

TRANSCRIPT OF THE
SANTA FE COUNTY
SLDC HEARING OFFICER MEETING

Santa Fe, New Mexico

March 24, 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.

Santa Fe County Staff Present:

Vicki Lucero, Building and Development Service Manager
Jose Larrañaga, Development Review Team Leader
Andrea Salazar, Assistant Attorney
Buster Patty, Fire Marshal
Victoria DeVargas, Fire Prevention

II. **APPROVAL OF AGENDA**

- A. **Amendments**
- B. **Tabled or Withdrawn Items**

Hearing Officer Long noted the agenda had one case and there were no tabled or withdrawn items to be considered.

III. **PUBLIC HEARING**

- A. **CASE # V 16-5001 Madrid Mixed Use Variance. Lori and Richard Woodcock (Applicants), requested administrative approval, of a Site Development Plan, to allow 1,173 square feet of retail space and 656 square feet of living area, on top of the retail space, on 0.204 acres. The site is within the Madrid Community District Overlay (MCD) and is zoned as MCD Commercial Neighborhood (MCD CN). Under the MCD Use Table 9-6-8, an office or store with a residence on top is a permitted use. In order for the structure to be 28 feet in height, the Applicants request a variance of Chapter 9.6, Table 9-6-4, Dimensional Standards MCD CN, maximum height of 25 feet. The property is located at 2889 Highway 14, T14N, R7E, Section 25 (Commission District 3)**

SFC CLERK RECORDED 84/88/2816

JOSE LARRAÑAGA (Case Manager): Thank you, Hearing Officer Long. The property is a 0.204-acre site within the Madrid Community District Overlay, as defined by Ordinance 2015-11, Sustainable Land Development Code, Chapter 9, Section 9.6. The established zoning for this site is Commercial Neighborhood. The applicants submitted an application for a site development plan, to allow 1,173 square feet of retail space and 656 square feet of living area located on top of the retail space. Under the MCD Use Table 9-6-8, an office or store with a residence on top is a permitted use within the MCD Commercial Neighborhood, and can be approved administratively.

Building and Development Services staff have reviewed the site development plan for compliance with pertinent SLDC requirements. The review comments from state agencies and County staff established findings that the application for the site development plan is in compliance with state requirements and the design standards set forth in the SLDC, with the exclusion of the height of the structure, which is the reason for the variance.

The height at the rear of the proposed structure is designed at 28 feet. Chapter 9, Table 9-6-4, Dimensional Standards MCD Commercial Neighborhood, allows a maximum height of 25 feet. The applicant is requesting a variance of the Dimensional Standards set forth in Chapter 9, Table 9-6-4, of the SLDC to allow a portion of the proposed structure to exceed 25 feet in height.

The applicants state the following: "The street frontage of the building will conform to the 25-foot height limit. Due to the slope of the site, I would like to obtain approval for the rear to be a total of 28 feet in height. This additional height will not be noticeable from the street and will enhance the look of the buildings as well as make for a viable mixed-use project."

The applicable requirements under the Santa Fe County Sustainable Land Development Code, Ordinance No. 2015-11, which govern this application are the following: Chapter 9, Section 9.6.3.2.3. MCD Commercial Neighborhood; Purpose states, "The purpose of this district is to allow for residential and low-intensity non-residential uses that are intended to serve and are in close proximity to individual residential neighborhoods."

Chapter 9, Table 9-6-4, Dimensional Standards MCD CN states, that the maximum height within a CN Zoning District is 25 feet.

Chapter 14, Section 14.9.7.1, Variances, states: The purpose of this section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this Code 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. The granting of an area variance shall allow a deviation from the dimensional requirements of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

The application for the site development plan was reviewed for the applicable design standards as per Chapter 7, Sustainable Design Standards of the SLDC and met those standards. The Madrid Community District Overlay, Chapter 9, Section 9.6.2.4.2, Viewshed Preservation, states: "In order to preserve the unobstructed horizons surrounding Madrid, no portion of a residential, commercial, or any other structure shall

be visible above a ridgetop when viewed from the centerline of NM 14 at the nearest spot on the highway with a direct view of the proposed structure.

The applicant submitted photo simulations of the structure on the site and the horizons in the background. The photo simulations illustrate that no portion of the structure is visible above the ridgetop. No additional design standards from Chapter 9, Section 9.6 are applicable to this request.

Recommendation: Staff recommends denial of the applicants' request for a variance to allow the proposed structure to be constructed 28 feet in height. Chapter 9, Section 9.6, Table 9-6-4, Dimensional Standards, Madrid Community District Commercial Neighborhood states that the maximum height within a CN Zoning District is 25 feet.

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 May 19, 2016.

I stand for any questions.

HEARING OFFICER LONG: So staff is recommending denial?

MR. LARRAÑAGA: That's correct.

HEARING OFFICER LONG: And why is that?

MR. LARRAÑAGA: Because the dimensional standards only allows 25 feet and it's over the 25 feet. The request is over 25 feet.

HEARING OFFICER LONG: Okay, so strictly applying the allowed height, you're just finding it doesn't meet that.

MR. LARRAÑAGA: That's correct.

HEARING OFFICER LONG: And that the applicant has not met the criteria for a variance? Or did you weigh in on that? I was just wondering if you made that assessment or if that's something that would have to come here anyway?

VICKI LUCERO (Building and Development Service Manager): Madam Hearing Officer, as far as the criteria, that's not something that staff would weigh in. That would be something that we would allow the hearing officer. We strictly go by what the Code requires or what the Code allows.

HEARING OFFICER LONG: Okay. Thank you. And does this site slope away at the back? I know the applicants indicated that but I'm wondering if you observed that or if you've seen documents that established that.

MR. LARRAÑAGA: Madam Hearing Officer, yes, it does slope toward the west, towards the back of the building slightly. It's not a steep slope, but yes.

HEARING OFFICER LONG: Okay. And – well, I can ask the applicant this. So there was a Madrid Landowners Association meeting, regular meeting, where this was presented. Is that right? And I think I have the portion of the minutes where they considered this case.

MR. LARRAÑAGA: That's correct.

HEARING OFFICER LONG: And they voted in favor of it.

MR. LARRAÑAGA: That's correct.

HEARING OFFICER LONG: Including the variance. Or the height, anyway.

MR. LARRAÑAGA: At that time the height was even greater, when they presented it, the first submittal. This came under the Land Development Code, didn't

quite meet the time limits when the SLDC was implemented, but the actual height was higher when originally submitted at that time when it was presented to the Madrid Landowners Association, they were showing a higher – over 28 feet on the backside.

HEARING OFFICER LONG: And it was approved with that higher height.

MR. LARRAÑAGA: That's correct.

HEARING OFFICER LONG: And I think your report also noted that according to the photo simulation the structure would not stick up above the horizon of the ridgetop in the back of the building. Is that right?

MR. LARRAÑAGA: That's correct, and there is – the photo simulations are in the packet. That was part of the County staff review to make sure that it meant those requirements.

HEARING OFFICER LONG: Okay. Thank you. Is the applicant present? All right. You may come forward and we'll have you sworn in and then please give me your name and address.

[Duly sworn, Lori Woodcock testified as follows:]

LORI WOODCOCK: Hi, my name is Lori Woodcock. I live at 48 Blue Agave in Cerrillos, New Mexico.

HEARING OFFICER LONG: Is there anything that you wanted to add to what was presented as part of your application?

MS. WOODCOCK: I don't think I have any different information. I just would like to elaborate that our goal was to construct something that would fit in with the community and the architectural style and the concept, and part of that is a live-work use which is really popular in the Madrid area because there's a lot of artists and that kind of thing, and due to the constraints of the site being small and the requirements for a new building, which will be the advanced septic, the water retention, the water storage, the ADA parking – all those things which we intend to comply with, the footprint of the building shrank to the point where the only viable way to make it live-work space would be to put the apartment up above.

Due to the extreme slope of the property – I don't know. Extreme maybe isn't correct, but it is about five or six feet to the back. It's gets taller at the back and if we didn't do that there's really no way to have a second story. Then it becomes just a very small retail space, which wasn't our goal and isn't really in keeping with what we want to do and frankly makes it not a very viable project.

So we worked with the architect, since even our first meeting with the Madrid Landowners to get the building as low as we could and still make it architecturally fit in, because I know the Madrid standards say you can have a flat roof but there's really nothing like that in the community. Everything has got a pitched roof that's like corrugated metal which is – we wanted to fit in with that. So to have that kind of pitched roof it really ends up being a little bit taller at the back. So we've worked on it so that we've got it down to 28 feet at that back but in the front, from the street side, we'll be below the height limit.

HEARING OFFICER LONG: Okay. And I did see the photo simulation. You can see the back roof from the street. Is that correct? Is that the 28 that runs in the other direction but –

MS. WOODCOCK: Yes.

HEARING OFFICER LONG: But that portion of it is what, to the back is what would be 28 feet.

MS. WOODCOCK: Correct.

HEARING OFFICER LONG: And the pitched roof in the front, at the highest point is –

MS. WOODCOCK: It's going to be 24 now.

HEARING OFFICER LONG: Twenty-four. Okay.

MS. WOODCOCK: And we are definitely still shorter than the existing mercantile building that's quite a bit larger than ours to the south of us. I think the second photo shows that – or the third photo. Well, actually both of them. You can see it's a very – and I know it's older and so that isn't necessarily a great argument but we wouldn't be looming over anything. It's actually – we're shorter.

HEARING OFFICER LONG: So that – let me just see here. In my packet that has a number of NBA-23? And is that the white building with the black roof that's taller?

MS. WOODCOCK: Yes. The front of that is well over 30 feet at the street side.

HEARING OFFICER LONG: Okay. And then – I think the building that has an indication of Madrid mixed use on it, is that the rendition of the building that you're proposing?

MS. WOODCOCK: Yes.

HEARING OFFICER LONG: And so you told me about that slope, that it slopes in the back.

MS. WOODCOCK: Yes. So I don't know if you can look at the drawing. Let's see. There's one that kind of tells the story fairly well. If you go to the second page of the folded out 11 X 17s or whatever they are, which has the longitudinal section, on the bottom elevation you can see at the street, we're actually having to go down a little below the street to work out the ADA compliance because we need to have ADA parking in the front. So you can see where the front of the property is and how it's sloping to the back, so that's how it gets sticky at the back there is to get enough height to create a second floor.

HEARING OFFICER LONG: And how high will the ceiling be in that second floor?

MS. WOODCOCK: The idea was that at the front and the back it would be exposed, just because otherwise at the ceiling height it would be like eight feet and be pretty low. So the idea was at the retail space to have you see the open structure, and then at the apartment also it would have a pitched roof. Partly because in the back, to get enough window, because again, we're keeping it as low as we can we need dormers to get natural light in part of the apartment.

HEARING OFFICER LONG: So the report indicates that the size of the lot is .204 acres.

MS. WOODCOCK: Yes. It's small.

HEARING OFFICER LONG: It's small. And you were speaking earlier of some of the constraints that led you to do a second story and I thought – I didn't take a note on that, but there's a septic system –

MS. WOODCOCK: There's the ADA parking, of course, and having enough parking that meets current codes which nothing else in Madrid has that either. So we wouldn't – we certainly – I think that's one reason the community was in favor of it because we actually are adding parking rather than taking it away. The fire lane on the side in the appropriate width. Retention pond, which we need for rainwater overflow. And also we have to put an advanced septic in and that cannot be under the building. That has to be in a non-parking area, really, and the driveways and so forth. For the leach field.

HEARING OFFICER LONG: It couldn't have any structure on it.

MS. WOODCOCK: Yeah, you can't build on top of that.

HEARING OFFICER LONG: Or improvements.

MS. WOODCOCK: Well, I think we're talking about possibly – you could have some little front porch area or something could be on it but you can't have any paving, parking, concrete, because it has to be able to leach from the septic, even with the advanced system. And of course the setbacks. Everything – we're conforming with everything that's required and all that combines to make the footprint get quite small because it's a very small site.

HEARING OFFICER LONG: Okay. All right. And you took your application to the Madrid Association.

MS. WOODCOCK: Yes. They have a – every other month they have a meeting. I came in there with all my plans, met with everyone, went over everything. And again, at that time it was even higher. In realizing we wanted to get below the ridgeline we kept working on it, and they were very receptive to it because it will help business. It's going to be the only building that will have sprinklers. It will have good water, energy efficient, rainwater collection, fire alarm, parking – all the things the community wishes they had, we will have. So I think they see it really as an asset to the community.

HEARING OFFICER LONG: And the building at 28 feet will not be visible above the ridgeline behind it. Is that correct?

MS. WOODCOCK: Correct. It will not.

HEARING OFFICER LONG: And how much of the building will be at 28 feet?

MS. WOODCOCK: Pretty much – well, I guess that depends on what you mean. If you're standing at the back of the building, the entire back will be. But if you're at the street it will be under 25 feet, if you're standing there. If you measure it – if you were standing at Highway 14 and measured it it would be under 25 feet.

HEARING OFFICER LONG: So it's really a measurement from the back.

MS. WOODCOCK: It's from the existing grade at the back. Yeah. So if you were parked in the very back it would look taller. And then on the side it's going to be a gradual. Because the ground is sloping. The building is level but the ground is sloping away, so the further back you go the taller it's going to appear.

HEARING OFFICER LONG: All right. Thank you. I don't think I have any other questions. Is there anyone here that would like to speak for or against this application? Please come forward.

[Duly sworn, Geoffrey Stewart testified as follows:]

GEOFFREY STEWART: Geoffrey Stewart. 2891 Highway 14. I don't know if this is an appropriate time or not but I have not seen any of the site plan and I

have concerns. My property is directly next door and from what I have heard, without seeing the plans is that the building is going to come very close to the highway. My building is set back. It is also a retail space with a living space behind it. There's virtually room for one parking spot in the front and over the last 30 years we've had parking all the way along the front of the highway frontage.

Also, in 1983 when I purchased the property there was a driveway across that lot that went to the back of the building and on the original plats it shows that every one of the properties had garages in the back. And when I got there, there was the access through the side, through a gate to the back of the property. So my concern is no longer having parking for the back unit of the building and no longer having parking for the front of the building, which is a retail space. My current leasers of the retail space are quite concerned also about not having any parking.

The other concern or thing that I could mention is that when the old school house, which is another door over, was on fire a number of years ago the fire department could not get to it from the front and they went through the side where my access is, crossed my property and were able to work on the building there and keep it safe. Had it caught fire there's a good chance my building would have also burned at that time.

So what I'm saying is if there's no access to the back of my property for either parking or for accessing septic – I have basement storage, etc., etc. I don't know exactly what I'm going to do. My tenants won't have a place to park, etc. So that is my concern.

HEARING OFFICER LONG: Let me try to understand the access. Are you crossing this lot then?

MR. STEWART: Yes. Have been for 34 years. And the previous people before me. There was actually a road that went through the back of my property and then down to the back road behind Madrid. And that was cut off by the people who purchased the property behind me. They just came in with a backhoe and cut it off, and I didn't fight it.

HEARING OFFICER LONG: And can you create access then that stays – from the road, do you have frontage onto Highway – State Road 14?

MR. STEWART: I have barely, because of the way the road curves there, which you can probably see. I don't know if I have more than 20 feet maybe, and that is – would be where there's basically one parking spot, and because I don't know how far Lori's plans to build; I've only heard rumors that she plans to build just as far up as possible, I don't know that we'd have room to turn around or anything like that. I mean, I just don't know. I haven't seen the plan.

HEARING OFFICER LONG: Okay, so you're being shown a map.

MR. STEWART: Well, now – okay. Now, those four spaces, does anybody get to use those spaces? Because we absolutely will have no parking.

HEARING OFFICER LONG: Where do your – where is your tenant and where do you park now?

MR. STEWART: They park – currently they're parking on the property of Lori Woodcock. We have a gate there which if we could access across her property they could park behind the gate.

HEARING OFFICER LONG: On your property.

MR. STEWART: On my property. But otherwise there's no – I've got two tenants and one parking space in the front, basically, and I'm not really sure how it's going to work out once Lori is there. I'm not sure.

HEARING OFFICER LONG: I understand your concern but you're accessing someone else's property. I'm not sure about the permission to do that, and parking on someone else's property.

MR. STEWART: Well, for 34 years nobody ever contested it and when I got there that's the way it was. It was –

HEARING OFFICER LONG: Right. I realize that it wasn't your issue, but it sounds like you're not speaking to the variance request then.

MR. STEWART: That's true. Not exactly to the variance request. Because I just don't know exactly what the process is going to be, if there's going to be a hearing where I'm going to be able to voice these concerns or not, so I showed up today.

HEARING OFFICER LONG: Right. Usually, this would have been an administrative approval. It's allowed by the zoning for this property, but the applicant is coming here for the variance request. Then after the decision is made here it's going to the County Planning Commission who will make the final decision. But it sounds – I don't know if you've had any conversations with Ms. Woodcock but perhaps you should because I think that's really an issue outside of what this application addresses, as well as the variance in terms of continued access or some sort of parking arrangement, but I know it's just been vacant property and it's been used for a long period of time, but now there's a new owner who has a plan for it.

MR. STEWART: I understand.

HEARING OFFICER LONG: So maybe just have that conversation, see if something can be arranged and then you'll have to figure out the access.

MR. STEWART: [inaudible] having a business there either.

HEARING OFFICER LONG: Okay. That's good to hear.

MR. STEWART: Like I said, this is the first time I've seen the plans.

HEARING OFFICER LONG: Okay, well, thank you for coming to express –

MR. STEWART: So is there going to be another –

HEARING OFFICER LONG: There will be another hearing. It will go to the County Planning Commission.

MR. STEWART: Okay.

HEARING OFFICER LONG: Which is a whole committee. And when will that be, Vicki?

MS. LUCERO: Madam Hearing Officer, that meeting will be in May. I believe it's May 19th.

MR. STEWART: May 19th.

HEARING OFFICER LONG: May 19.

MS. LUCERO: And that hearing will also be strictly on the variance request.

HEARING OFFICER LONG: And it will be on the variance.

MR. STEWART: So is that an appropriate time or no?

HEARING OFFICER LONG: Well, I see this issue that you have as outside of the variance request.

MR. STEWART: Yes, it is outside. I guess the variance request – I guess I’m wondering if there’s any information. Will there be any other –

HEARING OFFICER LONG: It will be this same application that will go to the Planning Commission.

MR. STEWART: Is there anything else before approval of building?

HEARING OFFICER LONG: No other process at the County. There will be a building permit issued at some point but it really is an issue I think that you would take up outside of this application.

MR. STEWART: Thank you.

HEARING OFFICER LONG: Okay. Thank you.

MS. LUCERO: Madame Hearing Officer, just to let this gentleman know, he’s welcome to come in and take a look at the file and the application request in our office at any time.

HEARING OFFICER LONG: Okay. I’m not sure if you heard that, Mr. Stewart, that you’re welcome to look at the application and all the documents regarding this planned project, and that might help you understand it. And meet with staff and talk about your access issues. You’re certainly welcome to do that. And Ms. Woodcock, you have a right to ask Mr. Stewart any questions that would come through me. Do you have anything that you would want to ask him?

MS. WOODCOCK: No, I just have a statement which is I think you kind of alluded to which is that if I was not looking for a height variance we would not be here having this conversation, if I understand this correctly. We would have just been done. I mean, I’m in conformance with everything that’s being asked of me other than the height.

HEARING OFFICER LONG: Right.

MS. WOODCOCK: So I guess what I’m saying is that if I elected to shorten my building by a few feet, it’s kind of a done deal, if I understand correctly.

HEARING OFFICER LONG: Well, I don’t think – seeing some activity and that a building permit would be issued that Mr. Stewart would certainly be able to inquire into that. So even though it may not come through this process there would still be a way for him as an interested person to be able to investigate whether it was being done properly. That’s all.

MS. WOODCOCK: Yes. Okay.

HEARING OFFICER LONG: Is there anyone else that would like to speak to this application, either for or against? Okay. There is no one else and so that will close the public portion of this hearing. Is there anything else that staff would need to add at this time? Okay. Thank you.

So at this point then I will issue a written decision and I will try to get that done – I think I have 15 days but I’ll try to get it done quicker than that. Certainly the Planning Commission has to see that decision before it goes and staff will notify you of that decision, Ms. Woodcock. My inclination is to grant the variance due to the exceptional conditions of the property and the fact that it is not visible above the ridgeline, and I will contain those findings in an order but until it’s issued it won’t be a final decision. I’ll consider the application and the minutes if I can get those as well.

Okay. Thank you, everyone.

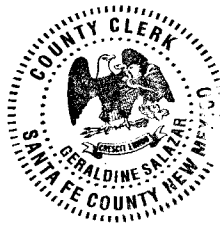
B. ADJOURNMENT

Having completed the agenda and with no further business to come before this declared this meeting adjourned at approximately 3:30 p.m.

Approved by:



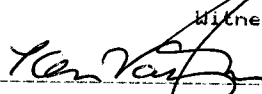
Nancy Long, Hearing Officer
Santa Fe County



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

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I Hereby Certify That This Instrument Was Filed for
Record On The 8TH Day Of April, 2016 at 03:02:57 PM
And Was Duly Recorded as Instrument # **1790807**
Of The Records Of Santa Fe County

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

SFC CLERK RECORDED 04/08/2016