

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

Santa Fe, New Mexico

February 10, 2022

1. This meeting of the Santa Fe County Sustainable Land Development Code Hearing Officer meeting was called to order by Santa Fe County Hearing Officer Richard Virtue on the above-cited date at approximately 3:03 pm.

Due to continued concerns regarding the COVID-19 pandemic this hearing was held remotely on the virtual Webex platform.

[For clarity purposes, repetitive identification and confirmations of those on the phone have been eliminated and/or condensed in this transcript.]

Staff Present:

Vicki Lucero, Building & Development Services Manager
Gabriel Bustos, Development Review Specialist
Roger Prucino, Assistant County Attorney

2. **Approval of Agenda**

HEARING OFFICER VIRTUE: We have one item on the agenda as published for today. Are there any changes to the agenda as published?

VICKI LUCERO (Building & Development Services Manager): Hearing Officer Virtue, there are no changes to the agenda.

3. **NEW BUSINESS**

- A. **Case # 21-5200 First Serve Academy and Tennis Center. First Serve Academy and Tennis Center, Applicant, Riskin Associates Architecture (Marci Riskin), Agent, request a variance of Section 7.7.4.1.1 to allow Tennis Court fencing to exceed eight feet (allow ten feet) at a proposed commercial tennis complex that will serve the children and youth of Santa Fe. The 8.9-acre property is zoned as Public/ Institutional (P/I). The site is located at 3233 Rodeo Road, within Township 16 North, Range 9 East, Section 4. SDA-2 (Commission District 5) [Staff Exhibit 1: Aerial view of property]**

GABRIEL BUSTOS (Case Manager): Thank you, Hearing Officer Virtue. On December 15, 2021, the Applicant submitted a variance request to allow sections of tennis court fencing to be 10 feet in height for a proposed commercial tennis complex.

SFC CLERK RECORDED 04/13/2022

Per the SLDC Section 7.7.4.1.1, the maximum height of walls or fences shall not exceed eight feet. Therefore, the request is for the height of the fence to exceed code requirements by two feet.

The subject property is 8.9 acres and is situated off Rodeo Road adjacent to commercial properties located within Santa Fe City limits. The applicant is in the process of submitting an application to Santa Fe County for an administrative site development plan for a classroom and sports facility complex.

The First Serve complex includes a 8,626 square foot administrative building consisting of classroom and office space, six outdoor tennis and four outdoor pickle ball courts. There will also be a 56,628 square foot building which will house six indoor tennis courts. The proposed 10-foot fencing will be located on the rear and rear sides of the outdoor tennis and pickle ball courts at the west end of the property. Each section of 10-foot fencing is roughly 120 feet in length with one large section that is 165 feet in length.

The Applicants have addressed the variance criteria as follows and staff has responded.

Staff's recommendation: The request for a 10-foot fence does not meet the requirements of the SLDC. However, the Applicant is not requesting the variance for visual aesthetics but rather for practical purposes. Staff believes fencing 10 feet in height would be beneficial in preventing tennis balls from being hit out of the tennis courts and onto surrounding properties and roads.

If the Hearing Officer finds the variance criteria have been met and recommends approval of the variance, staff recommends the following condition be imposed. Mr. Hearing Officer, may I enter the following condition into the record?

HEARING OFFICER VIRTUE: Yes, you may.

The condition is as follows:

1. The fencing height shall not exceed 10 feet in height.

MR. BUSTOS: Thank you. And with that I now stand for any questions.

HEARING OFFICER VIRTUE: Okay. Thank you, Mr. Bustos. I have a couple. The first is why is this coming to the County and not the City? I assume the answer to that is it's not within the city limits but it appears to be that, it logically might be. I'm just wanting to understand why this is coming to the County and not the City.

MR. BUSTOS: Mr. Hearing Officer, this parcel is pretty unique in the sense that these are the only two actual County-owned properties that are located in the city limits. So that is why this case is getting presented before you today.

HEARING OFFICER VIRTUE: Okay. Thank you for that. My next question relates to the actual configuration of the development. I couldn't make out the configuration maps that were sent to me, specifically Exhibit 2 to the staff report which was the exhibit that shows the site improvements and it shows the fencing in red as I understand it. At least on my copy it was in red, and running down the right side is Richards Avenue. I could not make that out. Can you tell me where Rodeo Road is on that map?

MR. BUSTOS: Let me just get my bearings here.

HEARING OFFICER VIRTUE: I'm glad I'm not the only one that's a little –

MARCI RISKIN: I can probably help with that as well, if you'd like.

HEARING OFFICER VIRTUE: Sure.

MS. RISKIN: The property actually is on Richards Avenue. I know the address is Rodeo Road but there's another property between this property and Rodeo Road. So that's why it's actually not on the – it's to the south, but there's another property approximately the same size between this property and Rodeo Road.

HEARING OFFICER VIRTUE: Okay, so Rodeo Road is to the south of this property?

MS. RISKIN: Yes.

HEARING OFFICER VIRTUE: Okay. And would that be at the bottom of Exhibit 2? The contiguous property would be at the bottom of –

MS. RISKIN: There's a contiguous property that is actually the property that borders Rodeo Road. So this property doesn't border Rodeo Road, but yes, it's to the south. There's another property to the south and then Rodeo Road is to the south of that.

HEARING OFFICER VIRTUE: Okay. So looking at Exhibit 2, the bottom area would be where the contiguous property is. Rodeo Road would be below that.

MS. RISKIN: Correct.

HEARING OFFICER VIRTUE: Okay.

MS. LUCERO: Hearing Officer Virtue, I don't know if – since it was the agent that was speaking if it would be an appropriate time to get her sworn in.

HEARING OFFICER VIRTUE: Thank you for that, Ms. Lucero. Let's go ahead and swear the Applicant's representatives in. All persons who are desiring to speak as agents for the Applicants please identify yourselves by name and address and we'll swear you in.

MS. RISKIN: I'm Marci Riskin. Address is 1707 Purple Aster, Santa Fe, 87507. And I'm with Riskin Associates Architecture.

LISA MARTINEZ: My name is Lisa Martinez. My address is 3618 Rodeo Lane, Santa Fe, New Mexico, 87507 and I'm with Bees Constructive, LLC.

HEARING OFFICER VIRTUE: We're going to have you sworn in now. Ms. Riskin, could you just confirm that the oath that you're about to take applies to what you just said on the record?

MS. RISKIN: It does.

HEARING OFFICER VIRTUE: Thank you.

[Marci Riskin and Lisa Martinez were administered the oath.]

HEARING OFFICER VIRTUE: Okay, Ms. Riskin, you may proceed.

MS. RISKIN: Do you need to hear again about the property to the south, or what you would like?

HEARING OFFICER VIRTUE: I think where you affirm that what you said is true and correct and I hear what you said and noted it so I think it's sufficiently clear on the record, so I would proceed with whatever presentation you have at this point.

MS. RISKIN: Of course. So I think you have the exhibits and you're correct. The fencing that we're requesting be over eight feet is shown in red, and the reason for that is exactly as it was described. It's so that tennis balls don't leave the tennis courts. It's a standard height for tennis courts to have fencing that's ten feet high in those areas. It doesn't have to be ten feet high all the way around but in those portions of the courts, so that's the nature of the request.

HEARING OFFICER VIRTUE: Okay. Does that conclude your testimony?

MS. RISKIN: Yes.

HEARING OFFICER VIRTUE: Okay. Thank you. I have a question or two for you. In response to the staff's questioning about the variance standards that apply to granting a variance, you stated that it is standard practice – I'm assuming you're the one that answered this. If you weren't let me know and we'll try and track down the right person. So it's standard practice to have the ten-foot height to keep balls contained and a lower fence would result in lost balls and roads in the roadway or other properties. Is there – could you explain, is there any kind of a written standard that supports that particular height?

MS. RISKIN: This was information we got from our tennis – we have a tennis court consultant that's going to be putting in both the courts and the fencing that goes with the courts. In his opinion that's the standard height for tennis court fencing. I haven't seen any tennis court fencing in Santa Fe that's less than that. I've seen some that's taller.

HEARING OFFICER VIRTUE: Okay. Did he give you any background on why the ten feet is an appropriate height?

MS. RISKIN: Just that that's the standard that people use for tennis courts and would keep the balls contained, and that eight feet wouldn't.

HEARING OFFICER VIRTUE: Okay. So where you're putting the fences, am I correct, it's on the north side of the property?

MS. RISKIN: It's actually – the courts are kind of lined up along the east side of the property. Tennis courts need to be oriented north-south in the long direction. And so they're lined up along the east. So they kind of span from north to south along the east.

HEARING OFFICER VIRTUE: Okay.

ROGER PRUCINO (Assistant County Attorney): Just to clarify – this is Roger Prucino, Mr. Hearing Officer – Ms. Riskin, it looks as if you're referring to the west side.

MS. RISKIN: The west side. Yes. The west side. They go from the north and the south. Sorry about that.

HEARING OFFICER VIRTUE: Okay. Thank you. It's the west side. Again, if I understand the map here, so what would be the contiguous road or property on the west side?

MS. RISKIN: There is a property on the west side and directly to the west – Lisa may know more about what that particular property is. Is that part of the rodeo, Lisa?

MS. MARTINEZ: It is. Yes. The rodeo grounds border Rodeo Road and they wrap around to the west side, which would essentially be the east side of Richards Avenue. So it's kind of an L-shape that surrounds the parcel that we're proposing to build on.

HEARING OFFICER VIRTUE: Okay, so is that an access road that would go by there on the west side to the Rodeo Grounds? Or is there a road that goes by there?

MS. RISKIN: There is an access road that comes off Rodeo Road and you can access – the rodeo grounds would be to your west and our site would be to the east, if you're accessing – that's our secondary access. So if you're accessing from Rodeo, that would be our secondary access and it's a way into the rodeo grounds as well.

HEARING OFFICER VIRTUE: Okay, and then Richards Avenue is contiguous – I would have said the west side, looking at my map but that –

MS. RISKIN: It's actually contiguous on our north side. And for a portion it is contiguous on the east. Richards Avenue borders our north side, and that's going to be our primary access.

HEARING OFFICER VIRTUE: Okay, and it is contiguous to the side, just to confirm.

MS. RISKIN: Yes.

MS. LUCERO: Hearing Officer Virtue, I don't know if you can see my screen, but I've pulled up kind of an aerial view that shows the roads, and this specific property I believe is this one here, 3233.

MS. RISKIN: That's correct. Yes.

HEARING OFFICER VIRTUE: Okay. And you can see how it lies in relation to Rodeo Road down at the bottom and then Richards Avenue to the left.

MR. PRUCINO: And Mr. Hearing Officer, again, Roger Prucino here. I think part of the confusion arises because Richards Avenue, after crossing Rodeo Road heading north makes a sharp right turn, and then does head west to east, so that the Applicant's statement is correct, that Richards does border the property on the north side, even through the portion of Richards that we're most familiar with is farther to the west, where Vicki's showing it now. But then it does turn sharply to the right and borders the property to the north.

HEARING OFFICER VIRTUE: Okay. Thank you for that. Vicki, is this in the record? Is the map you showed me in the record?

MS. LUCERO: It is not, but I can submit that to the recorder to put in the record.

HEARING OFFICER VIRTUE: Yes, please. Let's call it Staff Exhibit 1 and give it to the reporter if you would and send me a copy too.

MS. LUCERO: And Mr. Virtue, if I could just kind of go back to the question that Mr. Bustos answered regarding the property being in the county. So this gray area that surrounds the property, that's all within the city limits. It's just these two parcels that actually lie within the County's jurisdiction. So they're not owned by the County but they lie within the County's jurisdiction.

HEARING OFFICER VIRTUE: Because the County owns it.

MS. LUCERO: No, they're not actually owned by the County. They're owned by First Serve. Or that parcel is. This one is owned by the County, I'm sorry. The southern parcel.

MR. PRUCINO: But I think they are subject to County jurisdiction, Mr. Hearing Officer, because they are not, oddly enough, they are not within the city limits. This particular parcel is a private lot and is within the county and subject to County jurisdiction.

HEARING OFFICER VIRTUE: Okay. Thank you for that.

MR. PRUCINO: Certainly.

HEARING OFFICER VIRTUE: So it's completely surrounded by the city limits but it's never been annexed by the City.

MR. PRUCINO: Exactly.

HEARING OFFICER VIRTUE: Okay, those are all the questions I have. Ms. Martinez, did you want to provide any testimony?

MS. MARTINEZ: No. I believe that everything has already been covered.

HEARING OFFICER VIRTUE: Okay. With that we'll conclude the Applicant's testimony and I'll ask if there's anyone present that would like to speak in favor of the application. Okay, hearing none, is there anyone on the call who would like to speak in opposition to the application or just generally about the application? Okay, hearing none, I'll ask if staff has any response to make to the Applicant's testimony or my questions, other than what's already been stated.

MR. BUSTOS: Hearing Officer Virtue, I don't have anything additional to add.

HEARING OFFICER VIRTUE: Okay. Thank you. There appears to be nothing further. I'm going to declare the hearing closed and I will make a written recommendation within 15 business days of today. Thank you all very much for attending.

MS. RISKIN: Thank you very much.

4. Adjournment

Hearing Officer Virtue adjourned the hearing at approximately 3:23 p.m.

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss SLDC HEARING OFFICER M
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Witness My Hand And Seal Of Office
Katharine E. Clark
County Clerk, Santa Fe, NM

by Dorothy Romero

Approved by:

Richard L.C. Virtue

Richard L.C. Virtue, SLDC
Hearing Officer Santa Fe County



