

MINUTES OF THE
SANTA FE COUNTY
PLANNING COMMISSION

Santa Fe, New Mexico

March 18, 2021

1. A. This meeting of the Santa Fe County Planning Commission was called to order by Chair Charlie Gonzales on the above-cited date at approximately 4:09 p.m.

In accordance with the Public Health Emergency Order issued by the State of New Mexico, this meeting was conducted on a platform for audio/video meetings.

- B. Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Charlie Gonzales, Chair
Frank Katz, Vice Chair
J. J. Gonzales
Steve Krenz
Susan Martin
Rhea Serna

Member(s) Absent:

Leroy Lopez

Staff Present:

Vicki Lucero, Building & Development Services Manager
Paul Kavanaugh, Building & Development Supervisor
Jaome Blay, County Fire Department
Jose Larrañaga, Case Manager
Roger Prucino, Assistant Attorney
Miguel "Mike" Romero, Case Manager
Gabriel Bustos, Case Manager

2. **Approval of Agenda**

Member Katz moved to approve as published and Member Krenz seconded. The motion passed by unanimous [6-0] roll call vote.

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3. Approval of Minutes: February 18, 2021

Member Katz moved to approve as presented. Member Martin seconded and the motion passed by unanimous [6-0] roll call vote.

4. Consent Agenda Final Orders

- A. Las Campanas Master Association and Verizon Wireless, Applicant's, request approval for an amendment of the Las Campanas Conceptual Plan to allow a Stealth Wireless Communication Facility on parcel 5 within the existing Planned Development District (PD-16) as a Permitted Use. The applicants are proposing a 70' Stealth Communications Facility (and its associated switching infrastructure) as an allowed use on a proposed bell tower within the Las Campanas Planned Development District (PD-16). The proposed Stealth Cell Tower will be on Parcel 5 which comprises 7.62-acres. The applicant is also requesting a variance of Section 10.17.8.1 of the SLDC to allow the Stealth Communication Tower to be 70' in height which exceeds the height limit of 27' (48' with TDR's) allowed in a PD zoning district. The site is located at 366 Las Campanas Drive within T17N, R8E, Section 15, SDA-2 (Commission District 2)**

Member Krenz moved to approve and Member Martin seconded. The motion passed by unanimous [6-0] voice vote.

5. Old Business

- A. Case #19-5110 Eldorado Area Water and Sanitation District (EAWSD), Applicant, MolzenCorbin, Agent, request approval of a Conditional Use Permit (CUP) to construct a 3,600 square foot facility. The facility will be used for vehicle and material storage and a workshop. The site is within the U.S. 285 South Highway Corridor District Overlay (285 SHCD) and zoned Residential Estate (RES-E). The site is located at 11 Avenida Eldorado, within T15N, R10E, Section 16, SDA 2 (Commission District 5)**

Case Manager Miguel "Mike" Romero read the case caption as shown above and provided the staff report as follows:

MIKE ROMERO: On February 11, 2021, this application was presented to the Sustainable Land Development Code Hearing Officer for consideration. The Hearing Officer supported the application based on the evidence and testimony presented at the public hearing. The Hearing Officer recommended approval of the application to allow the construction of a 3,600 square foot facility on a 2.958-acre utility easement that is within a 23.097-acre parcel, with conditions recommended by staff as mentioned in the findings of fact and conclusion of law.

At the public hearing, one member of the public, Joe Loewy, testified in support of the application for the following reasons: the new facility will provide a safe and secure enclosure for storage of the district's heavy equipment; the facility will allow for better organization and storage of spare parts, materials critical to the safe and reliable operation, and maintenance of the water system; minimal increase in traffic, and minimum noise levels will not be of any increased danger or concern to the horses in the adjacent Eldorado stables. No constituents from the public spoke in opposition of the application.

The Applicant is requesting approval of a Conditional Use Permit to construct a 3,600 square foot facility on a 2.958-acre utility easement that is within a 23.097-acre parcel. The 23.097-acre parcel is owned by the Eldorado Community Improvement Association. The ECIA dedicated 2.958-acres to the EAWSD for the use of water wells, utilities, access, and incidental uses indicated in Plat Book 220, Page 043.

The proposed facility will be used for vehicle and material storage, and as a workshop. The facility will have a lavatory and an emergency eye wash station, which is illustrated in the plans. The Applicant has asserted that the Eldorado Area Water Sanitation District has used the utility easement to store materials and vehicles since 2004. A portion of the 23.097-acre parcel that is used by the ECIA consists of 41 stables, four riding arenas and three large storage containers. The Applicant has stated, "the easement currently houses two water storage tanks and a chlorination facility." Staff has been able to find two permits in the Santa Fe County permit data base. Both are for accessory structures; one being a Tuff Shed. No other permits were found that indicated a water tank or chlorination facility. The Applicant is proposing to use the existing access with additional upgrades. The Applicant has stated, "A paved turnout with an 18-inch culvert will be constructed at the entrance to the facility. A concrete parking apron will be installed adjacent to the garage entrance. A septic system will be installed south of the garage. A retention pond will be constructed at the southwest corner of the property." The Applicant is proposing to upgrade the existing 12-foot wide access to a 24 x 50 foot wide paved access.

The proposed facility will be located on Lot 3B at the southwest corner of the lot. The facility will operate from 8:00 a.m. to 5:00 p.m., Monday through Friday, unless there is an emergency that would require Eldorado Area Water Sanitation District employees to access the site for equipment and materials after hours. The Applicant has asserted that six employees will work out of the facility. The Eldorado Area Water Sanitation District employees will utilize the facility to pick up materials, vehicles and supplies as needed. All vehicles entering the site will be Eldorado Area Water Sanitation District vehicles. These vehicles will enter and exit the site approximately six times on any given day. The Applicant has stated, "the facility will not be open to the public. The general public will not be entering and exiting this facility." The site is zoned Residential Estate, within the U.S. 285 South Highway Corridor District Overlay. Table 9-10-12: 285 Use Table, illustrates a Public Administrative use as a Conditional Use.

The Applicant has responded to the Conditional Use Permit approval criteria. Staff has analyzed the Application and has determined that the proposed use satisfies the criteria set forth in Chapter 4, Section 4.9.6.5.

Recommendation: The Sustainable Land Development Code Hearing Officer and Staff recommend approval of a Conditional Use Permit to allow construction of a 3,600

square foot facility on a 2.958-acre utility easement, located at 11 Avenida Eldorado within the U.S. 285 South Highway Corridor District Overlay subject to the following conditions. If the decision of the Planning Commission is to approve the application, staff recommends that the Planning Commission approve the application with staff's recommended conditions, make its own findings of fact and conclusions of law. I stand for any questions.

VICKI LUCERO (Building & Development Services Manager): Mr. Chair, can we enter the conditions into the record?

CHAIR GONZALES: Yes, that was exactly what I was going to say. Thank you, Vicki.

Conditions:

1. The CUP showing the site layout and any other conditions that may be imposed through the approval process shall be recorded at the expense of the applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.6.8.
2. The Applicant shall sign and record water conservation covenants with the Santa Fe County Clerk's Office.
3. All unpermitted structures shall be permitted After the Fact (ATF) within 30 days of the Conditional Use Permit approval.
4. The Applicant must comply with all Fire Prevention requirements.
 - a) New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property.
 - b) Automated Gates shall require a fire department key switch. Manual gates secured with "case hardened" chains or locks shall require a fire department lock.
5. The Applicant shall adhere to the approved landscape plan.

CHAIR GONZALES: Okay, does the Commission have any questions of staff? Any questions? Okay, is the Applicant prepared to make a presentation?

STEVE KING: Yes, I am. Steve King, the general manager.

CHAIR GONZALES: Okay, please proceed.

[Duly sworn, Steve King of 2 North Chamisa Drive, Santa Fe, testified as follows:]

STEVE KING: Very quickly, I want to thank the members of the Planning Commission for consideration of this, what I would call, a critically important project for us. I think in Joe Loewy's testimony at the public hearing he did a nice job of kind of summarizing the benefits and the importance of this facility. It is really just a basic need that the Water District has had for some time.

Currently, we do not have an enclosure. We lease some temporary storage containers which serve as our material storage for spare parts and spare pipes and that sort of thing. And they also serve as a very rudimentary workshop if you will so that our operations crew can conduct just routine maintenance items on meter repairs and that sort of thing. The other thing, we do store all of our heavy equipment on that site which includes things like a backhoe, a dump truck, a tractor, we've got a mobile generator. That type of equipment right now, unfortunately, is housed outside with little or no protection from the weather or minimal security. This structure would go a long ways to providing a place to store the heavy equipment, provide a workshop, and to provide a

place for spare parts and other materials. So it's greatly needed by the district in order for us to perform our function properly.

We did go to great lengths. We worked very closely with folks like Mike and Vicki in ensuring that we were going to be in compliance with the Sustainable Land Development Code. Frankly, when this project is completed it will significantly enhance the look of the site, which you can imagine now with all of the equipment kind of parked, we'll now have a proper place to place that equipment.

We worked with the ECIA who granted us the easement and worked with their architectural committee to make sure that aesthetically the building met their requirements. We have a significant landscaping plan that will improve the aesthetics for anybody driving by the site. So I think that's just a quick overview. Again, greatly appreciate your consideration and we're very much looking forward to getting this project actually built and operational. Thank you for your time.

CHAIR GONZALES: Thank you, Steve. Does the Commission have any questions of the Applicant?

MEMBER KRENZ: Chairman, I have some.

CHAIR GONZALES: Steve, yes, please go ahead.

MEMBER KRENZ: I'm referring to Exhibit 9 which is an overhead picture of the site. That's on the second document that we got as part of your submittals. Are you with me on that?

MR. KING: You're a little difficult to hear but you said something about Exhibit 9, and frankly, I don't have access to Exhibit 9. But I am generally familiar with the application.

MEMBER KRENZ: Well, there's a number of buildings around the site. What are these? Are these residential homes?

MR. KING: No. It's actually – as Mike Romero described it, this is really an easement that is part of a much larger parcel, a 23-acre parcel. All of the structures that you see immediately to the west and the north of our site are horse stable facilities. So those are actually operated by the ECIA. Our neighbors in the immediate vicinity are the horses and the folks that care for them and own them.

MEMBER KRENZ: Great, thank you.

CHAIR GONZALES: Thank you, Steve. Any other questions from the Commission? Commissioner Serna, please.

MEMBER SERNA: Mr. King, I was wondering if there were any future plans for more development or more structures to be erected on the site?

MR. KING: No, there is not. We had – Eldorado Water District had a plan several years back for what we call the combined facility that would provide two major functions. One is this maintenance operation and the other was the headquarters for our administration building. But since that concept we actually acquired a property that serves as our admin building. And so we have that function actually well covered right now. So the only other function that remains is this maintenance and operation building so we don't have any plans beyond that once this building is constructed.

MEMBER SERNA: Thank you.

CHAIR GONZALES: Thank you. Any other questions for the Applicant?

MEMBER J.J. GONZALES: I've got some questions, Mr. Chair.

CHAIR GONZALES: J.J., please go ahead.

MEMBER J.J. GONZALES: I was going to ask Mr. King, in this 3,600 square-foot facility what is going to be inside of it? Are you going to have a break room? Are you going to have a facility to wash workers after they finish fixing water leaks and things like that – vehicle repair. What are you going to have in there?

MR. KING: There are three basic segments to the building space. The first one is for large equipment storage. So that's basically where we would – now we'd have a place, an enclosure, so we could park our large equipment, the backhoe, the tractor the mobile generator, that type of equipment. So that's one piece. The second is what we call a relatively small field workshop. The field workshop does have a bathroom facility but it really is for basic day-to-day maintenance. It's not a full blown maintenance operation that you might expect. It's pretty basic. It's for routine maintenance of the yard equipment and that sort of thing. And in the third compartment of the overall space is for materials storage which is primarily our spare parts inventory, things like valves or backup well pumps or other types of equipment. And then we keep a certain inventory of pipe and so there's a space to accommodate the indoor storage of a certain amount of spare pipes and that sort of thing if we have a line break and there's some kind of emergency that we have to respond to.

So that's generally the three functions that the facility serves.

MEMBER J.J. GONZALES: The other question that I had is what about for your employees? When they're not out in the field do they get to come to this facility and take a break or take a rest of eat lunch or something? What do they do?

MR. KING: No. Well, so this is actually for conducting day-to-day maintenance. In addition to that I was describing the second structure that we have, we have the administration building and a significant portion of that administration building is for our operations staff and we do have a break room and we have two bathrooms and it's more of a traditional office space in that regard. We have most of our actual smaller vehicles, the pickup trucks the guys drive around in, those are housed here in that enclosure. So actually during the course of a day our operations crew will start the day at the admin building. They actually have a routing. Then they'll go out on their respective duties and as they're conducting those duties during the day, that's when they'll be visiting this site and using this facility for routine maintenance. Frankly, the kind of things that they're trying to do on the back of a pickup truck right now, they'll have a proper facility in order to conduct that basic maintenance. And then at lunch, they can take a lunch break here at the admin building and they close the day back at the admin building too. And both facilities are within less than five miles, two – three minutes from each other. So that's normally how they would conduct their business during a given day.

MEMBER J.J. GONZALES: Thank you. The other question I had is the unpermitted structures. You mentioned a chlorination facility or a chlorination building, how much chlorine do you keep on the property onsite? It's kind of hazardous material. So, explain that a little bit.

MR. KING: Well, it's sodium hypochlorite. It's a solution. It's a concentrated version of bleach that you would buy at the grocery store. But it's in a special enclosure. That enclosure is actually permitted. It's a fiberglass enclosure with secondary containment and the sodium hypochlorite is usually delivered in 50-gallon drums and the operations crew, their objective is to have up to – let me make sure I get

this right – four to five weeks of backup chlorine storage and I believe that translates into two 55-gallon drums. I think typically we would expect that we would have a couple of 55-gallon drums at this specially designed chlorine storage building. And then of course what happens is then at each – we actually do the chlorination at the individual well sites and we have 12 well sites. So that sodium hypochlorite gets distributed to each of the individual well sites. Does that make sense? Hopefully, I got that semi-clear.

MEMBER J.J. GONZALES: Yes. The other question I have is about fuel for your vehicles, diesel fuel or gasoline. What tanks do you have on the property?

MR. KING: None.

MEMBER J.J. GONZALES: None? What do your vehicles run on?

MR. KING: Well, they fill it up – they get the diesel at the gas station.

MEMBER J.J. GONZALES: What about your backhoes? You don't go to the gas station with a backhoe, do you?

MR. KING: You know – I'm pretty darn confident in my statement that I know we don't have a diesel storage tank. And so I'd have to defer to my operations supervisor to make sure I accurately answer how you fill up the backhoe. It's a trailer, it's a small trailer-mounted backhoe so it's not inconceivable that when they use it that they could fill it up. So unfortunately, I can't give you a real accurate answer to that question.

MEMBER J.J. GONZALES: That's perfectly fine. I support this application. I think it's necessary to get Eldorado Water System into good maintenance and supply all those people out there with some reliable water service. Thank you.

MR. KING: Fantastic. Thank you.

CHAIR GONZALES: Thank you, J.J. Any other Commissioners have any other questions for the Applicant? Okay. I have a couple. Miguel, I saw in the packet here, incorporated in the packet is a request for an alternative landscape design; was that approved or is it incorporated into this request?

MR. ROMERO: That was approved during the review process, Mr. Chair. That was approved administratively. Staff did review it and it does comply with the code as within the spirit of the SLDC.

CHAIR GONZALES: Okay. On that note, I noticed that there's not any proposed landscaping along the main highway it is just along Avenida Eldorado; was that part of that request?

MR. ROMERO: I'd have to look at that in the plans. Mr. Chair, committee members, there is existing vegetation that is on the property not only within the easement but also within the property. There is existing vegetation that abuts the 285 corridor and also vegetation that is going to be removed from the construction via the access, parking area and the workshop itself will then be relocated within the Avenida Eldorado area. So that's also going to provide some additional screening. There is natural screening that is adjacent to the properties that are across Avenida Eldorado. It does appear that parcels in that area have a higher elevation and are very dense with pinon and juniper trees. If that answers your question.

CHAIR GONZALES: Yes, I have a couple more on this. I didn't see an irrigation plan. I did some stuff about cisterns but I didn't see the whole connection. How are they going to water this new vegetation, this new landscaping and stuff? That might be for the Applicant if you can't do that one Mike.

MR. ROMERO: Mr. Chair, committee members, the Applicant is proposing to use a drip irrigation system to irrigate all new and proposed revegetated landscape. So they will be using a drip irrigation system via the cisterns. That is in within the plans that they provided that was reviewed and approved by staff.

CHAIR GONZALES: Okay. On that note, there was a 5-foot berm that they're going to put in there and I would imagine that that's going to be revegetated as well.

MR. ROMERO: I would have to defer that to the Applicant. The 5-foot berm, the code does state that within that 285 corridor that any parking that is adjacent to the public right-of-way, they have to do a berm to help screen any additional parking and because this facility does require parking per the code, they are going to provide a berm to help screen that area even though these are just going to be work vehicles and no public is going to be in there.

I think the Applicant may answer if it's going to be revegetated for not.

MR. KING: So this is Steve, we have our consultant Steve Morrow with MolzenCorbin who is the designer. Steve is a civil engineer and John Pate was the architect but John could not make it this afternoon. I don't believe that the berm is landscaped. I know that we reviewed it with County staff multiple times to make sure we put in everything that was required for compliance with the land development code. But, Steve, do you happen to know something definitive about the berm itself?

[Duly sworn, Steve Morrow, 405 Luna Blvd. NW, Albuquerque, testified as follows:]

STEVE MORROW: In answer to that question, the landscape plan calls for all disturbed areas to be reseeded per the New Mexico Department of Transportation seeding spec for that area. So that's the only landscape vegetation proposed for that berm.

CHAIR GONZALES: Mr. Morrow, are you planning on doing any irrigation or temp irrigation for the hydroseed as well?

MR. MORROW: It's not called for. Those seed mixes they encourage us to not water them because they want them to get naturally established. But that's all I can tell you about that landscape plan.

CHAIR GONZALES: Okay, thank you.

MR. ROMERO: Mr. Chair, just to piggyback off of that. The code does require, the SLDC, does require that any disturbed area be revegetated with native seed. So that will be something that we look at when we do our final inspection to ensure that any disturbed area is revegetated per the code.

CHAIR GONZALES: Okay, thank you, Mike. I was just concerned because a lot of times we do hydroseeding these days, it has been so dry that all it does is blow away or get eaten by the birds. I think in the future look forward to maybe requiring some temporary irrigation system with hydro seed in the future.

I am going to open up for public hearing. Is there anyone out there that wants to speak against or for this project?

MS. LUCERO: Mr. Chair, if I could just add that I think that most everybody is muted so they'll have to unmute themselves. If they are calling in they'll have to press star 6 unmute.

CHAIR GONZALES: Thank you, Vicki. Anybody out there want to speak against or for this project? Okay, what's the pleasure of the Commission?

MEMBER KATZ: Mr. Chair, can I ask a question?

CHAIR GONZALES: Please do.

MEMBER KATZ: I took a street view walk down 285 in front of this and I noticed that there's one little gap that you can see right where the building is going to go. And then I looked at your landscape plan and it looks like you're moving some of the trees that have to be moved right to fill up that gap and I was very pleased to see that. In some respect regardless of what is required, I do hope that trees will be planted so that as people who drive down either 285 or on the street into Eldorado that they'll be trees that will be blocking particularly any view of the front of the building with all of the very beautiful doors so that those would not be visible from the street. But it looks like it pretty much has it covered.

CHAIR GONZALES: Thank you, Frank. Anyone want to make a motion? Is there any more discussion?

MEMBER KATZ: I would move to approve the application as submitted with the conditions suggested by staff.

MEMBER MARTIN: Second.

The motion passed by unanimous [6-0] roll call vote.

CHAIR GONZALES: Thank you. Thank you all for coming.

MR. KING: Thank you very much. We appreciate it.

- B. Case #20-5058 John Stanton, Applicant, Mario Madrid, Agent, requests a variance of Chapter 7, Section 7.17.10.4.1 (Disturbance of 25% Slope) to allow a driveway to access buildable area and disturb 4,842 square feet of 25% slope, a variance of Chapter 7, Section 7.17.10.1.1 (Building Area Analysis 50/50), a variance of Chapter 7, Section 7.17.9.2.1, to allow a 3,500 square foot residence and a 319 square foot studio to be constructed on a ridgetop, a variance of Chapter 7, Section 7.17.10.6 (Ridgetop/Ridgeline Setbacks) to allow for the main residence and studio to be constructed on the ridgetop with no setback, a variance of Chapter 7, Section 7.17.9.2.7 (Significant Trees), to allow removal of 11 significant trees to accommodate the driveway and residence, and a variance of Chapter 7, Section 7.17.4.1, (Rock Outcroppings) to allow the removal of one (1) visual rock outcropping. The site is within the Residential Fringe Zoning District. The property is located at 21 Ridge Road via Old Santa Fe Trail within Township 16 North, Range 10 East, Section 21. SDA-2 (Commission District 4)**

Case Manager John Lovato read the case caption and provided the staff report as follows:

JOHN LOVATO: The Applicant is the owner of the property as indicated by Warranty Deed recorded in the records of the Santa Fe County Clerk on September 24, 2008, recorded as Instrument #1539069. The lot was created in 1973 as Tract #13,

Unit No. 2 within the Overlook Subdivision. A lot line adjustment was created on March 16, 2006, to amend property boundaries.

The 7.21-acre property is within the Overlook Unit II subdivision. The legal access is off of Ridge Road which is a privately maintained road. The Applicant requests to construct a 3,500 square-foot residence and 319 square-foot studio on the shoulder of a ridge. The residence will be 14 feet in height and the studio will be 10 feet 8 inches in height. This is illustrated on the elevations of the plan set as Exhibit 3. The maximum height limit for structures on ridgetops, ridgelines, or shoulders is 14 for a flat roof or 18 for a pitched roof.

This property is located above the 7,400-foot elevation and is subject to Chapter 7.17.10. development at or above 7400 feet. The entire property is located on a ridgetop and staff has met with the Applicant's agent and identified the buildable area that is proposed as the only buildable area on the site. Therefore, a variance to build on the ridgetop is not required. The Applicant requests variances to construct a residence on the shoulder of a ridgetop, construct a residence on the ridgetop with no setback, disturb 4,842 square feet of 25 percent slope for the proposed driveway and fire access and turn around off of Ridge Road, remove one visual rock outcropping, remove 11 significant trees, and construct a residence and studio where only 50 percent of the structure may be located on slope that is between 20 and 30 percent. The entire residence and studio are on slopes of 25 percent or greater and therefore cannot meet this requirement.

The Agent states, "every attempt was made to examine other options and locations for a driveway that would conform to the requirements of the SLDC. The issue with moving the driveway any further down south on Ridge Drive creates more elevation difference between the start and end of the driveway which would require more length and disturbance to obtain a drivable slope."

The Agent further states, "Mr. Stanton has shared my drawing set with the home owner's association, but as of the date of this letter we have not had any critical comments. I am unaware of other public interest in regards to a family building their dream home."

Santa Fe County staff has conducted a site inspection on this property. It has been confirmed by staff that the proposed site is the Applicant's only buildable area. Ridge Road is located along the ridgeline of the mountain and constricts the property to the east and the shoulder to the west which contains slopes in excess of 30 percent. The property is mountainous and has a significant number of rock outcroppings and significant trees.

On February 11, 2021, this case was presented to the Santa Fe County Sustainable Land Development Code Hearing Officer. At that meeting, two members of the public voiced concerns over the Application. The concerns the public had were that the proposed residence would be visible from lower properties, that there would be disturbance of significant trees, and that drainage would be increased to an already occurring issue during storms.

Chapter 7.17.10.2, of the SLDC, Visual Impact Analysis, states, each proposed development site within a buildable area shall be subject to a visual impact analysis that will indicate whether such structures will be visible from a major arterial road. This is a requirement for development at 7,400 feet in elevation, and the Applicant has submitted a visual impact analysis to address the visual impact this will have on surrounding Arterials. The SLDC does not regulate visibility from other properties. The property will

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be partially visible from areas located on I-25, near Harry's Roadhouse and the off ramp near St. Michaels and I-25. The Applicant has agreed to submit a landscape plan in accordance with Chapter 7.17.10.7, screening requirements, to buffer the proposed residence and mitigate visibility of the site.

Chapter 7.17.5.2 states, the peak discharge of storm water resulting from the development shall not exceed the peak discharge calculated prior to the development and differences between pre- and post-development discharge shall be detained or retained on site. Calculation of the design peak discharge of storm water shall be based on a 100 year frequency, 24 hour duration rainstorm. The Applicant will also be required to submit a grading and drainage plan at the time of development that complies with all requirements of the SLDC.

The Hearing Officer found that the Application, Staff Report, and Testimony, demonstrated compliance with the requirements of the SLDC applicable to the project. The staff and the Applicant addressed the concerns of the witnesses who testified in opposition to the Application. The Application meets the criteria established in the SLDC for approval of the variances and therefore, the Hearing Officer recommends that the application should be approved with the conditions recommended by County Staff.

The Applicant has addressed the variance criteria and staff has responded to the comments as contained in this memo.

Recommendation: Staff recommendation, the Application is not in strict compliance with the SLDC, but this Application meets the criteria necessary for granting a variance. Due to the topography of the lot, the Applicant is unable to build a home on the lot without variances. The Applicant has met the variance criteria 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. In order to construct any residence on this property, a variance request is necessary. This causes peculiar and exceptional practical difficulties or exceptional and undue hardship on the Applicant/Owner. Based on this proposal minimizing the amount of cuts and fills and disturbance of terrain and minimizing the visibility if the residence, the spirit of the SLDC is met. Therefore, staff recommends approval of the variances requested, subject to the following conditions. Mr. Chair, may I enter those conditions into the record?

CHAIR GONZALES: Yes, you may.

Conditions:

1. Substantial construction of the buildings or structures authorized by the variance shall occur within one year of the date of approval or the variances shall expire.
2. The Applicant shall provide a plan showing the limits of disturbance and provide a construction fence along the limited area.
3. The Applicant shall submit a stabilization plan for all disturbed areas that includes re-seeding of native vegetation.
4. The Applicant shall submit a Grading and Drainage plan at the time of permitting.
5. The Applicant shall submit a landscape plan for County approval.
6. The Applicant shall submit a Geo-Technical Analysis prior to development. Sprinkler systems as required shall be approved by the Santa Fe County Fire Department, prior to allowing any occupancy to take place. It shall be the

- responsibility of the installer and/or developer to notify the Fire Prevention Division when the system is ready for testing. Fire sprinkler system shall meet all requirements of NFPA 13D Standard for the Installation of Sprinkler Systems.
7. Fire apparatus access driveways shall have an approved, all weather driving surface, capable of supporting the imposed load of fire apparatus. Minimum gate and driveway width shall be 14' and an unobstructed vertical clearance of 13'6".
 8. In addition to an emergency vehicle turnaround, emergency turnouts shall also be required.

MR. LOVATO: Thank you and I stand for any questions from the Commission.

CHAIR GONZALES: Okay. Does the Commission have any questions of staff? Frank.

MEMBER KATZ: Thank you. There was a lot line adjustment, I am curious to what was adjusted? Any portion of the lot that was near this area?

MR. LOVATO: Mr. Chair, Commissioner Katz, what happened was that the road wasn't aligned properly with the actual easement and in order to get this adjusted they had to amend those property boundaries which they did and brought it into conformance for the easement and where the roadway was as well. But it did not change any of the building conditions or circumstances.

MEMBER KATZ: Okay, my other question is that this is pretty high on a ridge and the houses that are up there are quite visible and I think efforts have been made to use landscaping to stop. But the consequence of our saying, no, this is just to visible would that be that the County would have to end up buying the property?

MR. LOVATO: Mr. Chair, I don't know whether that would be a taking. I would assume that that is somewhat of a taking. I don't know perhaps legal can weigh-in on that or Vicki Lucero.

MS. LUCERO: Mr. Chair, Commission member Katz, if the Planning Commission decides that this site is just too visible I guess the Applicant would have the option to redesign and find another location to build; however, it sounds like just based on the terrain he may require more variances to build in a different location and may cause additional slope disturbance.

MEMBER KATZ: My concern is that there's a ridgetop there and it slopes very steeply to the west and it slopes a little bit I think down to the road where the driveway comes in. I'm wondering whether anyone looked to sort of moving the house more so that it faces east rather than west and it would be much less visible to the large population in Santa Fe and the roads. Facing east I think it would be visible to maybe somebody out there but there is hardly anyone that direction. Is that a possible place to build the house?

MR. LOVATO: Mr. Chair, committee member Katz, I suppose there is. The engineer was avoiding – there's a lot of rock outcropping and in particular along that eastern more boundary. It is a lot of rock. And that's what we found as the open area for buildable area basically the only area.

But I suppose they could but it's going to be detrimental to the site I believe.

MEMBER KATZ: Okay. Not being able to be there I did the next best thing and looked at Google Earth and I am puzzled by what looks to be a large

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indentation – sounds like it is right where they want to build a house. It looks like there is sort of a deep hole there. I don't know whether you have a way of calling up Google Earth and showing it to us. But I was wondering about that. Is that something that is characteristic of the property that right in the middle of the ridge there is an indentation?

MR. LOVATO: Mr. Chair, committee member Katz, there is really no hole in that area. It's a natural kind of like a saddle where it fits in between the two hillsides, the two upper elevations. But there is no hole. There is an access issue being able to catch grade and that's part of the reason why they wanted to put it in this little saddle location. I think it would be a little less visible in this area where's it might be a little bit more in other areas. But I think what you're looking at is basically a saddle or a lower sunken portion of the lot.

MEMBER KATZ: And why couldn't it go there so it wouldn't be visible or at least on that slope towards that. That would be facing east and it would be a little bit lower than the ridge. Why isn't that a better place to put it?

MR. LOVATO: Mr. Chair, committee member Katz, that is a lot of rock outcropping in that location. This is the location that staff identified as the only area that didn't have so much rock outcropping or any rock outcropping I should say. But everywhere else kind of surrounds it with rock outcropping.

MEMBER KATZ: Well, aren't we weighing public visibility against some rock outcroppings? Isn't that a decision that maybe should be up to us rather than the rock outcroppings and those are sacristies.

MR. LOVATO: Mr. Chair, committee member Katz, the code specifically talks about visual impact and that's not on surrounding properties that's on I-25. As a request from the Applicant and as staff has reviewed this, to mitigate that they have to further provide landscaping and buffering and that's what they want to do. And that's not to say that you couldn't require them to build elsewhere. I just think the visual impact of this is going to far less than what is thought of, I would say.

MEMBER KATZ: Okay. One other question. I very much appreciate the way you got the photos of various places where it could be seen from I-25 and other main roads in the area. It would have really been more helpful if we had – I suspect an iPhone camera was used to take those pictures but a real camera with a real telephoto lens because we can't see anything from that. We can't tell anything. It would be great; it would be wonderful if the architect could do a rendering that would show what the house would like on the hill. All we have are a couple of story poles that are invisible or pixilated. And I really appreciate the effort that was done and I think that was definitely going in the right direction it's just that we didn't get there so we really can't make much of a judgment on what we would see from these crucial arterial roads.

MR. LOVATO: Mr. Chair, committee member Katz, I've done a few where we've done these telephoto lens and honestly, I don't really think it does it justice either way. When you do shoot these photos with those telegraphic lens, you're right you're going to get a clear picture of the residence but as you zoom out to the extent of the actual area where you're shooting those pictures from, it's the same basis image you're going to look at. And that's just cause I've seen a couple of them. That's not to say, I agree with the renderings, I think that might help in the future and currently I'll start requiring those a little bit more cause it's needed.

MEMBER KATZ: Very much appreciate that. Thank you, that's all I have. Thank you, Mr. Chair.

CHAIR GONZALES: Thank you, Frank. I would also like to mention that back in the days, Frank, when I used to do the MSRDR and the escarpment for the City, sometimes when I would look at it and use a zoom or something, I would get shot back at by the public because they came with the approach it has to be looked at with a naked eye rather than something that zooms in.

Any other questions of staff? I have a couple of questions. I am kind of confused by the driveway access over here. I don't see a slope analysis map with the house and the driveway all together. I'm looking at Exhibit NBB 21, and I see it looks like there is a hammerhead going in like the east direction but there's no topo or it's not even color coded. So I'm just curious, is that part of the new construction or can you explain it to me.

MR. LOVATO: Mr. Chair, I am looking at NBB 21, this is an amended sheet that was done with Fire because when the initial request came through it didn't account for a fire hammerhead so they amended this to include the additional slope disturbance and I see your point. I don't see that as well. But if I can –

CHAIR GONZALES: The concerns that I would have, John, is if that wasn't calculated in the amount to be disturbed for these variances that could be a problem because it is not shown in color. It is not color coded. So I'm curious if that turn-around that they're showing is included in the calculations plus also that turnaround is almost going all the way to the existing road. You almost have a circular driveway there.

MR. LOVATO: Mr. Chair, I think I see what you're seeing there and I do see your point. I think what they're showing there is that the actual turnaround hammerhead is less than 30 percent. It's on 25 percent slope. So the basic actual disturbance they're doing is from that roadway and that's the entrance part that is not color-shaded and I believe that's the extent of the actual slope disturbance.

CHAIR GONZALES: So is that amount that they're disturbing 30 percent slopes or greater is that included in the calculations for the variances that we're doing now?

MR. LOVATO: Yes, it is. I worked with Mario and it is. We adjusted that.

CHAIR GONZALES: Okay. Another question I have is that I think I only saw two elevations; is there a reason that we only had two elevations instead of four?

MR. LOVATO: Mr. Chair, the idea of that was that they're not ready to design the home but they wanted to give the Planning Commission a basic understanding of what they're trying to accomplish and what height they're trying to meet. They are aware that there are height restrictions because this is on a ridgetop. So they don't have a formal development or a residence that they're planning on putting on there, just a basic floor plan with some basic elevations showing that they're willing to meet the requirements of the heights.

CHAIR GONZALES: I guess what I'm looking for is I was expecting to see like an elevation or elevations showing their existing grade and the proposed grade so

I can see how much they cutting in and I didn't see that. Is that going to come through with the permit?

MR. LOVATO: That is going to be a requirement for a grading and drainage plan and I'm going to require cut sheets to see because I'm going to want to see – we require all building permits to show final grade, cut grade and finish floor or build grade as well so that will be incorporated into the permit.

CHAIR GONZALES: Okay. Another question I had was it looks to me like the proposed pond and maybe the septic tank are on steep slopes as well. I think we still have the issue of where you can't put septic on 15 percent slopes or greater and the pond shouldn't be on 30 percent slopes as well; correct?

MR. LOVATO: Mr. Chair, ponds on the code and the SLDC are allowed to be located on 30 percent slopes. They're allowed at three isolated occurrences. It's kind of like the road deal of 1,000 square feet each and that on 30 percent not 25 percent. The road only counts for the 25 percent.

As far as the septic, I didn't find any requirements within the SLDC that used to have in the previous codes of septic systems being placed in these locations. However, they still need to meet those requirements because they will not be allowed to disturb those locations. That will be reviewed and I think that is a valid point. But I think given what they have presented –

CHAIR GONZALES: And my last question is John, I would imagine that during the permit process you guys will take care of any kind of SWPPP requirements.

MR. LOVATO: Mr. Chair, committee members, we do not have an area open for SWPPP. It's reserved right now in our SLDC. It is something that is being worked on but I do require best management practices to be complied with. So I do ask for wattles and SWPPP and fencing if needed. In this case it will be required.

CHAIR GONZALES: Okay, if you need my reinforcement I would be happy to put that as a condition. Let's move to the presentation now. Okay, yes, J.J.

MEMBER J.J. GONZALES: I had a question for John Lovato. I noticed that there's 19 lots to this Overlook II Subdivision; how many lots are built on and how many lots are still vacant?

MR. LOVATO: Mr. Chair, Commission members, there's probably about a good five to 10 lots that are still undeveloped within this subdivision although many of them don't have the same issues as this one does. There's probably about a good five of them that are on ridgetops just as this one or with steep slopes.

MEMBER J.J. GONZALES: Thank you very much.

MEMBER SERNA: Mr. Chair, I have a follow up question to J.J.'s question.

CHAIR GONZALES: Sure, please go ahead.

MEMBER SERNA: With regards to the subdivision I noticed that it was approved I think in 1973, and so that's prior to our more modern subdivision regulations that the state had passed back in the early '90s. Is there any issues with the fact that that was approved at a time when we didn't have our current SLDC or our current Santa Fe County Subdivision Regulations in place?

MR. LOVATO: Mr. Chair, committee member Serna, I don't know. I couldn't answer that question with the state requirements. But I can tell you that this lot is grandfathered and within our SLDC there is a provision that allows development of

lots that are grandfathered in but they may have to go through the variance procedure if needed and cannot meet code. That's just how we run these things.

CHAIR GONZALES: Okay, other questions.

MEMBER KRENZ: Mr. Chair.

CHAIR GONZALES: Yes, I mean questions from the Commission. Yes, Steve.

MEMBER KRENZ: I'm on the same page with you. It seems to me like this application is incomplete in that it doesn't really show us where the building and the driveway and everything else is supposed to go. Also I have to say, this seems to be a textbook case of why the ridgeline rules were made because it seems that it is going to be very visible. That's all I have.

CHAIR GONZALES: Thank you. Okay, is the Applicant ready to make a presentation?

JOHN STANTON: Yes.

[Duly sworn, John Stanton, 1550 Hazelwood Rd, Clarksville, TN, testified as follows:]

MR. STANTON: As mentioned this lot was developed in 1973 and we actually purchased this lot in 2007. I know that there have been some rule changes made in 2015 but this was eight years before this. I finally retired in 2018 and since the spring two years ago, 2019, we've been trying to get this house built and trying to conform with all of the requirements.

The house first of all is not on ridgetop. It's on a ridge. There are actually two houses that are above us on that ridge. The lot is seven acres, however, only about one acre of that land can actually be walked on. Six acres of the land to the west drop over a steep cliff and are completely of no use to us. The flat area – there is only one area that is relatively flat and that piece of land faces mostly to the south and is on the saddle in the middle of the ridge. There was an aborted attempt at bringing a driveway up from below and if you look where the turnaround is on Google or if you may see where the road makes a turn inwards and then goes up north that there is an aborted driveway that headed up towards the buildable lot; however, it ended up being too steep and would not be approved by the Fire Department.

The driveway is on the east side and is visible only from public land towards Shaggy Peak. The trees being removed, the 11 trees that are being removed are between 10 and 12 feet tall and we'll be glad to replant trees after the house is developed.

There really is no place to build a house on the east side because it's rather steep. The design of this house is actually my design and it was designed so that the house and the driveway would all be on the same contour line so there would be really very little change in elevation from the driveway to the house with the exception of the entrance at the northeast corner of the property where there is a cut in so the Fire Department can turn up into the driveway as needed. Otherwise, the driveway and the house are pretty much on the same contour, however, that contour becomes very narrow on the east side of the property and there is not room to build a house there without having tiers or beams because of the slope of the property on the east side.

The outcrop that is being removed is actually one large boulder. Anything larger than 12 inches across is considered an outcrop. The major outcrops, as mentioned, are to the south, southeast and east of our house and we have done everything that we could to avoid any of those outcrops. The house is kind of an elongated curved house again to

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follow the contours. The house is going to be a typical Santa Fe style, flat roof. The maximum peak of that house, maximum elevation will be 14 feet. The original design was going to have porches that extended out over the slopes that are greater than 25 percent, however, the engineer felt it was better to cut back in a little bit so that there would be patios or actually small patios rather than porches so there would be nothing covering up the ground on the slopes greater than 25 percent.

The water retention area, there are several options for water retention area. We can retain water above the house, just behind the house – the roof line is slightly higher than the ridge behind our house which is to the north or we can maintain water down on the aborted driveway area down to the south.

As far as the pictures, an initial attempt was made using a cell phone to take pictures of where the property was going to be but those were of no use. So I actually did hire a professional photographer. He used a 200 to 300 milliliter lens to take those pictures. Those are actual professional pictures with telephoto lens that were provided. Only the western half of the house is visible from the road. The eastern half faces towards public lands and it has trees below it which are blocking any view from the road as you're driving up to the house.

Do you have any questions specifically for me?

CHAIR GONZALES: Excuse me, John, is that the end of your presentation?

MR. STANTON: I guess so unless there's some questions you have for me.

CHAIR GONZALES: Okay, does the Commission have any questions of the applicant?

MEMBER KRENZ: Mr. Chair, I do.

CHAIR GONZALES: Steve, please do.

MEMBER KRENZ: John, how difficult would it be to put together two things: how difficult would it be to put together some sort of rendering that would kind of place the view of this structure within the pictures that you have taken? As was mentioned earlier, it's pretty difficult to try and see what the impact would be just from these pictures that you have given us.

MR. STANTON: Right. One of the issues is that in the requirements, a requirement made that visual impact needs to be addressed and the way that it has typically been done as far as I know is with story poles placed at the corner of the house. One interesting thing is that there's no actual guidelines as to what is considered appropriate or inappropriate visual impact. I could, I suppose, take a picture and draw some lines across it and show what the house would look like from a distance. But other than making like a sheet, like a drawing and putting something across those poles it would just be an artistic rendering and I'm not sure how that would be able to really tell you from the highway down below what the impact would really look like.

MEMBER KRENZ: Well I'm not thinking about every single picture here you've taken. But I'm looking at this picture titled Location #1, and it has the story poles or some number of them on there that you can sort of make out. But that – it would be very interesting to see how much of that the building would be covering and how much the building basically is sticking out. Because as I look at this picture, this is a pretty severe slope and it seems to me that a good portion of the structure would be very

visible in this one picture. But I could be wrong without seeing a little bit more detail on that.

And then the other item is could we get together some sort of plat drawing that shows the driveway and the proposed structure in one drawing?

MR. STANTON: I suppose that that could be done. I thought that Mario had done that. Apparently he is not here at the presentation today but the drawing of the driveway and the house are on the same contour line so they follow around. On that east side it drops off very severely which is why the driveway has to extend way up to the northeast just to the upper limit of the property line because anything that slopes downwards directly goes down a very steep slope and would not satisfy the Fire Department. But we can see about getting a drawing that shows that.

MEMBER KRENZ: I understand what you're saying but I've got to tell you, I'm looking at all of these exhibits and I can't figure out where this driveway is supposed to be. I understand what you're saying but I really would like to see some sort of picture that shows the tract, the structure and the driveway.

MR. STANTON: Okay.

CHAIR GONZALES: Okay, Steve, any other questions?

MEMBER KRENZ: No, that's it. Thank you.

CHAIR GONZALES: Any other questions of the Applicant from the Commission? Frank.

MEMBER KATZ: I kind of agree with Steve. I think leaning towards wanting to approve this for you but the drawings – we just don't have what we need to make that judgment. I've seen architects who are able to do a 3D model that you can turn all around and see from all sides. This can be done. I appreciate that you don't really have much guidance from the County as to what is required but I think it is evident to all of us that this is on a top of a ridge that is going to be very visible. And in order to persuade us that it's the best that we can do, I think that we need better renderings. Thank you.

CHAIR GONZALES: Okay. Any other questions of the Applicant from the Commission? Okay, I'm going to open this up to a public hearing. Do I have anyone out there that wants to speak in favor or against this project? Please come forward. I haven't heard anything. I'm going to go ahead and close the public hearing.

Do I have any further discussion or motion from the Commission?

MEMBER KRENZ: Mr. Chair.

CHAIR GONZALES: Steve.

MEMBER KRENZ: I think a number of us have expressed a desire here to get a little more information before we can rule on this. Therefore, I would move that we table this until we get two things back: One, a plat that indicates both the driveway and the structure on the same drawing and secondly that the Applicant work with his architect to do a fairly rough rendering of what the structure would look like juxtaposed against some of these pictures that you've given us.

MEMBER KATZ: Second that motion.

CHAIR GONZALES: I have a second.

The motion passed by unanimous [6-0] roll call vote.

CHAIR GONZALES: I would just like to say to staff that I would also like to see all four elevations as well. I would like to see the existing and the proposed contours on that. And also I think that if a rendering is the same thing as a simulated photo, I'd like to see those as well or a simulated photo.

MEMBER KATZ: What I really want is I would like the house placed on the top of the hill in Google Earth so we can go all around it but I realize that that's probably not possible.

CHAIR GONZALES: John, I'd like to see the house and the driveway all on one map and the slope analysis map as well. And also hopefully maybe the civil engineer will participate in our next meeting.

MR. STANTON: Yes.

CHAIR GONZALES: All right, thank you.

MR. STANTON: Thank you.

C Possible Action on the Findings of Fact and Conclusions of Law for Case #20-5080 John Stanton - Postponed

6. Petitions from the Floor

None were presented

7. Communications from the Commission Members

None were presented

8. Communication from the Attorney

None were presented

9. Matters from Land Use Staff

None were presented.

10. Next Planning Commission Meeting: April 15, 2021

11. Adjournment

Upon motion by Member Martin and second by Member Katz, this meeting was declared adjourned at approximately 5:25 p.m.

Approved by:

 4-19-21

Charlie Gonzales, Chair
Planning Commission

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ATTEST TO:



Katharine E. Clark
KATHARINE E. CLARK
COUNTY CLERK

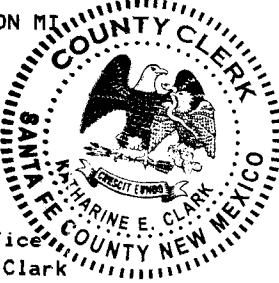
Respectfully submitted by:

Karen Farrell
Karen Farrell, Wordswork

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

PLANNING COMMISSION MI
PAGES: 20

I Hereby Certify That This Instrument Was Filed for
Record On The 20TH Day Of April, 2021 at 09:52:15 AM
And Was Duly Recorded as Instrument # 1950503
Of The Records Of Santa Fe County



Witness My Hand And Seal Of Office
Katharine E. Clark
Deputy County Clerk, Santa Fe, NM

*Estrella
Martinez*
Deputy

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