

ISSUE:

Gilbert Montoya, Applicant, is requesting a variance of Ordinance 2008-5 and Article III, Section 10 (Lot Size Requirements) of the Santa Fe County Land Development Code, to permit a second residential unit on .950 acres.

The property is located off 139B Camino Del Rincon in Pojoaque within Section 9, Township 19 North, Range 9 East, Santa Fe County (Commission District 1).

SUMMARY:

The Applicant requests a variance of Ordinance 2008-5, Section 12.5 (Pojoaque Valley Traditional Community District), and Article III, Section 10 of the Land Development Code to allow the placement of a second dwelling on .950 acres. The property is served by an onsite well and a conventional septic system. Currently, the two homes are connected to the onsite well and the conventional septic system. The Applicant was issued a Notice of Violation on September 15, 2008 from a Santa Fe County Code Officer for unpermitted development. The unpermitted development consists of a mobile home and a garage.

The property is located in the Traditional Community of Pojoaque. Ordinance 2008-5 and Article III, Section 10, of the Land Development Code states the minimum lot size in this area is 0.75 acres per dwelling unit. The property does not qualify for a family transfer land division as the density for this area is 0.75 acres per dwelling.

The Applicant states that he needs the additional home on the property and the home was needed for his daughter. The Applicant states that at the time his daughter was a single parent and needed somewhere to live. The Applicant states that he and his wife are disabled and needed the care of their daughter. The Applicant further states that since then his daughter has moved out and had homeless cousins moved in to help care for he and his wife.

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 such 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:

Staff recommends that the request for a variance be **denied** because the medical condition does not constitute the sort of “hardship” contemplated by the Code as a condition.

If the decision of the CDRC is to recommend approval of the Applicant’s request, staff recommends the following conditions be imposed:

1. No additional dwellings shall be permitted on the property.
2. The Applicant shall obtain an After-the-fact permit for the second mobile home and garage on the property.
3. All debris must be removed from the property within thirty days.

ATTACHMENTS:

Exhibit “A” - Letter of request for Variance
Exhibit “B” -Article III, Section 10 (lot size requirements) of the Code
Exhibit “C”- Article II, Section 3 (Variances) of the Code
Exhibit “D”- Site Plan
Exhibit “E”- Vicinity Map
Exhibit “F”- Letters of opposition