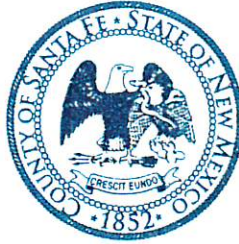


**Henry P. Roybal**  
Commissioner, District 1

**Anna Hansen**  
Commissioner, District 2

**Robert A. Anaya**  
Commissioner, District 3



**Anna T. Hamilton**  
Commissioner, District 4

**Ed Moreno**  
Commissioner, District 5

**Katherine Miller**  
County Manager

**DATE:** March 15, 2018

**TO:** Santa Fe County Planning Commission

**FROM:** Jose E. Larrañaga, Development Review Team Leader

**VIA:** Penny Ellis-Green, Growth Management Director  
Vicki Lucero, Building and Development Services Manager

**FILE REF.:** Case # VAR 17-5190 Glorieta 2.0, Variances

**ISSUE:**

Glorieta 2.0, Applicant, JenkinsGavin, Agent, are requesting variances of the following sections of Ordinance No. 2016-9 the Sustainable Land Development Code (SLDC): Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) regarding width and grade of roads; Section 7.17.9.2.3 (No structure may be constructed on a natural slope of 30% or greater); Section 7.17.10.4.1 (Roads and driveways shall not be designed or constructed on slopes over 25%); Section 7.17.10.3.1 (Disturbed area on any lot shall not exceed 12,000 square feet); Section 7.17.9.2.7 (No significant tree may be removed from slopes greater than 30%); Table 8-17, Dimensional Standards-Public/Institutional (PI) regarding the flyline zip line structure exceeding the maximum allowable height of 48 ft.; and Section 7.17.9.3.1 (Height for Structures on slopes of 15% or greater). The 2,227.44 ± acre site is zoned as Public Institutional (650 ± acres)/Rural (1,500 ± acres)/Rural Fringe (78 ± acres) and is located at 11 State Road 50, within T16N, R11E, Section 22, SDA-2 (Commission District 4).

**Vicinity Map:**



## **HISTORY:**

The 2,227.44 ± acre Glorieta site has historically been known as the Glorieta Baptist Center. The site was established pre 1981 (1960's) and as per Santa Fe County Ordinance 1996-10, the Santa Fe County Land Development Code this site, inclusive of structures and uses, was considered as non-conforming or pre-code. The site consists of approximately 18 lodges/dorm facilities, approximately 100 small lots with most lots having dwellings on them, dining hall, auditorium, meeting rooms, and other structures which were utilized by the Conference Center. The site was utilized as a religious facility, retreat, lodging for attendees of camps and retreats, and other activities associated with the facility. The Glorieta Baptist Center had a County Business Registration and the Center also applied for several Development Permits with Santa Fe County starting in 1981 up to 2013 (**Exhibit 1**).

On August 13, 2013, a Santa Fe Code Enforcement Officer received a complaint that the Glorieta facility had drained the water from the lake. The Officer conducted a site inspection and took photos of the empty lake (**Exhibit 2**). The Officer advised Glorieta 2.0 staff to contact County staff to discuss future plans pertaining to the lake. Glorieta 2.0 staff met with County staff and discussed the plans for the lake which included proposed structures to be placed in the lake to be utilized by the camp attendees. At that time County staff informed Glorieta 2.0 staff that the Glorieta site was considered a non-conforming site/facility as per the Land Development Code and any development on the site would require a Development Permit from Santa Fe County and any expansion of the site/uses would require the submission/approval of a Master Plan (Pre SLDC). They were also informed that Glorieta 2.0 was required to obtain a County Business Registration to conduct business at the site.

On October 30, 2013, Glorieta 2.0 applied for a County Business Registration. On January 15, 2014, Glorieta 2.0 Inc. was issued a Santa Fe County Business Registration to operate as a church camp, adventure camp (mainly a backpacking program), family camp (utilizing the existing hotel type dorms), day camp, retreats, and conference type business (**Exhibit 3**). Historically these uses/activities were conducted by the previous owners. The business license was issued based on the fact that the proposed uses/activities were not intensifying the use of the historic non-conforming uses/activities of the site.

On February 10, 2014, Glorieta 2.0 Inc. was issued a Development Permit to remove some paved parking areas and replace such areas with walking paths and a recreation area (volleyball court). The parking area that was removed was not going to be utilized by Glorieta 2.0 and there was sufficient parking for the facility on the site. Permit # 13-660 was the only permit applied for and issued to Glorieta 2.0 between February 10, 2014 and February 22, 2017 (**Exhibit 4**).

On February 15, 2017, Santa Fe County Growth Management Staff and the Santa Fe County Fire Marshal conducted a site visit at 11 State Road 50 and 101 Oak on the facility known as Glorieta 2.0 Inc., in accordance with the Santa Fe County Sustainable Land Development Code, Ordinance No. 2016-9 (SLDC), Section 14.1. Staff observed various incidents of unpermitted development including but not limited to: multiple new structures utilized for zip lines, a structure which includes lake slides and diving boards, multiple decks, a remodeled building utilized as a Coffee Shop/General Store, the construction of trails (grading) for extreme biking, and a skeet shooting

range. Staff also documented a large area of land that was being utilized to dispose of solid waste material, which is a Public Nuisance and may contain Hazardous Materials. Glorieta 2.0 was issued a Notice of Violation/Stop Work Order for non-compliance of Section 4.8 (unpermitted development) of the SLDC and Ordinance 1993-11 (Anti-Litter). (Exhibit 5)

On February 22, 2017, the Land Use Administrator issued an Order to Cease and Desist, which stated the following: "The unlawful use being allowed on the property presents an immediate risk to the patrons of the facility, the general public, and surrounding property. You are, therefore, ordered to immediately cease and desist the occupancy and use of the unpermitted structures and unpermitted remodeled structures. Failure to immediately cease and desist occupancy and use of the unpermitted structures and unpermitted remodeled structures at 11 State Road 50 and 101 Oak, Glorieta, NM will result in criminal charges being filed and may result in a civil action to enjoin the use." Glorieta 2.0 was issued a Final Notice of Violation/Stop Work Order for non-compliance of Section 4.8 (unpermitted development) of the SLDC and Ordinance 1993-11 (Anti-Litter). (Exhibit 6)

#### **CURRENT STATUS OF SITE:**

Santa Fe County has allowed Glorieta 2.0 to submit for several Development Permits for interior renovations, exploratory wells, and new roofs following the issuance of the Order to Cease and Desist. These Development Permits were issued by Santa Fe County due to concern for life safety issues (Exhibit 7).

Post the issuance of the Order to Cease and Desist, Glorieta 2.0 was pro-active in cleaning the large area of land that was being utilized to dispose of solid waste material. A Solid Waste Abatement Plan was submitted and the cleanup was coordinated with Santa Fe County and the New Mexico Environmental Department (Exhibit 8). Staff has conducted a site inspection and has verified that the site has been cleared of solid waste and re-vegetated.

Post the issuance of the Order to Cease and Desist, Santa Fe County has allowed Glorieta 2.0 to use the facility in coordination with the County Fire Marshal and the New Mexico Construction Industries Division. The use of the facility was limited to the non-conforming structures and uses. All unpermitted structures were not to be utilized (Exhibit 9).

#### **SUMMARY:**

On January 4, 2018, this request was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer memorialized findings of fact and conclusions of law in a written order on this request. The Hearing Officer, based on the evidence presented recommended approval of the seven requested variances. The written order and the minutes of the January 4th, hearing are attached as Exhibit 22 & 23.

On June 19, 2017, the applicant submitted a Site Development Plan and under a separate application submitted a request for four variances of the SLDC (Table 7-13: Rural Road Classification and Design standards, Section 7.17.9.2.3 (Standards) (No structure may be constructed on a natural slope of thirty percent (30%) or greater), Section 7.17.9.2.7 (No

significant tree may be removed from slopes greater than thirty (30) percent), and Table 8-17 (Dimensional Standards – PI). Both applications were deemed incomplete by Building and Development Staff (BDS) on July 7, 2017 due to deficiencies with the submittals.

On August 7, 2017, the applicant re-submitted the Site Development Plan addressing BDS comments and under a separate application re-submitted a request for seven variances of the SLDC which include the following: Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3), Section 7.17.9.2.3 (No structure may be constructed on a natural slope of thirty percent (30%) or greater), Section 7.17.10 Development at or over 7,400 feet/Section 7.17.10.4.1 (Roads and driveways shall not be designed or constructed on slopes over twenty-five percent 25%)/ Section 7.17.10.3.1 (Disturbed area on any lot shall not exceed 12,000 square feet), Section 7.17.9.2.7 (No significant tree may be removed from slopes greater than thirty (30) percent), Table 8-17, Dimensional Standards-Public/Institutional (PI), and Section 7.17.9.3.1 (Steep Slopes, Ridgetops, Ridgelines and Shoulders. Height for Structures on slopes of 15% or greater). (Exhibit 10)

On November 15, 2017, a Facilitated Public Meeting was conducted at the Pecos Independent School District Boardroom. Facilitation was recommended by the Administrator as per Section 4.4.8.3. (Types of Cases Referred) which states, “in general, any application which presents controversy, in which residents have questions or concerns, or that the applicant feels is appropriate for facilitation, may be referred to facilitation.” The November 15, 2017, facilitation addressed changes made to the facility and concerns of neighbors (Exhibit 11). The Facilitator emailed and sent out letters notifying interested individuals and adjacent land owners of the meeting. The letters were sent out on November 9, 2017, and due to the holiday were not processed by the Post Office and delivered until November 14, 2017, one day before the meeting date. Several individuals have expressed their concerns on the short notice. On November 6, 2017, staff forwarded the Facilitation Meeting notification, via email, to Mr. Adney so that he could forward to other individuals that would want to attend the meeting.

The applicant states in the Site Development Plan application the following: The Property has been historically used as a religious retreat center since the 1950s. In 2013, Glorieta 2.0 purchased the property. Since that time, select recreational amenities have been expanded, necessary repairs made to existing structures, and several buildings have been remodeled. The attached spreadsheet details the Property improvements that are part of this Site Development Plan application as depicted in the submittal plans, which includes building remodels, new recreational uses and structures, parking areas, and trails. All new improvements comply with the Sustainable Design Standards of the SLDC, except for those elements requiring a variance. Variance requests are submitted with this application under separate cover. The Project incorporates the following uses that are identified as permissible in the Public/Institutional zoning district:

1. Retreats – professional, educational, health-related and religious meetings, conferences or seminars, including meals, overnight accommodations, and recreation for participants and related activities
2. Camps, camping and related activities
3. Religious assembly and churches
4. Conferences

5. Child and youth services
6. Active leisure sports and related activities, swimming and water sports and related activities
7. Active open space and related activities
8. Athletic fields, passive open space, and conservation areas
9. Fitness, recreational sports, and related gym facilities
10. Covered or partially covered atriums and enclosures
11. Performing arts
12. Amphitheater
13. Community meeting spaces, assembly
14. Exhibition, convention or conference structures
15. Residential single family, single-family attached (duplexes), multifamily dwellings and residential accessory dwellings for staff and guests
16. Temporary structures, tents, etc. for shelter
17. Grazing and ranching of livestock
18. Continuation of ground leases for existing residential structures leased to constituents of the organization and/or Glorieta 2.0's predecessor. **(Exhibit 12)**

The Site Development Plan for a retreat facility as submitted by the applicant is being evaluated administratively under a separate application as authorized by the SLDC, and the Planning Commission will not be taking action on this request and this issue is not currently before the Planning Commission. The Site Development Plan application is for a retreat facility to be utilized as it has historically been utilized, which includes the existing legal non-conforming ancillary uses and the proposed ancillary uses. At the January 4<sup>th</sup>, Hearing Officer Meeting, there was testimony that the facility is open to the public. As part of the Site Development Plan review, the Administrator is evaluating whether the proposed uses are allowed if they are utilized by the general public and not as part of the retreat program. Therefore, any public testimony pertaining to the variance requests, which, states or implies that the facility is open to the public may not be relevant to support the request for the variances.

The uses listed above inclusive of public or community outdoor recreation facilities are allowed as ancillary uses as a retreat use within a Public Institutional Zoning District as per Appendix B Use Table of the SLDC. The use as public or community outdoor recreation facility is an allowed use within the Rural Zoning District as per Appendix B Use Table of the SLDC. The use of the structures, trails, and roads requiring a variance(s) are an allowed use within the respective zoning districts as a retreat use. The construction of the structures, trails, and roads requiring a variance(s) on this site require a Development Permit prior to construction. The SLDC requires a Site Development Plan/Development Permit for the following activities: for construction or renovation of, or an addition to any structure; for construction or reconstruction of a road or driveway pursuant to Chapter 7; and for grading of a site prior to issuance of another development permit pursuant to Chapter 7.

The applicant is requesting the variances stated in the caption above to proceed with approval of the Site Development Plan/Development Permit to allow the permitting of the structures/roads/trails and the use of the structures/roads/trails as a retreat facility. The approved Development Permit for the structures will then be subject to review by the New Mexico

Construction Industries Division for structural soundness and compliance with the International Building Code.

Appendix A, (Rules of Interpretation, Definitions and Acronyms) of the SLDC defines Retreat as, a facility or property used for professional, educational or religious conclaves, meetings, conferences, or seminars and which may provide meals, housing, and recreation for participants during the period of the retreat or program only. A retreat may not be utilized by the general public for meals or overnight accommodations.

As part of the application, the Applicant submitted an Environmental Impact Analysis (EIR) to support their applications, which listed several mitigation measures recommended to address the disturbed and developed areas. The EIR did not address the impact of disturbance or of the actual placement of the structures and only addressed the ongoing impact. Chapter 6, Section 6.3.6 of the SLDC states that the EIR shall limit its examination to changes in the existing physical conditions in the affected areas as they exist at the time the EIR is commenced. In this case the EIR commenced after the disturbance and development had already occurred. An EIR is required prior to any development or disturbance of a site in order to evaluate pre-existing conditions. In this instance, the EIR failed to evaluate the impact of development of vacant, undisturbed land and therefore, sufficient information has not been provided to support the variances requested.

Section 4.9.7.4 (Review criteria) states, a variance may be granted only by a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) based upon the following criteria:

1. where the request is not contrary to the public interest;
2. 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; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

The following is the applicant's response to the variance criteria as well as staff response to each of the requested variances:

1) **Variance from SLDC Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3).**

The applicant states, per the above referenced table, the Project's existing Hagen Creek Road and the new Zip Tour Road are classified as a "Local" roadway. Local roadway standards call for two driving lanes with a minimum width of 10', a maximum grade of 10%, and 3" base course. A variance is requested from these standards to allow for existing Hagen Creek Road and the new Zip Tour Road to be improved to a 15' width with a maximum grade of 15%, or improved to a 20' width with a maximum grade of 18%. The proposed layout and improvements to both roadways have been reviewed in the field and directed by the Santa Fe County Fire Marshal. Our responses to the Variance Review Criteria in SLDC Section 4.9.7.4 are outlined below:

**1. where the request is not contrary to the public interest;**

Applicant's Response:

The existing Hagen Creek Road was built by the US Forest Service in the 1930's for access to the Santa Fe National Forest which is directly adjacent to the subject property. In the building of the new zip line platforms and to provide access to the recreational amenities, Glorieta has used the existing Hagen Creek road. For the new Zip Tour Road, Glorieta built the road with the intent to minimize scarring on the mountain by aligning it tightly with the natural grades and terrain, as well as minimizing the width to reduce visibility from the public view. It is in the public's interest to allow the existing two roads to remain in place in their current alignment in order to minimize scarring of the mountain and natural terrain, with the requisite improvements to widen the drive line and lower the existing grades. To re-engineer and relocate the roads to meet the SLDC Table 7-13 Local Roadway Standards would require significant disturbance of the natural grades, vegetation, and wild life with the potential construction of a longer, wider road with numerous switchbacks scarring the mountain side.

Staff Response:

The purpose and findings of the Road Design Standards (Section 7.11) are designed to: ensure that the design of roads conforms to the policies of the SGMP; provide for the safety for both vehicular and pedestrian traffic; provide for livable residential, mixed-use and commercial environments; provide for economy of land use, construction, and maintenance; provide safe and efficient access to property. The request is contrary to the public interest because, although the applicant asserts that minimizing the width of the roads and allowing the grade to exceed Code requirements for aesthetic purposes is in the public interest, the width and grade of the roads are a matter of public safety for users of the roads and for emergency accesses. The Zip Tour Road was created to accesses the unpermitted Zip Tour structures. The applicant failed to acquire the required Development Permits for the Zip Tour structures and Zip Tour Road, this action is a matter of public safety.

**2. 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; and**

Applicant's Response:

Hagen Creek Road was built in the 1930's by the US Forest Service for vehicle access to the Santa Fe National Forest. When Glorieta bought the property in 2013, it was the only vehicle access to the escarpment areas of the property and the National Forest land for recreation and property maintenance. The Zip Tour was built in the escarpment area of the property, which was an appropriate location for zip lines. Accordingly, the Zip Tour Road was built to allow access to these recreational facilities that require vertical change in elevation. Strict application of Table 7-13 would require that both roadways be improved to a 20' width and no greater than a 10% grade. In order to achieve this, large sections of the existing roads would be abandoned, leaving significant disturbed areas to be reclaimed, and the compliant road would switch back and forth

along both faces of the mountain. This condition would be visually undesirable for Glorieta and the public, as well as create significant disturbance to the natural terrain, landscape and wildlife.

**Staff Response:**

The standards of Section 7.11 and Table 7-13 shall apply to all development. Rural road standards shall apply to all roads within SDA-2 and SDA-3. Strict application of the code will not cause the applicant peculiar and exceptional practical difficulties or exceptional and undue hardship due to the fact that the Zip Tour Road was built to allow access to unpermitted recreational facilities and the Zip Tour Road was created without a Development Permit from Santa Fe County.

**3. so that the spirit of the SLDC is observed and substantial justice is done.**

**Applicant's Response:**

The requested variance from the local roadway standards would sustain the intent and spirit of the SLDC by minimizing the scarring and disturbance of the natural terrain, in this case the escarpment area of Glorieta's property. The existing Hagen Creek Road has been used for 80 years to access the National Forest from the subject property. To require this road to be improved to meet the width and grade standards of Table 7-13 would gravely impact the natural environment that has thrived in concert with the existing road. Furthermore, allowing Zip Tour Road to maintain its current alignment and providing for minimal adjustments to width (15' to 20') and grade (15 to 18%), the road can satisfy the SLDC's requirements for public safety and sustainability of our natural resources.

Furthermore, this variance request observes the spirit of SLDC Section 7.11, Road Design Standards, as outlined below.

Section 7.11.1 Ensure that the design of roads conforms to the policies of the SGMP;

The proposed roadways were laid out and designed in collaboration with the Santa Fe County Fire Marshal to minimize variances and conform to the policies of the SGMP.

Section 7.11.2 Provide for the safety for both vehicular and pedestrian traffic;

Hagen Creek Road and the Zip Tour road both provide safe and emergency access to the Santa Fe National Forest and the recreational zip line structures.

Section 7.11.3 Provide for livable residential, mixed-use and commercial environments;

Both roadways with the proposed improvements provide for a livable commercial facility and operations at Glorieta and for their guests and patrons.

Section 7.11.4 Provide for economy of land use, construction, and maintenance; and



The variance to roadway standards is requested in order to make the Project more sustainable by maintaining the existing Hagen Creek Road and the Zip Tour Road with the required widening and regrading, thereby minimizing further scarring and disturbance.

Section 7.11.5 Provide safe and efficient access to property.

The Property currently has safe and efficient access from State Road 50. Access into the Property is not part of this variance request. The interior Hagen Creek Road provides safe and efficient access to the National Forest as well as to the zipline structures that are used for recreational purposes. The Zip Tour Road will provide safe and efficient access to the property's improvements and water tank.

**Staff Response:**

The SLDC, including all amendments to the SLDC, are intended to implement and be consistent with the goals, objectives, policies, and strategies of the Sustainable Growth Management Plan (SGMP) through comprehensive, concurrent, consistent, integrated, effective, time limited and concise land development approvals. Ministerial development approval, often referred to as 'administrative approval,' involves the application of the standards of the SLDC to an application by the Administrator. Any person who participates in, assists, directs, creates or maintains any building, structure or use that is contrary to the requirements of the SLDC, who fails to obtain a permit required by the SLDC,... shall have committed a violation of the SLDC... The applicant's response to the variance criteria involves access to the Zip Line Tour which was constructed without Santa Fe County approval. The Zip Tour road was also constructed without the proper Development Permits. The request for a variance of this section of the SLDC should have been requested prior to any disturbance to the site. The applicant did not seek development approvals and therefore the integrity of the SLDC was compromised.

**2) Variance from SLDC Section 7.17.9.2.3: No structure may be constructed on a natural slope of thirty percent (30%) or greater.**

A variance is requested for disturbance of 30% slopes for the construction of improvements on the subject property. The 30% slope disturbance is as follows:

	<u>Square Footage</u>
#27 Zip Tour Road	94,487
#34 Challenge Treehouse	458
#35 Overnight Treehouse	421
#37 Mudpit Platform	694
#38 Green Trail Bridge 1	224
#39 Green Trail Bridge 2	249
#51 Reclamation Area	166
#56 Zip Tour Platform	12,660
#65 Oklahoma Parking/Bike	5,836
#67 Trails	16,632
#69 Hagen Creek Road	77,865

#71 Bike Terrain Park	1,891
Total	211,583

**1. where the request is not contrary to the public interest;**

Applicant's Response:

#27 Zip Tour Road: The request for a variance on the 30% slopes for the Zip Tour Road is in the interest of the public, in that maintaining the roadway's current alignment and making adjustments to the width and grades as proposed will minimize the disturbance to the natural terrain, landscape, and wildlife while minimizing scarring of the escarpment.

#34 Challenge Treehouse: Providing the 30% disturbance variance for the Challenge Treehouse structure is not contrary to the public's interest in that the disturbance is minimal, and the disturbance is in an area with naturally occurring 30% slopes with significant tree and shrub cover to mitigate any potential erosion concerns. The treehouse structure is primarily supported by existing trees, and its footprint is not significant.

#35 Overnight Treehouse: Providing the 30% disturbance variance for the Overnight Treehouse structure is not contrary to the public's interest in that the disturbance is minimal, and the disturbance is in an area with naturally occurring 30% slopes with significant tree and shrub cover to mitigate any potential erosion concerns. The treehouse structure is primarily supported by existing trees, and its footprint is not significant.

#37 Mudpit Platform: The request for a variance on the Mudpit Platform is not contradictory to the public's interest as the structure is existing, the disturbance is small, and the disturbed slopes have been stabilized since its construction.

#38 Green Trail Foot Bridge 1: The 30% grade disturbance from the Green Trail Foot Bridge 1 is not contrary to the public's interest as the area of disturbance is minimal, and the improvement provides access to an existing (not new) trail which is part of the trail network on the subject property which connects to the Santa Fe National Forest.

#39 Green Trail Foot Bridge 2: The 30% grade disturbance from the Green Trail Foot Bridge 2 is not contrary to the public's interest as the area of disturbance is minimal, and the improvement provides access to an existing (not new) trail which is part of the trail network on the subject property which connects to the Santa Fe National Forest.

#51 Reclamation Area: This reclamation area is in the public's interest in that the historical laydown yard and back of house waste storage area has been reclaimed and stabilized with seeding to restore the disturbed area back to existing. The limited disturbed 30% slopes are a result of the reclamation process.

#56 Zip Tour Platforms: The disturbance created by the installation of the Zip Tour platforms is not contrary to the public's interest in that the platforms are not publicly visible, they were

installed in 2014 and the areas around them are stabilized, and the disturbance was minimized as much as possible with the challenging terrain of the escarpment.

#67 Trails: The disturbed 30% slopes for the new trails are minimal along the hiking/biking trail, and do not create any hardship to the public. On the contrary, the trails offer outdoor recreational activities and access the Santa Fe National Forest when the trails are open to the public.

#69 Hagen Creek Road: The request for a variance on the 30% slopes for the Hagen Creek Road is in the interest of the public in that maintaining the roadway's current alignment and making adjustments to the width and grades as proposed will minimize the disturbance to the natural terrain, landscape, and wildlife while minimizing scarring of the escarpment.

#71 Bike Terrain Park: The request for a variance on the 30% slopes from the development of the Bike Terrain Park are minimal and are in an area of existing similar terrain. This variance request does not create any hardship to the public. The bike terrain park offers outdoor recreational activities for the participants of the retreat property which are consistent with the intent of the property.

**Staff Response:**

The SLDC promotes the health, safety, and welfare of the County, its residents, and its environment by regulating development activities to assure that development does not create land use and public nuisance impacts or effects upon surrounding property, the County and the region. The disturbance of 30% slopes (no build area) for the purpose of constructing structures, roads and trails is contrary to the public interest because it is unknown if the disturbance may cause instability to the slopes and may also cause additional erosion and drainage which could affect properties downstream of this site. The EIR submitted by the Applicant states that the Mudpit Platform will have significant environmental effects to the Glorieta Creek by degrading water quality. Mitigation under the Clean Water Act is recommended or relocation of the Mudpit Platform. Consultation with staff prior to disturbance would have determined buildable area.

- 2. 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; and**

**Applicant's Response:**

#27 Zip Tour Road: The Zip Tour Road was built in the subject property's escarpment area with steep terrain, rock outcroppings, and dense vegetation. The roadway alignment was laid out strategically to minimize visibility from surrounding properties and the public, to minimize disturbance of terrain and to provide adequate access to the Zip Tour structures. In order to comply with SLDC §7.17.9.2.3, the road alignment would have to be moved and extended significantly in length to avoid the natural 30%+ slopes. Large sections of the road would potentially have to be abandoned, leaving significant disturbed areas to be reclaimed. This condition would be visually undesirable for Glorieta, as well as creating significant disturbance to the natural terrain, landscape, and wildlife.

#34 Challenge Tree House: The treehouse is located along an existing trail that accesses a wooded area which Glorieta uses for recreational and camping-related activities. The area has slopes over 30% and the treehouse was built with minimal disturbance of 30% grades to access the structure via a wooden walkway. The natural conditions of the forested area contribute to the requirement for the 30% disturbance.

#35 Overnight Treehouse: The treehouse is located along an existing trail that accesses a wooded area which Glorieta uses for recreational and camping-related activities. The area has slopes over 30% and the treehouse was built with minimal disturbance of 30% grades to access the structure via a wooden walkway. The natural conditions of the forested area contribute to the requirement for the 30% disturbance.

#37 Mudpit Platform: The area in which the Mudpit Platform is located has existing 30%+ slopes as it is a bank that runs down into a muddy water hole. The platform is necessary to provide safe and adequate access to the water hole for recreational purposes. In order to relocate the structure to an area void of 30%+ disturbance would render this area un-useable for the recreational activities of Glorieta.

#38 Green Trail Foot Bridge 1: The 30% grade disturbance from the Green Trail Foot Bridge 1 is due to the location of the foot bridge structure across a drainage way which has steep slopes on each side due to the natural waterway. To avoid 30% slopes a bridge structure would have to be larger in span, larger in overall size, which would increase the cumulative areas of disturbance. The compact bridge structures used minimized the area of disturbance, and the improvement provides access to an existing (not new) trail which is part of the trail network on the subject property which connects to the Santa Fe National Forest.

#39 Green Trail Foot Bridge 2: The 30% grade disturbance from the Green Trail Foot Bridge 1 is due to the location of the foot bridge structure across a drainage way which has steep slopes on each side due to the natural waterway. To avoid 30% slopes a bridge structure would have to be larger in span, larger in overall size, which would increase the cumulative areas of disturbance. The compact bridge structures used minimized the area of disturbance, and the improvement provides access to an existing (not new) trail which is part of the trail network on the subject property which connects to the Santa Fe National Forest.

#51-Reclamation Area: The disturbance of the 30% slopes in the reclamation area is existing and now stabilized, not proposed. To correct the previously disturbed areas would create more disturbance which further intensifies this area near the waterway, which is a hardship on the terrain that is avoidable if the variance is granted.

#56 Zip Tour Platforms: The Zip Tour platforms are nestled within the property's densely wooded and steep escarpment. They are located strategically on areas of flatter terrain to allow for safe access and maintenance. The areas of 30% disturbance are minimal considering the natural grades. In order to provide for the retreat's recreational activities, the structures were required to be placed within the mountain terrain, and 30% disturbances occurred. If the platforms were relocated to areas of less than 30% slopes, there would be subsequent greater disturbance to the

natural terrain. The structures are currently not publicly visible. They were installed in 2014 and the areas around them are stabilized, and the disturbance was minimized as much as possible with the challenging terrain of the escarpment.

#67 Trails: The disturbed 30% slopes for the new trails are minimal along the approximate 10.5 miles of hiking and biking trails. Relocating new trails that connect to an extensive network of existing trails would be a serious hardship for the retreat center. Abandonment of trails and the clearing, grading and cutting of new trails would create more disturbance for the natural terrain and potential for erosion.

#69 Hagen Creek Road: Hagen Creek Road is an existing road built in the 1930's in the subject property's escarpment area with steep terrain, rock outcroppings, and dense vegetation. The roadway alignment was originally laid out by the US Forest Service, who were strategic in its placement to minimize visibility from surrounding properties and the public, to minimize disturbance of terrain, and to provide adequate access to the Zip Tour structures as well as the Santa Fe National Forest. In order to comply with SLDC Section 7.17.9.2.3, the road alignment would have to be moved and extended significantly in length to avoid the natural 30%+ slopes. Large sections of the road would potentially have to be abandoned, leaving significant disturbed areas to be reclaimed. This condition would be visually undesirable for Glorieta, as well as creating significant disturbance to the natural terrain, landscape, and wildlife.

#71 Bike Terrain Park: The disturbed 30% slopes for the Bike Terrain Park are minimal. Having to relocate the terrain park which is adjacent to the extensive network of existing biking and hiking trails would be a serious hardship for the retreat center. Abandoning the terrain park area and relocating it to an area void of 30%+ slopes would create more disturbance to the natural terrain and potential for erosion.

**Staff Response:**

Section 7.17.9 (Steep Slopes, Ridge tops, Ridgelines, and Shoulders) applies to development of any structure on a slope whose grade exceeds fifteen percent (15%), areas where slope exceeds thirty percent (30%); and to a ridge, ridge top, ridgeline, or shoulder (no build area). Disturbance of these areas could cause erosion and damage to structures and property. The applicant created the extraordinary and exceptional situation on the property by constructing unpermitted structures, roads and trails on 30% slopes or greater and therefore created a self-inflicted hardship.

**3. so that the spirit of the SLDC is observed and substantial justice is done.**

**Applicant's Response:**

#27 Zip Tour Road: Hagen Creek Road is an existing roadway. Some disturbance of 30% slopes occurred during its construction. Granting of this variance will minimize further cuts, fills, and grading which, if required, would cause greater disturbance and scarring to the natural landscape. Therefore, the requested variance will observe the spirit of SLDC Section 7.17, Terrain Management, which calls for protecting the natural character of the land, minimizing soil

instability, protecting and retaining rugged and steep terrain, and encouraging minimum disturbance to the natural areas of a site.

#34 Challenge Treehouse: The Challenge Treehouse is an existing structure. Some disturbance of 30% slopes occurred when it was constructed. However, any remediation efforts will cause further disturbance and scarring. Therefore, the requested variance will observe the spirit of SLDC Section 7.17, Terrain Management, which calls for protecting the natural character of the land, minimizing soil instability, protecting and retaining rugged and steep terrain, and encouraging minimum disturbance to the natural areas of a site.

#35 Overnight Treehouse: The Challenge Treehouse is an existing structure. Some disturbance of 30% slopes occurred when it was constructed. However, any remediation efforts will cause further disturbance and scarring. Therefore, the requested variance will observe the spirit of SLDC Section 7.17, Terrain Management, which calls for protecting the natural character of the land, minimizing soil instability, protecting and retaining rugged and steep terrain, and encouraging minimum disturbance to the natural areas of a site.

#37 Mudpit Platform: The Mudpit Platform is an existing improvement which was constructed to allow safe access to the recreational mud pit. Some disturbance of 30% slopes occurred during its construction. However, any remediation efforts will cause further disturbance and scarring. Therefore, the requested variance will observe the spirit of SLDC Section 7.17, Terrain Management, which calls for protecting the natural character of the land, minimizing soil instability, protecting and retaining rugged and steep terrain, and encouraging minimum disturbance to the natural areas of a site.

#38 Green Trail Foot Bridge 1: The Green Trail Foot Bridge 1 is an existing improvement which was constructed to allow pedestrians a safe crossing. Some disturbance of 30% slopes occurred during its construction. However, any remediation efforts will cause further disturbance and scarring. Therefore, the requested variance will observe the spirit of SLDC Section 7.17, Terrain Management, which calls for protecting the natural character of the land, minimizing soil instability, protecting and retaining rugged and steep terrain, and encouraging minimum disturbance to the natural areas of a site.

#39 Green Trail Foot Bridge 2: The Green Trail Foot Bridge 1 is an existing improvement which was constructed to allow pedestrians a safe crossing. Some disturbance of 30% slopes occurred during its construction. However, any remediation efforts will cause further disturbance and scarring. Therefore, the requested variance will observe the spirit of SLDC Section 7.17, Terrain Management, which calls for protecting the natural character of the land, minimizing soil instability, protecting and retaining rugged and steep terrain, and encouraging minimum disturbance to the natural areas of a site.

#51 Reclamation Area: This reclamation area is an existing improvement which was previously a laydown yard and back of house waste storage area. Some disturbance of 30% slopes occurred during its construction. However, any remediation efforts will cause further disturbance and scarring.

#56 Zip Tour Platforms: The Zip Tour Platforms are existing improvements which were constructed to access the zip lines. Some disturbance of 30% slopes occurred during their construction. However, any remediation efforts will cause further disturbance and scarring. Therefore, the requested variance will observe the spirit of The Green Trail Foot Bridge 1 is an existing improvement which was constructed to allow pedestrians a safe crossing. Some disturbance of 30% slopes occurred during its construction. However, any remediation efforts will cause further disturbance and scarring. Therefore, the requested variance will observe the spirit of SLDC Section 7.17, Terrain Management, which calls for protecting the natural character of the land, minimizing soil instability, protecting and retaining rugged and steep terrain, and encouraging minimum disturbance to the natural areas of a site.

#67 Trails: Some of the existing trails are constructed on terrain that necessitated disturbance of 30% slopes. However, any remediation efforts will cause further disturbance and scarring. Therefore, the requested variance will observe the spirit of The Green Trail Foot Bridge 1 is an existing improvement which was constructed to allow pedestrians a safe crossing. Some disturbance of 30% slopes occurred during its construction. However, any remediation efforts will cause further disturbance and scarring. Therefore, the requested variance will observe the spirit of SLDC Section 7.17, Terrain Management, which calls for protecting the natural character of the land, minimizing soil instability, protecting and retaining rugged and steep terrain, and encouraging minimum disturbance to the natural areas of a site.

#69 Hagen Creek Road: Hagen Creek Road is an existing roadway. Some disturbance of 30% slopes occurred during its construction. However, any remediation efforts will cause further disturbance and scarring. Therefore, the requested variance will observe the spirit of SLDC Section 7.17, Terrain Management, which calls for protecting the natural character of the land, minimizing soil instability, protecting and retaining rugged and steep terrain, and encouraging minimum disturbance to the natural areas of a site.

#71 Bike Terrain Area: The Bike Terrain area is an existing recreational amenity. Some disturbance of 30% slopes occurred during its construction. However, any remediation efforts will cause further disturbance and scarring. Therefore, the requested variance will observe the spirit of SLDC Section 7.17, Terrain Management, which calls for protecting the natural character of the land, minimizing soil instability, protecting and retaining rugged and steep terrain, and encouraging minimum disturbance to the natural areas of a site.

Therefore, the requested variance will observe the spirit of SLDC Section 7.17, Terrain Management, which calls for protecting the natural character of the land, minimizing soil instability, protecting and retaining rugged and steep terrain, and encouraging minimum disturbance to the natural areas of a site.

This variance request observes the spirit of SLDC Section 7.17, Terrain Management, as outlined below.

7.17.1.1 Protect water quality and the natural character of the land;

The improvements that are on the 30%+ slopes are existing and were sited to have the minimal impact on the natural character of the land as possible considering the challenging terrain, in particular the roadways. In fact granting of this variance allows for current stabilized areas to remain without any further disturbance, some of which are adjacent to waterways.

7.17.1.2 Minimize soil and slope instability, erosion, sedimentation and storm water runoff;

As stated above, the improvements are existing and stable which minimizes any possible erosion or sedimentation. Incorporation of new retention ponds to control potential storm runoff is implemented where required.

7.17.1.3 Protect and retain rugged and steep terrain, natural landmarks and prominent natural features as open space;

The Property comprises over 2,227 acres with significant undisturbed terrain and open space. The request variance for 30%+ disturbance in the total of 211,883 square feet, which is less than 5 acres or 0.2% of the property, does not impact natural landmarks and features. In fact, the improvements were located to preserve the natural features of the land, and is the reason for the variance request.

7.17.1.4 Adapt development to the existing natural topography, soils, vegetation, geology, hydrology, landforms and other conditions existing on a lot or parcel prior to development by:

1. proper vegetation management techniques;

Glorieta's extensive existing natural vegetation and mature landscaping will not be affected by the request variance.

2. minimizing cuts and fills and earth grading;

The variances requested will minimize the cuts and fills and grading as they will allow the existing improvements to remain and minimize any future earthwork.

3. blending graded areas with undisturbed natural terrain; and

Many of the recreational improvements were built on piers, minimizing the ground disturbance of the natural terrain.

4. minimizing the amount of exposed raw earth at any time in a project by careful phasing of development and revegetation; N/A

7.17.1.5 preserve natural drainage patterns and recharge groundwater to protect the public from the natural hazards of flooding, erosion and landslides;



The improvements have not altered the natural drainage patterns. The minimal impervious areas allow for groundwater recharge. There are no concerns of flooding, erosion or landslides. Where necessary, additional retention ponds are proposed.

7.17.1.6 encourage minimum disturbance to the natural areas of a site;

Disturbance of natural terrain was kept to the minimum amount necessary to construct the structures as most are on piers. The roadways and Reclamation Area are engineered and graded to tie into the natural terrain and grades.

7.17.1.7 appropriately locate roads, driveways and utilities so as to minimize unsightly cut and fill areas, and scarring; and

The Zip Tour Road and Hagen Creek Road were laid out and designed in collaboration with the Santa Fe County Fire Marshal to minimize variances and conform to the policies of the SGMP. Furthermore, Hagen Creek Road was existing and the proposed improvement are minimized cut/fill and scarring.

7.17.1.8 provide passive irrigation of landscaped areas. N/A

**Staff Response:**

The SLDC, including all amendments to the SLDC, are intended to implement and be consistent with the goals, objectives, policies, and strategies of the Sustainable Growth Management Plan (SGMP) through comprehensive, concurrent, consistent, integrated, effective, time limited and concise land development approvals. Ministerial development approval, often referred to as 'administrative approval,' involves the application of the standards of the SLDC to an application by the Administrator. Any person who participates in, assists, directs, creates or maintains any building, structure or use that is contrary to the requirements of the SLDC, who fails to obtain a permit required by the SLDC,... shall have committed a violation of the SLDC...The applicant refers to the structures as "existing". These "existing improvements" were constructed without approval by Santa Fe County. The trail and roads were not reviewed by staff for grade, proper drainage and erosion control management. The structures were not reviewed for code compliance and structural soundness. Complete remediation of all disturbed sites will not cause further disturbance to the site and will reclaim the site to its original state. The applicant did not seek development approvals and therefore the integrity of the SLDC was compromised.

**3) Variance from SLDC Section 7.17.10.4.1: Roads and driveways shall not be designed or constructed on slopes over twenty-five percent 25%.**

- 1. where the request is not contrary to the public interest;**

**Applicant's Response:**

#27 Zip Tour Road: The request for a variance on the disturbance of 25%+ slopes for the Zip Tour Road is in the interest of the public, in that maintaining the roadway's current alignment and making adjustments to the width and grades as proposed will minimize the disturbance to the

natural terrain, landscape, and wild life while minimizing scarring of the escarpment. The roadway is existing and improvements proposed are done to minimize additional ground and slope disturbance, which is significant with the length of the road (94,487 sf). The slope disturbance is necessary to provide adequate emergency access to the existing zip line structures.

#69 Hagen Creek Road: The request for a variance on the 25%+ slopes for the Hagen Creek Road is in the interest of the public in that maintaining the roadway's current alignment and making adjustments to the width and grades as proposed will minimize the disturbance to the natural terrain, landscape, and wild life while minimizing scarring of the escarpment. The existing roadway's proposed additional improvements have been minimized to lessen additional disturbance while providing adequate emergency access to the existing recreational structures.

**Staff Response:**

The SLDC shall restrict development within lands containing environmental, ecological, archaeological, historical or cultural sensitivity...The applicants makes mention of improving the "existing" roads. The proposed improvements will not bring these roads into compliance with the road standards set forth within the SLDC, therefore contrary to the public interest. The applicant constructed the Zip Tour Road to access unpermitted Zip Lines. Disturbance of steep slopes can create erosion, slope instability and drainage issues.

- 2. 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; and**

**Applicant's Response:**

#27 Zip Tour Road: The Zip Tour Road was built in the subject property's escarpment area with steep terrain, rock outcroppings, and dense vegetation. The roadway alignment was laid out strategically to minimize visibility from surrounding properties and the public, to minimize disturbance of terrain and to provide adequate access to the Zip Tour structures. In order to comply with SLDC Section 7.17.10.4, the road alignment would have to be moved and extended significantly in length to avoid the natural 25%+ slopes. Large sections of the road would potentially have to be abandoned, leaving significant disturbed areas to be reclaimed. This condition would be visually undesirable for Glorieta, as well as create significant disturbance to the natural terrain, landscape and wildlife.

#69 Hagen Creek Road: Hagen Creek Road is an existing road built in the 1930's in the subject property's escarpment area with steep terrain, rock outcroppings, and dense vegetation. The roadway alignment was originally laid out by the US Forest Service, who were strategic in its placement to minimize visibility from surrounding properties and the public, to minimize disturbance of terrain and to provide adequate access to the Zip Tour structures as well as the Santa Fe National Forest. In order to comply with SLDC Section 7.17.10.4, the road alignment would have to moved and extended significantly in length to avoid the natural 25%+ slopes. Large sections of the road would potentially have to be abandoned, leaving significant disturbed

areas to be reclaimed. This condition would be visually undesirable for Glorieta, as well as creating significant disturbance to the natural terrain, landscape and wildlife.

**Staff Response:**

Roads and driveways shall not be designed or constructed on slopes of over twenty-five percent (25%). The standards of Section 7.17.10.4 shall apply to all development at or above an elevation of 7400 feet. The unpermitted construction of the Zip Tour Road was done by the applicant to access sites for the construction of the Zip Tour facilities, all of which were constructed without the proper Development Permits from Santa Fe County. The applicant created the extraordinary and exceptional situation on the property by constructing unpermitted roads on slopes over 25% and therefore created a self-inflicted hardship.

**3. so that the spirit of the SLDC is observed and substantial justice is done.**

**Applicant's Response:**

**#27 Zip Tour Road**

Zip Tour Road is an existing roadway. Some disturbance of 25%+ slopes occurred during its construction. Granting of this variance will minimize further cuts, fills, and grading which, if required, would cause greater disturbance and scarring to the natural landscape. Therefore, the requested variance will observe the spirit of SLDC Section 7.17, Terrain Management, which calls for protecting the natural character of the land, minimizing soil instability, protecting and retaining rugged and steep terrain, and encouraging minimum disturbance to the natural areas of a site.

**#69 Hagen Creek Road**

Hagen Creek Road is an existing roadway. Some disturbance of 25%+ slopes occurred during its construction. However, any remediation efforts will cause further disturbance and scarring. Therefore, the requested variance will observe the spirit of SLDC Section 7.17, Terrain Management, which calls for protecting the natural character of the land, minimizing soil instability, protecting and retaining rugged and steep terrain, and encouraging minimum disturbance to the natural areas of a site.

Furthermore, this variance request observes the spirit of SLDC Section 7.11, Road Design Standards, as outlined below.

Section 7.11.1 Ensure that the design of roads conforms to the policies of the SGMP;

The proposed roadways were laid out and designed in collaboration with the Santa Fe County Fire Marshal to minimize variances and conform to the policies of the SGMP.

Section 7.11.2 Provide for the safety for both vehicular and pedestrian traffic;

Hagen Creek Road and the Zip Tour Road both provide safe and emergency access to the Santa Fe National Forest and the recreational zip line structures.

Section 7.11.3 Provide for livable residential, mixed-use and commercial environments;

Both roadways with the proposed improvements provide for a livable commercial facility and operations at Glorieta and for their guests and patrons.

Section 7.11.4 Provide for economy of land use, construction, and maintenance; and

The variance to roadway standards is requested in order to make the Project more sustainable by maintaining the existing Hagen Creek Road and the Zip Tour Road with the required widening and regrading, thereby minimizing further scarring and disturbance.

Section 7.11.5 Provide safe and efficient access to property.

The Property currently has safe and efficient access from State Road 50. Access into the Property is not part of this variance request. The interior Hagen Creek Road provides safe and efficient access to the National Forest as well as to the zip line structures that are used for recreational purposes. The Zip Tour Road will provide safe and efficient access to the property's improvements and water tank.

**Staff Response:**

The SLDC, including all amendments to the SLDC, are intended to implement and be consistent with the goals, objectives, policies, and strategies of the Sustainable Growth Management Plan (SGMP) through comprehensive, concurrent, consistent, integrated, effective, time limited and concise land development approvals. Ministerial development approval, often referred to as 'administrative approval,' involves the application of the standards of the SLDC to an application by the Administrator. Any person who participates in, assists, directs, creates or maintains any building, structure or use that is contrary to the requirements of the SLDC, who fails to obtain a permit required by the SLDC,... shall have committed a violation of the SLDC...The applicant's response to the variance criteria involves access to the Zip Line Tour which was constructed without Santa Fe County approval. The Zip Tour road was also constructed without the proper Development Permits. The request for a variance of this section of the SLDC should have been requested prior to any disturbance to the site. The absence of a Development Permit for the construction of these roads is contrary to the spirit of the SLDC. The applicant did not seek development approvals and therefore the integrity of the SLDC was compromised.

**4) Variance from SLDC Section 7.17.10.3.1: Disturbed area on any lot shall not exceed twelve thousand (12,000) square feet.**

Per the attached Summary of Disturbance and Structures Requiring Variance, there are 9 improvements that have disturbance on slopes of over 25% which totals 195,191 square feet. The majority of the disturbance is the #27 Zip Tour Road and #69 Hagen Creek Road (172,352 square

feet combined). A variance is requested for more than the allowable 12,000 square feet of disturbance for improvements as listed below:

- #27 Zip Tour Road
- #34 Challenge Treehouse
- #35 Overnight Treehouse
- #38 Green Trail Foot Bridge 1
- #39 Green Trail Foot Bridge 2
- #56 Zip Tour Platforms
- #65 Oklahoma Parking and Terrain Park
- #69 Hagen Creek Road
- #71 Bike Terrain Area

**1. where the request is not contrary to the public interest;**

Applicant's Response:

The variance request for disturbance of over 12,000 square feet for the improvements list above are not contrary to the public interest as the improvements are all existing and removal or remediation of the improvements would cause significant disturbance to the property. This would be disruption to the community and neighboring properties. Furthermore, the existing improvements serve the mission and program of the Glorieta property which has been historically used for recreational, spiritual and retreat uses, and provide such services and opportunities to Santa Fe County residents.

Staff Response:

The SLDC shall restrict development within lands containing environmental, ecological, archaeological, historical or cultural sensitivity... The applicant failed to consult County Staff on their intentions and failed to apply for the proper permits for this type of development. The disturbance caused by illegally constructing structures, trails, and roads is contrary to the public interest because of non-compliance with the SLDC.

**2. 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; and**

Applicant's Response:

As the property is over 2,200 acres and the majority of the property is at over 7,400 feet, potential developments and improvements would be severely restricted if they were limited to 12,000 square feet.

Staff Response:

The disturbed area on any lot shall not exceed twelve thousand (12,000) square feet at or above an elevation of 7,400 feet. Due to the size of the site County staff may have been able to work with

the applicant to identify buildable areas, if the applicant would have sought the proper approvals from the County prior to disturbing the site. Staff may have considered supporting a request for a variance of Section 7.17.10.3.1 if the proposed disturbed site was on buildable area, due to size of the property and the fact that the majority of the property is at or above 7,400 feet. The applicant inflicted this condition on themselves by developing these areas without consultation with County staff.

**3. so that the spirit of the SLDC is observed and substantial justice is done.**

Applicant's Response:

This variance request observes the spirit of SLDC Section 8.1, Zoning, as outlined below.

8.1.1 Provide for consistency with the SGMP, and any applicable area, district and community plans, and internally with the SLDC;

Glorieta is zoned Public/Institutional and is used for religious, retreat, camping and recreational activities, which is consistent with the SGMP and the SLDC. The identified improvements requesting the variance are consistent with the historical and new uses of the Glorieta property and structures.

8.1.2 Divide the County into base, planned development and overlay zoning districts of a number, size and location deemed necessary to carry out the purposes of the SGMP and the SLDC; N/A

8.1.3 Provide for a system of Sustainable Development Areas (SDAs) that are established by the SGMP to guide orderly development when infrastructure and services become available and time and sequence development so that infrastructure and services are available when requested. N/A

8.1.4 Promote and incentivize infill into SDA-1 and SDA-2 areas where adequate public facilities and services presently exist;

The Project is located in SDA-2 and has adequate public facilities and services per the attached APFA.

8.1.5 Balance residential development with economic development where appropriate to assure County fiscal integrity;

The attached FIA demonstrates that the Project contributes to the County's economic development with an annual payroll of \$2.7 million, which positively impacts the County's fiscal integrity.

8.1.6 Promote and incentivize flexible planned mixed-use buildings, centers and neighborhoods;

The Project is a retreat and recreational center adjacent to residential uses, which is in accordance with the County's intent to promote and incentivize flexible planned mixed-use buildings, centers, and neighborhoods.

8.1.7 Protect environmentally sensitive lands, and the preservation of natural, archaeological, cultural and historical resources pursuant to the Land Development Suitability Analysis contained in the SGMP;

The square footage variance does not negatively impact any sensitive lands, natural archaeological, cultural or historical resources on the property.

8.1.8 Promote sustainable design and improvement standards;

The improvement sand structures are in compliance with the sustainable design standards of the SLDC. The improvements are existing, and no additional resources will be required if the variance request is granted.

8.1.9 Provide adequate light and air; and N/A

8.1.10 Determine the location, density, height, mass, minimum lot size and use of buildings, structures and land for residential, commercial, industrial and other purposes.

The improvements are existing, and are located within a heavily vegetated and wooded property. This variance would not impact views or the integrity of the site.

**Staff Response:**

The SLDC, including all amendments to the SLDC, are intended to implement and be consistent with the goals, objectives, policies, and strategies of the Sustainable Growth Management Plan (SGMP) through comprehensive, concurrent, consistent, integrated, effective, time limited and concise land development approvals. Ministerial development approval, often referred to as 'administrative approval,' involves the application of the standards of the SLDC to an application by the Administrator. Any person who participates in, assists, directs, creates or maintains any building, structure or use that is contrary to the requirements of the SLDC, who fails to obtain a permit required by the SLDC,... shall have committed a violation of the SLDC...The applicant refers to structures and roads with a combined disturbed area of well over 12,000 square feet as "improvements". These "improvements" are considered development and all development, per SLDC criteria require a Development Permit. The applicant did not seek development approvals and therefore the integrity of the SLDC was compromised. Due to size of the property and the fact that the majority of the property is at or above 7,400 feet Staff recognizes the merits of a variance of Section 7.17.10.3.1, however only if the proposed disturbed site was on buildable area and these improvements were not all on buildable areas.

**5) Variance from SLDC Section 7.17.9.2.7: No significant tree may be removed from slopes greater than thirty (30) percent.**

With the construction of the #56 Zip Tour facilities, 101 significant trees were removed from 30%+ slopes where trees were in conflict with the zip line required clearances. Our responses to the Variance Review Criteria in SLDC Section 4.9.7.4 are outlined below:

**1. where the request is not contrary to the public interest;**

Applicant's Response:

The zip line structures and significant tree removal was done in 2014, and the disturbed areas adjacent to the structures have been stabilized. The trees were cut, not removed; therefore, the tree stumps are in place and no ground disturbance occurred under the zip lines. This area of the subject property is densely wooded, and the tree removal is not contrary to the interest of the public. In fact, Glorieta is currently engaged with the US Forest Service in a forest thinning program to reduce the risk of forest fires, and create a sustainable forest environment.

**Staff Response:**

The purpose and intent of the SLDC is to ensure that building projects are planned, designed, constructed, and managed: to minimize adverse environmental impacts; to conserve natural resources; to promote sustainable development; and to enhance the quality of life in Santa Fe County. The SLDC definition of a significant tree is an existing native trunk-type tree in good health and form which is eight inches or more in diameter as measured 4½ feet above natural grade; any existing native bush-form or character tree (e.g., piñon) which is eight feet high and has a spread of eight feet. 101 significant trees were removed from 30%+ slopes where trees were in conflict with the construction of the zip line. Thinning of trees for fire prevention is done in the interest to the public. These trees were cut down for recreational purposes for a private facility to make room for a use and structures that were unpermitted. These significant trees cannot be replaced and the destruction done by the applicant is irreversible and ultimately contrary to the public interest.

**2. 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; and**

Applicant's Response:

Strict application of the code would not allow the zip lines to be located as they currently are, as the significant trees were too tall and obstructed a clear path for the zip route. Because of the location of Glorieta's retreat property adjacent to the Santa Fe National Forest, their property shares in the densely wooded and steep terrain, and in order to facilitate their program's outdoor recreational activities, trees were removed to provide a safe and effective operation.

**Staff Response:**

Section 7.17.9 (Steep Slopes, Ridge tops, Ridgelines, and Shoulders) 7.17.9.2 (Standards) states, "No significant tree may be removed from slopes greater than thirty (30) percent". The trees were removed to clear a path for the zip route for outdoor recreational activities. The Zip Tour was not permitted by Santa Fe County. Strict application of the code would not allow the zip lines to be located at this site and the cutting of significant trees would have been prohibited. Removal of



significant trees from steep slopes could cause slope instability and erosion which could cause damage to the property.

**3. so that the spirit of the SLDC is observed and substantial justice is done.**

Applicant's Response:

This variance request observes the spirit of SLDC Section 7.17, Terrain Management, as outlined below:

7.17.1.1 Protect water quality and the natural character of the land;

The land is densely populated with trees. Removal of the 101 significant trees has a minimal impact on the natural character of the land. Water quality is not affected by this variance request.

7.17.1.2 Minimize soil and slope instability, erosion, sedimentation and storm water runoff;

As stated above, the land is densely populated with trees, which provide soil and slope stability and prevent erosion. Removal of the 101 significant trees does not impact the stability of the slopes.

7.17.1.3 Protect and retain rugged and steep terrain, natural landmarks and prominent natural features as open space;

The Property comprises over 2,200 acres with significant undisturbed terrain and open space. Removal of the above referenced trees does not impact natural landmarks and features.

7.17.1.4 Adapt development to the existing natural topography, soils, vegetation, geology, hydrology, landforms and other conditions existing on a lot or parcel prior to development by:

5. proper vegetation management techniques;

Glorieta is currently engaged with the US Forest Service to thin the existing forest vegetation to provide a safe environment to prevent forest fires and healthy tree growth.

6. minimizing cuts and fills and earth grading; N/A

7. blending graded areas with undisturbed natural terrain; and

The zip line runs are undisturbed with the tree stumps in place, which are adjacent to the built zip platforms that are on disturbed areas.

8. minimizing the amount of exposed raw earth at any time in a project by careful phasing of development and revegetation; N/A

- 7.17.1.5 preserve natural drainage patterns and recharge groundwater to protect the public from the natural hazards of flooding, erosion and landslides;

The removal of significant trees has not altered the natural drainage patterns. The remaining tree stumps have provided a stable surface to allow for groundwater recharge. There are no concerns of flooding, erosion or landslides due to the tree removal.

- 7.17.1.6 encourage minimum disturbance to the natural areas of a site;

Significant tree removal was kept to the minimum amount necessary to construct the zip line recreational structures.

- 7.17.1.7 appropriately locate roads, driveways and utilities so as to minimize unsightly cut and fill areas, and scarring; and

No trees were removed for the location of roads, driveways or utilities. N/A.

- 7.17.1.8 provide passive irrigation of landscaped areas. N/A

**Staff Response:**

The SLDC, including all amendments to the SLDC, are intended to implement and be consistent with the goals, objectives, policies, and strategies of the Sustainable Growth Management Plan (SGMP) through comprehensive, concurrent, consistent, integrated, effective, time limited and concise land development approvals. Ministerial development approval, often referred to as 'administrative approval,' involves the application of the standards of the SLDC to an application by the Administrator. Any person who participates in, assists, directs, creates or maintains any building, structure or use that is contrary to the requirements of the SLDC, who fails to obtain a permit required by the SLDC, shall have committed a violation of the SLDC...The applicant bases the request for a variance of the removal of 101 significant trees from slopes greater than thirty (30) percent for the use of the Zip Line Tour. The Zip Line Tour and the removal of the significant trees were not permitted by Santa Fe County. The applicant did not seek development approvals and therefore the integrity of the SLDC was compromised.

**6) Variance from SLDC Table 8-17, Dimensional Standards – PI (Public/Institutional).**

The maximum allowable height for a structure in the PI zoning district is 48 feet. We are requesting a Variance for the #30 Holcomb Flylines to allow for a height of 75 feet. Our responses to the Variance Review Criteria in SLDC Section 4.9.7.4 are outlined below:

- 1. where the request is not contrary to the public interest;**

**Applicant's Response:**

The Flyline zip line structure is located on top of a roof section of the Holcomb Building, which is one of the original buildings of the property. The structure consists of platforms that access the

zip line amenity. The top of the platform structure is approximately 75 feet above natural grade at the highest point, which is lower than the adjacent building roof at 89'-2". The steeple of the Holcomb Building extends to 164'-9". The zip structure is insignificant compared to the volume and height of the existing building, and is visually hard to see as they cables disappear from view and the platform structures are small compared to their backdrop. The requested height variance will not create a conflict for the public interest.

**Staff Response:**

The purpose of the Public/Institutional (PI) district is to accommodate governmental, educational, and non-profit or institutional uses, including public or community parks and recreation facilities, and public, non-profit, and institutional residential uses, but excluding any such uses of an extensive heavy industrial character. The Holcomb Flylines sits on top of an existing non-conforming structure. The Flyline was constructed without the proper permits and review of structural soundness. In the public's interest both structures should have been designed and engineered to assure the safety of the users of this facility.

- 2. 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; and**

**Applicant's Response:**

The zip line structure was constructed on the lower section of the existing building which exceeds the allowable height of 48 feet. To require the zip structure to comply with the 48' maximum height requirement would mandate that it is removed and relocated to another building or structure. Significant structural improvements have been done to the building to allow the zip facility to be placed in its current location. In comparison to the near 90' height of the Holcomb Building, the zip line facility is a minor addition to the building's public elevation.

**Staff Response:**

Section 8.8.4 (Review/approval procedures) states, all PI developments must meet the design standards of this Section (8.8) in addition to the applicable standards of Chapter 7. The applicant states that significant structural improvements have been done to the building to allow the zip facility to be placed in its current location. An analysis of the structural improvements has not been conducted by New Mexico Construction Industries due to the fact that an application for a permit was never submitted to the County or NMCID. This self-inflicted condition does not cause an undue hardship on the owner.

- 3. so that the spirit of the SLDC is observed and substantial justice is done.**

**Applicant's Response:**

This variance request observes the spirit of SLDC Section 8.1, Zoning, as outlined below:

8.1.1 Provide for consistency with the SGMP, and any applicable area, district and community plans, and internally with the SLDC;

Glorieta is zoned Public/Institutional and is used for recreational retreat activities, which is consistent with the SGMP and the SLDC.

8.1.2 Divide the County into base, planned development and overlay zoning districts of a number, size and location deemed necessary to carry out the purposes of the SGMP and the SLDC; N/A

8.1.3 Provide for a system of Sustainable Development Areas (SDAs) that are established by the SGMP to guide orderly development when infrastructure and services become available and time and sequence development so that infrastructure and services are available when requested.  
N/A

8.1.4 Promote and incentivize infill into SDA-1 and SDA-2 areas where adequate public facilities and services presently exist;

The Project is located in SDA-2 and has adequate public facilities and services per the attached APFA.

8.1.5 Balance residential development with economic development where appropriate to assure County fiscal integrity;

The attached FIA demonstrates that the Project contributes to the County's economic development with an annual payroll of \$2.7 million, which positively impacts the County's fiscal integrity.

8.1.6 Promote and incentivize flexible planned mixed-use buildings, centers and neighborhoods;

The Project is a retreat and recreational center adjacent to residential uses, which is in accordance with the County's intent to promote and incentivize flexible planned mixed-use buildings, centers, and neighborhoods.

8.1.7 Protect environmentally sensitive lands, and the preservation of natural, archaeological, cultural and historical resources pursuant to the Land Development Suitability Analysis contained in the SGMP;

The height variance does not negatively impact any sensitive lands, natural archaeological, cultural or historical resources on the property.

8.1.8 Promote sustainable design and improvement standards;

The zip line structure improvements will bring the existing building's egress into compliance with stairwell modifications proposed. The improvements are existing, and no additional resources will be required if the variance request is granted.

8.1.9 Provide adequate light and air; and N/A

8.1.10 Determine the location, density, height, mass, minimum lot size and use of buildings, structures and land for residential, commercial, industrial and other purposes.

The zip lines that exceed the 48' maximum height limitation are adjacent to an existing nonconforming building that is higher than the zip lines, so the zip lines do not impact views or the integrity of the site.

**Staff Response:**

The SLDC, including all amendments to the SLDC, are intended to implement and be consistent with the goals, objectives, policies, and strategies of the Sustainable Growth Management Plan (SGMP) through comprehensive, concurrent, consistent, integrated, effective, time limited and concise land development approvals. Ministerial development approval, often referred to as 'administrative approval,' involves the application of the standards of the SLDC to an application by the Administrator. Any person who participates in, assists, directs, creates or maintains any building, structure or use that is contrary to the requirements of the SLDC, who fails to obtain a permit required by the SLDC... shall have committed a violation of the SLDC... The Flyline structure was constructed without approvals from Santa Fe County and structural approvals by the New Mexico Construction Industries Division. It is unknown if the Flyline structure is structurally sound and if the non-conforming Holcomb Building can structurally support the Flyline structure. The applicant did not seek development approvals and therefore the integrity of the SLDC was compromised.

**7) Variance from SLDC Section 7.17.9.3.1: Steep Slopes, Ridgetops, Ridgelines and Shoulders. Heights for Structures on slopes of 15% or greater.**

The maximum allowable height for a structure on 15%+ slopes is 18 feet. We are requesting a Variance for the following structures that exceed the allowable height:

#34 Challenge Treehouse	35'-0"
#35 Overnight Treehouse	26'-2"
#36 Tree Rappel Structure	50'-0"
#56 Zip Tour Platforms	
Platform 3	28'-11"
Platform 4	29'-11"
Platform 5	29'-11"

*\*Platforms 1 and 2 are below the allowable 18'-0".*

Our responses to the Variance Review Criteria in SLDC Section 4.9.7.4 are outlined below:

- 1. where the request is not contrary to the public interest;**

**Applicant's Response:**

The Challenge Treehouse, Overnight Treehouse, Tree Rappel Structure and Zip Tour Platforms are all built along an existing trails or road. The tree houses and rappel structure utilize existing mature evergreen trees as their structure. The structures consist of a wood ramp and platforms. The heights identified are the highest from natural grade, which are lower than the existing tree vegetation around them, hence the structures are not visible from any view point outside or within the property. The requested height variance will not create a conflict for the public interest.

**Staff Response:**

The purpose and intent of the SLDC is to ensure that building projects are planned, designed, constructed, and managed: to minimize adverse environmental impacts; to conserve natural resources; to promote sustainable development; and to enhance the quality of life in Santa Fe County. The applicant has not provided evidence that the structures built on mature significant trees are affecting the health of the tree. The Zip Tour Platforms were constructed without County approvals. These structures are not visible from the Highway or adjoining properties. The safety of these structures is in question and therefore contrary to the public interest.

- 2. 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; and**

**Applicant's Response:**

The identified structures were constructed in concert with the existing densely wooded area, allowing the structure to blend with the natural surroundings for its recreational use. To require the four improvements to comply with the 18' maximum height requirement would mandate that they are either removed or relocated to another location, creating more disturbance to the property; or to require that they are reconstructed to comply with the restricted height would deem the recreational improvements inadequate to fulfill Glorieta's program requirements.

**Staff Response:**

Section 7.17.9.3.(Height) states, "the height of any structure located on land that has a natural slope of fifteen percent (15%) or greater shall not exceed eighteen feet (18)". Consultation with County Staff and referencing the SLDC, prior to construction of these structures, would have apprised the applicant of the height requirements. In addition, the siting of the structures has, in turn, required a request for additional significant variances. The conditions of the property did not create an undue hardship on the owner it was the owner who imposed this condition on themselves by constructing these structures without consulting Santa Fe County.

- 3. so that the spirit of the SLDC is observed and substantial justice is done.**

**Applicant's Response:**

This variance request observes the spirit of SLDC Section 8.1, Zoning, as outlined below:

8.1.1 Provide for consistency with the SGMP, and any applicable area, district and community plans, and internally with the SLDC;

Glorieta is zoned Public/Institutional and is used for recreational retreat activities, which is consistent with the SGMP and the SLDC. The proposed structure requesting the variance is consistent with the recreational activities of Glorieta.

8.1.2 Divide the County into base, planned development and overlay zoning districts of a number, size and location deemed necessary to carry out the purposes of the SGMP and the SLDC; N/A

8.1.3 Provide for a system of Sustainable Development Areas (SDAs) that are established by the SGMP to guide orderly development when infrastructure and services become available and time and sequence development so that infrastructure and services are available when requested. N/A

8.1.4 Promote and incentivize infill into SDA-1 and SDA-2 areas where adequate public facilities and services presently exist;

The Project is located in SDA-2 and has adequate public facilities and services per the attached APFA.

8.1.5 Balance residential development with economic development where appropriate to assure County fiscal integrity;

The attached FIA demonstrates that the Project contributes to the County's economic development with an annual payroll of \$2.7 million, which positively impacts the County's fiscal integrity.

8.1.6 Promote and incentivize flexible planned mixed-use buildings, centers and neighborhoods;

The Project is a retreat and recreational center adjacent to residential uses, which is in accordance with the County's intent to promote and incentivize flexible planned mixed-use buildings, centers, and neighborhoods.

8.1.7 Protect environmentally sensitive lands, and the preservation of natural, archaeological, cultural and historical resources pursuant to the Land Development Suitability Analysis contained in the SGMP;

The height variance does not negatively impact any sensitive lands, natural archaeological, cultural or historical resources on the property.

8.1.8 Promote sustainable design and improvement standards;

The tree house structure is in compliance with the sustainable design standards of the SLDC. The improvements are existing, and no additional resources will be required if the variance request is granted.

8.1.9 Provide adequate light and air; and N/A

8.1.10 Determine the location, density, height, mass, minimum lot size and use of buildings, structures and land for residential, commercial, industrial and other purposes.

The structures that exceed the 18' maximum height limitation are located in densely wooded area, which is the majority of the property, and do not impact views or the integrity of the site.

**Staff Response:**

The SLDC, including all amendments to the SLDC, are intended to implement and be consistent with the goals, objectives, policies, and strategies of the Sustainable Growth Management Plan (SGMP) through comprehensive, concurrent, consistent, integrated, effective, time limited and concise land development approvals. Ministerial development approval, often referred to as 'administrative approval,' involves the application of the standards of the SLDC to an application by the Administrator. Any person who participates in, assists, directs, creates or maintains any building, structure or use that is contrary to the requirements of the SLDC, who fails to obtain a permit required by the SLDC...shall have committed a violation of the SLDC...The applicant failed to apply for Development Permits for these structures. If the applicant would have consulted with County staff, prior to construction of these structures, the issue of height and other design standard issues would have been disclosed to the applicant. The applicant did not seek development approvals and therefore the integrity of the SLDC was compromised.

**CODE REQUIREMENTS:**

**The applicable requirements under the Santa Fe County Sustainable Land Development Code, Ordinance No. 2016-9 (SLDC), which govern this application are the following (Exhibit 13):**

Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3).

Section 7.17.9 Steep Slopes, Ridge tops, Ridgelines, and Shoulders.

Section 7.17.10 Development at or above 7400 Feet

Table 8-17: Dimensional Standards – PI (Public/Institutional)

Section 4.9.7 Variance

Table 4-1, Procedural Requirements by Application Type, defines the review/approval process for a variance request.

Section 4.8 Administrative Development Approval



#### Section 4.4.8 Land Use Facilitation

#### Section 4.4.4 Pre-Application Neighborhood Meeting

The current owner of the property (applicant) acquired the property by warranty deed recorded as Instrument #1732727 in the Santa Fe County Clerk's records dated March 24, 2014. JenkinsGavin, Inc, are authorized by the property owner to pursue the request for variances of the SLDC, as evidenced by a copy of the written authorization contained in the record. **(Exhibit 14)**

On March 16, 2017, as required by Table 4-1 and Section 4.4.3 the applicant presented the proposed SDP/Variations to the Technical Advisory Committee (TAC) at the regularly scheduled bi-monthly meeting. **(Exhibit 15)**

On April 26, 2017, as required by Table 4-1 and Section 4.4.4 of the SLDC, the applicant conducted a pre-application neighborhood meeting. **(Exhibit 16)**

Notice requirements were met as per Section 4.6.3., General Notice of Application Requiring a Public Hearing, of the SLDC. In advance of a hearing on the Application, the applicant provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for fifteen days on the property, beginning on January 31, 2018. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on January 31, 2018, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject property and a list of persons sent a mailing is contained in the record. **(Exhibit 19)**

#### **RECOMMENDATION:**

The Environmental Impact Report (EIR), submitted by the applicant, did not address the impact of disturbance or of the actual placement of the structures and only addressed the ongoing impact. The EIR commenced after the disturbance and development had already occurred. The EIR failed to evaluate the impact of development of vacant, undisturbed land and therefore, sufficient information has not been provided to support the variances requested.

#### **1) Variance from SLDC Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3).**

Hagen Creek Road and the new Zip Tour Road are classified as a Local roadway per Table 7-13. Local roadway standards call for two driving lanes with a minimum width of 10', a maximum grade of 10%, and 3" base course. The applicant proposes that the existing Hagen Creek Road and Zip Tour Road will be improved to a 15' width with a maximum grade of 15%, or improved to a 20' width with a maximum grade of 18%. The improvements proposed by the applicant will not bring the roads into compliance with the SLDC road standards. The new Zip Tour Road was built to access the Zip Tour facilities/structures (zip lines). Neither the Zip Tour Road nor the Zip Tour structures were permitted by Santa Fe County.

The Hagen Creek Road was built by the US Forest Service in the 1930's for access to the Santa Fe National Forest. Staff recommends denial of the request for the variance of the Hagen Creek Road and that the Hagen Creek Road be utilized for access to the Santa Fe National Forest as it has historically been used, with consultation from the Santa Fe County Fire Marshal. The Hagen Creek Road shall not be utilized to access any unpermitted development on the site.

Staff recommends denial of the request for a variance of SLDC Table 7-13: Rural Road Classification and Design Standards for the Zip Tour Road. Staff finds that the: Zip Tour Road was constructed without a Development Permit for the purpose of accessing the Zip Tour which was constructed without a Development Permit; erosion and drainage issues were not engineered and implemented in the construction; and the Zip Tour Road can be re-vegetated and re-contoured to its original state.

**2) Variance from SLDC Section 7.17.9.2.3: No structure may be constructed on a natural slope of thirty percent (30%) or greater.**

This Section applies to development of any structure on a slope whose grade exceeds fifteen percent (15%), areas where slope exceeds thirty percent (30%); and to a ridge, ridge top, ridgeline, or shoulder. The applicant has disturbed 211,583 square feet of 30% slope to construct the Zip Tour Road, Challenge Treehouse, Overnight Treehouse, Mudpit Platform, Green Trail Bridge 1, Green Trail Bridge 2, Reclamation Area, Zip Tour Platform, Oklahoma Parking, Trails, Hagen Creek Road, and Bike Terrain Park. The above mentioned structures, roads, Bike Park and trails were constructed without Development Permits.

Staff recommends denial of the request for a variance of the SLDC Section 7.17.9.2.3. Staff finds that: the structures, roads, Bike Park and trails constructed on a natural slope of thirty percent (30%) or greater were constructed, without a Development Permit; the trail and roads were not reviewed by staff for grade, proper drainage and erosion control management prior to construction; the structures were not reviewed for code compliance and structural soundness; and the structures, roads, bike park and trails can be dismantled and/or reclaimed to restore the site to its original state.

**3) Variance from SLDC Section 7.17.10.4.1: Roads and driveways shall not be designed or constructed on slopes over twenty-five percent 25%.**

The applicant proposes that the existing Hagen Creek Road and Zip Tour Road will be improved to a 15' width with a maximum grade of 15%, or improved to a 20' width with a maximum grade of 18%. Making these adjustments to the width and grades as proposed will not bring the roads to compliance with the SLDC criteria. The Hagen Creek Road was built by the US Forest Service in the 1930's for access to the Santa Fe National Forest. The new Zip Tour Road was built to access the Zip Tour (zip lines). Neither the Zip Tour Road nor the Zip Tour structures were permitted by Santa Fe County.

The Hagen Creek Road was built by the US Forest Service in the 1930's for access to the Santa Fe National Forest. Staff recommends denial of the request for the variance of the Hagen Creek Road and that the Hagen Creek Road be utilized for access to the Santa Fe National Forest as it has

historically been used, with consultation from the Santa Fe County Fire Marshal. The Hagen Creek Road shall not be utilized to access any unpermitted development on the site.

Staff recommends denial of the request for a variance of Section 7.17.10.4.1 for the Zip Tour Road. Staff finds that the: Zip Tour Road was constructed without a Development Permit for the purpose of accessing the Zip Tour which was constructed without a Development Permit; erosion and drainage issues were not engineered and implemented in the construction; and the Zip Tour Road can be re-vegetated and contoured to its original state.

4) **Variance from SLDC Section 7.17.10.3.1: Disturbed area on any lot shall not exceed twelve thousand (12,000) square feet.**

There are nine (9) "improvements" that have disturbed slopes of over 25% which total 195,191 square feet of disturbance. The majority of the disturbance is the Zip Tour Road and Hagen Creek Road (172,352 square feet combined). The majority of the property is at or above 7,400 feet; future development and improvements would be subject to compliance with Section 7.17.10. The applicant disturbed these areas to develop the site without Development Permits. Staff may consider supporting a request for a variance of Section 7.17.10.3.1 if the proposed disturbed site was on buildable area due to size of the property and the fact that the majority of the property is at or above 7,400 feet.

Staff recommends denial of the request for a variance of Section 7.17.10.3.1 to allow an already disturbed area of 195,191 square feet for the unpermitted development of structures and roads. Staff finds that the: roads and structures were constructed without a Development Permit; the Zip Tour Road can be re-vegetated and contoured to its original state; and the structures can be dismantled and the site can be reclaimed/restored to its original state.

5) **Variance from SLDC Section 7.17.9.2.7: No significant tree may be removed from slopes greater than thirty (30) percent.**

101 significant trees were removed (cut) on thirty (30) percent slopes for the purpose of the construction of and use of a zip line. The definition of a Significant Tree is "an existing native trunk-type tree in good health and form which is eight inches or more in diameter as measured 4½ feet above natural grade; any existing native bush-form or character tree (e.g., piñon) which is eight feet high and has a spread of eight feet." Soil studies on the site submitted by the applicant indicate that the thin soils (1 foot thick) overlying sandstone and shale bedrock, with thin sediment cover, mantles stable to slowly eroding hillslopes. The significant trees that were cut down had a major role in prolonging soil erosion and soil stability within the hillslopes. The EIR failed to evaluate the impact of the development on the land as it existed prior to disturbance and development. Therefore, sufficient information has not been provided to support the variances requested.

Staff recommends denial of the request for a variance of Section 7.17.9.2.7. Staff finds that: strict compliance of Section 7.17.9.2.7 would not allow the zip lines to be located where they currently are; the action taken by the applicant by cutting these trees for the purpose of the construction and

use of a zip line is irreversible; although the significant trees cannot be replaced, the applicant can re-vegetate the site and initiate the process of restoring the site to its original state.

**6) Variance from SLDC Table 8-17, Dimensional Standards – Public/Institutional (PI).**

The maximum allowable height for a structure in the PI zoning district is 48 feet. The Holcomb Flyline zip line structure is located on top of a roof section of the Holcomb Building. The top of the platform structure is approximately 75 feet above natural grade at the highest point.

Staff recommends denial of the request for a variance of Table 8-17, (Dimensional Standards – Public/Institutional) to allow the Holcomb Flyline zip line structure to exceed the maximum height of 48 feet. Staff finds that: the structure was constructed without Santa Fe County approval; this structure is visible from the Highway, from the entrance of the site and is the focal point of the Glorieta 2.0 Campus; it is unknown if the Flyline structure is structurally sound and if the non-conforming Holcomb Building can structurally support the Flyline structure.

**7) Variance from SLDC Section 7.17.9.3.1: Steep Slopes, Ridgetops, Ridgelines and Shoulders. Heights for Structures on slopes of 15% or greater.**

The following structures were constructed on slopes of 15 percent or greater: Challenge Treehouse 35'-0"; Overnight Treehouse 26'-2"; Tree Rappel Structure 50'-0"; Zip Tour Platforms, Platform # 3 28'-11", Platform # 4 29'-11", and Platform # 5 29'-11".

Section 7.17.9.3.1 states, "the height of any structure located on land that has a natural slope of fifteen percent (15%) or greater shall not exceed eighteen feet (18')." Staff finds that the structures built on slopes of 15% or greater were not permitted by Santa Fe County; the applicant has not provided evidence that structures built on mature significant trees are affecting the tree itself; and that these structures are not visible from the Highway, adjoining properties, or from the main Glorieta 2.0 Campus.

Staff supports the request for a variance of Section 7.17.9.3.1 to allow the height of these structures to exceed 18 feet in height, due to the fact that the structures are not visible from the Highway, adjoining properties, or from the main Glorieta 2.0 Campus. Staff does not support the disturbance of natural slope of 30% to allow the placement of these structures.

If the decision of the Planning Commission is to grant approval of any of the variances, staff may recommend additional conditions at the time of the meeting including that the Land Use Administrator retain authority to determine whether any revisions need to be made to the location of or other aspects of the development.

The Administrator may also impose additional conditions on the Site Development Plan application, including but not limited to compliance with the mitigation measures as stated in the EIR.

**EXHIBITS:**

1. List of Development Permits (1981-2013)
2. Dated photos of Lake
3. Glorieta 2.0 Business Registration
4. 2014 Permit Issued to Glorieta 2.0
5. Notice of Violation & photos
6. Land Use Administrator Order to Cease and Desist Letter
7. List of Post Cease and Desist Development Permits Issued to Glorieta 2.0
8. Abatement Plan
9. Segregation Plan/Affidavit
10. Applicants request for Variances
11. Facilitated Public Meeting material
12. Applicants Site Development Request
13. Applicable requirements under the Santa Fe County Sustainable Land Development Code, Ordinance No. 2016-9 (SLDC), which govern this Application
14. Ownership/Authorization
15. TAC Letter
16. Neighborhood Meeting material
17. Plan Set
18. Community Concerns
19. Notice
20. Fire Marshall Review Letter
21. Letters of Support
22. Hearing Officer Written Order
23. January 4<sup>th</sup>, Hearing Officer Minutes
24. Environmental Impact Report

