

**TRANSCRIPT OF THE
SANTA FE COUNTY
SLDC HEARING OFFICER MEETING**

Santa Fe, New Mexico

September 22, 2016

I. This meeting of the Santa Fe County Sustainable Land Development Code Hearing Officer meeting was called to order by Santa Fe County Hearing Officer Nancy Long on the above-cited date at approximately 3:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Staff Present:

Penny Ellis-Green, Growth Management Director
Vicki Lucero, Building & Services Manager
Tony Flores, Deputy County Manager
John Lovato, Development Review Specialist
Andrea Salazar, Assistant County Attorney

II. APPROVAL OF AGENDA

Hearing Officer Long approved the agenda as published.

III. PUBLIC HEARING

- A. **Case #V16-5170 Louis French Variance. Louis French, Applicant, requests a variance of Ordinance 2015-11, (Sustainable Land Development Code) Chapter 8, Section 8.6.2 Table 8-6, Dimensional Standards- RUR (Rural) to allow six (6) 512 square foot residential units and a 1,400 square foot residence, for a total of seven (7) residential dwelling units on 3.36 acres. The property is located at 5 Old Goat Road, within the vicinity of Madrid, within Section 25, Township 14 North, Range 7 East (Commission District 3)**

Hearing Officer Long read the case caption as shown above and invited Mr. Lovato to provide staff report.

JOHN LOVATO (Case Manager): Thank you, Hearing Officer Long. The property consists of 3.36 acres within the Rural Zoning District, as defined by the SLDC, Chapter 8, Section 8.6.2, Table 8-6, which states the maximum lot size is 40 acres per dwelling unit. Therefore, the Applicant is requesting a variance.

The Applicant states, "It has become evident that there is a need for people that are in the area temporarily. There are people who come to the community for inspiration of local artists and cultural and tourism activities bringing tourist dollars to Santa Fe County. There is also the need for housing for folks seeking seasonal employment in the Community. The proposed six 512 square foot structures/guest lodges are in the style of miners shacks that are iconic in the Madrid Community."

The Applicant further states, when planning was done for the Madrid Overlay District, 5 Old Goat Road was not included into the overlay district boundary. The Applicant states, for these reasons, he is requesting hardship relief from the Code in the form of a variance that shall allow a deviation from the dimensional requirements of the Code. The use of the land will be reflective of the Madrid Overlay Zoning District. These are Multi-family homes that will be rented for long term and the use will require a site development plan that will need to meet Code requirements.

Staff Response: The Applicant has not addressed special conditions, or that a literal enforcement of the SLDC will result in unnecessary hardship to the Applicant. The minimum lot size for the Rural Zoning District is 40 acres per dwelling unit. The number of dwelling units exceeds density requirements allowed by the Sustainable Land Development Code.

The property has never been included in the Madrid Traditional Community boundary which was created in 2002. The Madrid Community went through a community planning process in 2002, that process began with the designation of the community planning boundary and the subject property was not included in the chosen boundary. The 2002 Madrid community plan included a survey of all the properties within the traditional Community, this property was not included. Madrid updated their plan through a community planning process in 2015, and again the property was not included in that planning boundary.

The Subject property has never been considered part of the traditional community. Prior to the zoning map adoption, this property was in the Homestead Hydrologic Zone that had a minimum density of one dwelling per 160 acres. This could be reduced to 1 dwelling unit per 40 acres with signed and recorded water restrictions. The density that the Applicant has proposed has never been allowed or considered appropriate for this property.

In addition, the Madrid Community Overlay District is not all designated as a Traditional Community. The Overlay also includes a Rural Zoning District that requires a 40 acre minimum. This rural designation was also given to the property to the northwest of the subject property.

The Applicant is requesting a total of seven dwelling units on a 3.36 acre parcel which would even have exceeded the allowable density in a traditional community. The proposed density would only conform to the densities allowed in the CCD Village Zone or a mixed use zone with the purchase of development rights, which are both in SDA1 growth areas and require proof of adequate public services including a community water system, a community sewer system, and a pressurized fire protection system.

Chapter 14, Section 14.9.7.4, Variance Review criteria states:

1. Where the request is not contrary to public interest;
2. Where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the applicant; and
3. So that the spirit of the SLDC is observed and substantial justice is done.

Staff Response: This property contains no extraordinary or exceptional situations or conditions. The Rural Zoning District allows the density of one home on this tract. The density allowed on this tract is 1 dwelling unit per 40 acres which is the density that has been in place since 1981.

Regarding variance factor 3, the zoning map was approved by the Board of County Commissioners in December 2015. After extensive public comments, the zoning designation given to this property was Rural, which is consistent with the allowable density permitted on this lot since 1981.

Recommendation: Staff recommends denial of the Applicants request for variance of Ordinance 2015-11, Chapter 8, Section 8.6.2 Table 8-6, Dimensional Standards-Rural to allow six 512 square foot residential units and a 1,400 square foot residence for a total of seven dwelling units on 3.36 acres. The property lies within the Rural Zoning District where the minimum lot size is 40 acres per dwelling unit. The proposed density is only appropriate within an SDA1 growth area with the provision of adequate public services and the purchase of development rights.

The Madrid Community went through an extensive public community planning process in 2002 and again in 2015 and chose not to include this property in the Traditional Community Boundary.

Staff requests the Hearing Officer memorialize findings of fact and conclusions of law in a written order. The Santa Fe County Planning Commission will be holding a public hearing on this matter on November 17, 2016. And I stand for any questions.

HEARING OFFICER LONG: Is there an existing house on the property at this point?

MR. LOVATO: Hearing Officer Long there is not. The property is vacant.

HEARING OFFICER LONG: Okay. So the request for the six 520 square foot residential units and the 1,400 square foot residence would all be new.

MR. LOVATO: Hearing Officer Long, that is correct.

HEARING OFFICER LONG: Okay. And in the community overlay zoning district for Madrid what is the maximum zoning district there? Is it Traditional Community?

MR. LOVATO: Hearing Officer Long, it is Traditional Community.

HEARING OFFICER LONG: And that's one dwelling for .75.

MR. LOVATO: For three-quarters of an acre.

HEARING OFFICER LONG: Okay, thank you.

MR. LOVATO: Thank you.

HEARING OFFICER LONG: Is the applicant here?

LOUIS FRENCH: I am.

HEARING OFFICER LONG: Please come forward and first we'll have you sworn in by our recorder.

[Duly sworn, Louis French testified as follows]

LOUIS FRENCH: Thank you, Senior Specialist Lovato and thank you ho for taking time today to see us.

I'm here today with my life partner of 22 years and husband three years, Colin Singleton. His name appears in documents.

In Madrid I am the director, as a volunteer, of the Madrid Old Coal Town Museum and have been in that position for five years. I am also the publisher of the *Madrid Artist Quarterly* a 30,000 per quarter publication that has enjoyed some good success as a tabloid magazine and represents the Madrid community and its artists in a very positive light.

We have been in New Mexico for 13 years and have come to really love the state and the time that we've spent here and the people here. Madrid has a national and, in fact, a worldwide appeal with 46 storefronts, hundreds of artists, craftsmen and craftswomen throughout the town,

many wonderful places to eat and drink but unfortunately has very few places to stay for overnight or longer term guests.

We understand the nature of small towns and we are proposing a development that acknowledges small sustainable growth. The property will be a high-quality, environmentally responsible, historically correct, guest lodges in a cluster development. As we've said, there will be six 512 square-foot guest lodges and I believe you have the artist representation of that.

HEARING OFFICER LONG: Yes, I've got that.

MR. FRENCH: With the assistance of Senior Specialist Lovato we've gone through the variance notification process which is all in the packet as well. But in addition to that and is not required by this process, we've had two community meetings. That was done in the interest of being not disingenuous and providing transparency to the community on this project. The first meeting was held on Thursday, September 1st with about 40 people in attendance in the theatre that is on the grounds of the museum. We let the meeting go as long as it needed to and it lasted about 90 minutes. There were a lot of questions during the meeting and questions afterwards and we represented, I think, in a good way.

The second public appearance was at the Madrid Landowners Association meeting that occurred last week. We presented the project again to the entire association, those in attendance and at the end of the presentation one of the members of the association proposed a – I've lost the word I am looking for – resolution and it was approved by the Madrid Landowners Association. They do not have the ability in their charter to approve developments; however, they do have the ability to do what I'm going to read right now. This is from Clinton Anderson he is and I can submit this as an evidence piece. Clinton Anderson is the secretary of the organization, he states: Following is the text I plan to include in the minutes of the September MLA meeting concerning your project. Steve Shepherd, a member of the Association, moved that the MLA not object at this point to the conceptual plans submitted by Louis French reserving its final opinion until the final plans are approved by the County. Voting: the motion carried 10 in favor and 7 against, 2 abstaining.

The booklet has all the plans in it. Many, many – our water permits, our septic permits and all of that. So the County – the community has gotten a chance to see because we printed 15 of these and this is the last one that I have.

So as you can see, we have good community support. We have it from a diverse group of people: landowners, business owners, artists, local workers, renters, and others in the surrounding area.

With regard to the review criteria, under variance 14.9.7.4, review criteria, we believe that we have established that this is – that this should be approved where the request is not contrary to the public interest. Also, we believe that we are in the spirit of the SLDC and that's substantial justice will be done by approving this. Further, in the spirit of the rural zoning we believe that in Section 8.6.2.1 in purpose that a density transfer and cluster development should be allowed in this case.

Thank you, Hearing Officer Long, and I'd like to take any questions if you have them at this point.

HEARING OFFICER LONG: Thank you. At this point you're seeking this dimensional variance to allow the density and then if that were to be approved then what would be your next step in terms of the process with the County?

MR. FRENCH: I rely on Senior Specialist Lovato for helping me with that but I believe we would go through the permitting process. We've already had some conversations with Fire, Environment Department, and with State Engineer.

HEARING OFFICER LONG: And I think staff can address that. And the reason for the one house that would be 1,400 square feet, is that intended to be your residence?

MR. FRENCH: Correct. That would be our part-time residence. We live in Albuquerque and we really like the neighbors and the place that we're there and we also like Madrid very much so we would spend part of our time in Albuquerque and part of time there. Being in Madrid is important to me not only being the museum director and the publisher of the magazine, the magazine is quarterly, but it would also give me the opportunity to manage the six units.

HEARING OFFICER LONG: I was wondering about that.

MR. FRENCH: I would be the manager of those.

HEARING OFFICER LONG: And the use that you're intending could be short-term or long-term occupancy?

MR. FRENCH: Well, in most cases we expect it to be shorter, shorter term. We've worked with local crafts people to set up classes so that someone can learn glassblowing or printmaking or pottery or any kind of jewelry making, maybe even gold mining in some of the local turquoise mines. We hope that we could get tourists visitors, maybe even from New Mexico, to come and stay for a few days, a few weeks and be able to really absorb that and use it as a base to visit Santa Fe and Albuquerque and other places in the state.

We also know that there are people who come in short-term for seasonal work and that that would also provide some housing for that. So we expect it to have mixed use.

HEARING OFFICER LONG: All right. Thank you.

MR. FRENCH: Thank you very much, ho.

VICKI LUCERO (Building & Development Service Manager): Hearing Officer Long, if I could just make a couple of clarifications. The term density transfer was used by the applicant and just to clarify that would mean that he actually had density from another location to transfer to this property in which he does not. The request is actually for a density variance which means he doesn't meet the allowable density and staff does not feel that that would be in the spirit of the SLDC.

HEARING OFFICER LONG: So the density transfer I think he was meaning in maybe a non-technical way but what you're saying is that there would have to be density transferred from some other property and that's not being proposed.

MS. LUCERO: Hearing Officer Long, that is correct.

HEARING OFFICER LONG: And the dimensional variance that is sought is to the density for the dimensional standards.

MS. LUCERO: That is correct, yes.

HEARING OFFICER LONG: And maybe you could answer the question of the continued process should the variance be approved.

MR. LOVATO: Hearing Officer Long, if you should recommend approval this will go to the Planning Commission and should they approve the case then the applicant would have to come in with a site development plan which would be done administratively but would have to comply with all conditions of the code in terms of reviewing agencies and have positive feedback from all reviewing agencies.

HEARING OFFICER LONG: And would it be a use that would be allowed by the code? You may not have all the details on what the proposed use is but --

PENNY ELLIS-GREEN (Growth Management Director): Hearing Officer Long, if I could answer that. It actually would not be handled administratively. Five or -- actually, three or more units is considered multi-family dwellings and in a Rural Zoning District that is a conditional use permit so it would have to come in front of you and the Planning Commission meeting all code requirements.

I would want to add that there is nowhere in the County that allows this kind of density unless it is in a mixed-use area where you buy transfer of development rights and in order to do that you would need to have adequate public facilities that would mean a community water system, a community sewer system, fire hydrants -- all of those things would need to be provided. In our Community College District, our growth area, this kind of density would be allowed. But, again, all of those services would need to be provided. None of that is available or proposed to be provided by this applicant. We feel that it is not in the spirit of the SLDC. The zoning map has very recently been approved and this is not in accordance with the zoning map.

HEARING OFFICER LONG: Okay, I hear that. So even if the variance were approved, you're saying the conditional use permit may not be when all of the standards are applied to it from the code.

MS. ELLIS-GREEN: Hearing Officer Long, that is correct. I would add that this is for creating dwelling units, individual dwelling units, if the applicant were to change their request and do something like a bed and breakfast where people could come and stay for a weeklong, a week at a time and do art or whatever it is that he is proposing then bed and breakfasts again need to meet the code requirements, but they can be done as a permitted use in a rural area district. And it would seem that that would be a more appropriate use of the land then having this vast density variance approved.

HEARING OFFICER LONG: Okay, thank you. All right, let me ask if there is anyone here that would like to speak to this application either for or against other than the applicant? And there is no one present to speak to the application. The public hearing is closed.

Thank you, I appreciate your time. I will issue a written decision and the County will notify you of that and as you heard your next step then would be to go the Planning Commission and my recommended decision will be sent to them but they make their own decision. And I do thank you for your time and reaching out to your community and it sounds like you're on to something and I hope something can be worked out.

This meeting, unless there is any other business from staff this meeting will be adjourned.

IV. Adjournment

With no further business, Hearing Officer Long adjourned the meeting at 3:20 p.m.

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

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Approved by:

I Hereby Certify That This Instrument Was Filed for
Record On The 13TH Day Of October, 2016 at 08:32:11 AM
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Nancy Long
Nancy Long, SLDC Hearing Officer
Santa Fe County

Deputy *Geraldine Salazar* Witness My Hand And Seal Of Office
Geraldine Salazar
County Clerk, Santa Fe, NM

Santa Fe County
SLDC Hearing Officer Meeting: 9/22/2016

