

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

Santa Fe, New Mexico

February 11, 2021

1. Opening Business

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 3:00 p.m.

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

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

HEARING OFFICER VIRTUE: Good afternoon, everyone. This is the monthly meeting of the Santa Fe County Sustainable Land Development Code Hearing Officer. My name is Richard Virtue. I'm the Hearing Officer. We have two hearings scheduled for today; are there any changes to that?

2. Approval of Agenda

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

HEARING OFFICER VIRTUE: Okay. I want to note that these are each hearings that have been continued from prior hearing settings. They were originally scheduled for the December meeting, continued to January and then again continued to today's meeting. I believe Ms. Lucero has filed an affidavit on the website incorporating in the materials of each of these matters that shows the additional notices that were given for both the January hearing and this hearing. Is that correct, Ms. Lucero?

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

SFC CLERK RECORDED 03/17/2021

HEARING OFFICER VIRTUE: With that we will proceed to the first item.

3. Public Hearings

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

Hearing Officer Virtue read the case caption and staff provided the case report as follows:

MIGUEL ROMERO (Case Manager): Good afternoon everybody and good afternoon Hearing Officer Virtue.

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

The proposed facility will be used for vehicle and material storage, and as a workshop. The facility will have a lavatory and an emergency eye wash station, which is illustrated in the plans. The Applicant has asserted that the Eldorado Area Water Sanitation District has used the utility easement to store materials and vehicles since 2004. A portion of the 23.097-acre parcel that is used by the ECIA consists of 41 stables, four riding arenas and three large storage containers.

The Applicant has stated, "the easement currently houses two water storage tanks and a chlorination facility." Staff has been able to find two permits in the Santa Fe County permit data base. Both are for accessory structures; one being a Tuff Shed. No other permits were found that indicated a water tank or chlorination facility. The Applicant is proposing to use the existing access with additional upgrades. The Applicant has stated, "A paved turnout with an 18-inch culvert will be constructed at the entrance to the facility. A concrete parking apron will be installed adjacent to the garage entrance. A septic system will be installed south of the garage. A retention pond will be constructed at the southwest corner of the property." The Applicant is proposing to upgrade the existing 12-foot wide access to a 24 x 50 foot wide paved access.

The proposed facility will be located on Lot 3B at the southwest corner of the lot. The facility will operate from 8:00 a.m. to 5:00 p.m., Monday through Friday, unless there is an emergency that would require Eldorado Area Water Sanitation District employees to access the site for equipment and materials after hours. The Applicant has asserted that six employees will work out of the facility. The Eldorado Area Water Sanitation District employees will utilize the facility to pick up materials, vehicles and

supplies as needed. All vehicles entering the site will be Eldorado Area Water Sanitation District vehicles. These vehicles will enter and exit the site approximately six times on any given day. The Applicant has stated, "the facility will not be open to the public. The general public will not be entering and exiting this facility." The site is zoned Residential Estate within the U.S. 285 South Highway Corridor District Overlay. Table 9-10-12: 285 SHCD Use Table, illustrates a Public Administrative use as a Conditional Use.

The Applicant has responded to the conditional use permit approval criteria. Staff has analyzed the Application and has determined that the proposed use satisfies the criteria as found in Chapter 4, Section 4.9.6.5.

Building and Development Services has reviewed this project for compliance with pertinent SLDC requirements and has found that the facts presented support the request for Conditional Use Permit to allow construction of the 3,600 square foot facility. The use will not impact adjacent land uses and the Application satisfied the submittal requirements set forth in the SLDC inclusive to the Conditional Use criteria set forth in Chapter 4, Section 4.9.6.5.

The review comments from State agencies and County staff have established findings that this Application to construct a 3,600 square foot facility is in compliance with State requirements and design standards set forth in the SLDC.

Recommendation: Staff recommends approval of the Conditional Use Permit to allow construction of a 3,600 square foot facility on a 2.958-acre utility easement, located at 11 Avenida Eldorado within the U.S. 285 South Highway Corridor District Overlay with the following conditions. May I enter these conditions into the record?

HEARING OFFICER VIRTUE: Yes you may.

Conditions:

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

MR. ROMERO: Would you like for me to read them as well?

HEARING OFFICER VIRTUE: There is no need to. We'll just make sure that they're part of the transcript. They are in your written report and will be included in the transcript.

MR. ROMERO: Thank you, sir. Staff requests that the Hearing Officer memorialize finding of fact and conclusion of law in a written order. The Santa Fe County Planning Commission will be holding a public hearing on this matter on March 18, 2021 at 4 p.m. I stand for any questions.

HEARING OFFICER VIRTUE: I have no questions at this time. I would ask if the Applicant and/or a representative of the Applicant is present?

STEVE KING: Yes, sir. This is Steve King. I am the General Manager of the Eldorado Water and Sanitation District.

HEARING OFFICER VIRTUE: Are you the only representative of the Applicant, Mr. King?

MR. KING: We have Anna Mondragon Metzger who is our administrative project manager who is on the call. And it looks like our consultant MolzenCorbin, the architect, looks like he is also on.

HEARING OFFICER VIRTUE: Okay, let's proceed. Mr. King, if you would identify yourself by name and address for the record and then have anyone else who wishes to testify on behalf of the applicant do the same and we'll swear everybody in at the same time.

MR. KING: Steve King. My address is 34 Fonda Road, Santa Fe, 87508.

HEARING OFFICER VIRTUE: Okay, we'll proceed with Mr. King and then see if anyone else wants to testify.

MS. LUCERO: Mr. Virtue, if I could just interrupt for a second and ask that everybody keep their phones or computers muted until they would like to speak so we don't get a lot of feedback.

HEARING OFFICER VIRTUE: Thank you for that, Vicki. Mr. King, would you like to proceed?

[Duly sworn, Steve King, testified as follows:]

MR. KING: Yes, I would. Just a few quick notes: I really appreciate the opportunity and the consideration that the County is giving us for this important project. Mike and Vicki have worked a long time in working with us and I think we've made every reasonable effort to try and comply with all of the particular requirements. In the end, we're going to have a facility in my estimation and the estimation of others will greatly enhance the aesthetic of the sight. Right now we do not have a proper facility for storing our large equipment, like our tractors and our portable generator and backhoe – that sort of thing. This facility will give us a secured location and a more aesthetic location to put that kind of equipment and provides our operation crew just really basic facility –

HEARING OFFICER VIRTUE: Excuse me, this is the Hearing Officer. I am getting some interference. I think some folks are talking without muting. I would ask you all to make sure that you're muted so we can continue without interference. Thank you.

MR. KING: Thank you for that. So yes, I was just pointing out some of the benefits of this new facility. It will, among other things, provide a proper location for a small workshop for our operations folks to conduct routine maintenance procedures, for example, calibrating meters and that sort of thing. It will provide an enclosure for material storage. Right now we have these three very large storage containers. One of

them has been retrofitted to serve as a very rudimentary workshop and then we store all manner of things in the other two. So with this new facility it will eliminate or minimize the need for those facilities so we can clean up the site quite a bit.

We're very excited to get this project approved. We have the funds available to construct it. We have worked very closely with ECIA, presented to the architectural review committee and gotten their approval on the specifics of the aesthetics of the building. Our neighbors immediately adjacent to this site to the north, is a horse stable and we've been coordinating with the representatives from the stable community.

HEARING OFFICER VIRTUE: Mr. King, we've lost you. I think you'll need to unmute.

MS. LUCERO: Mr. Virtue, if Mr. King is -- it looks like he's on the computer but if he's calling in on the phone, he'll need to hit star 6 to unmute. I was muting people because I could hear background noise as well.

MR. KING: Can you hear me now?

HEARING OFFICER VIRTUE: This is the Hearing Officer, I can hear you.

MR. KING: I didn't intentionally mute. So that's probably sufficient. We're excited and we think this will be an asset for not only Eldorado Water District but also for the community overall.

HEARING OFFICER VIRTUE: Okay, thank you, Mr. King. Is there anyone else present that would like to speak on behalf of the Applicant? You mentioned two other folks that are present. If you would like to testify please identify yourself at this time.

JOHN PATE: This is John Pate. I am the architect with MolzenCorbin and Associates.

[Duly sworn, John Pate, testified as follows:]

MR. PATE: I just wanted to say that we've been working on this project for four years now and I think it's ready to go and I think it would be an asset to the community. I'll stand for question on the project if anybody has any. Thank you.

HEARING OFFICER VIRTUE: Thank you. Is there anyone else that wishes to speak as a representative of the Applicant? Hearing none, let's proceed with persons who would like to testify in favor of the Application. Do we have anyone who would like to speak in favor?

JOE LOEWY: Hearing Officer Virtue, my name is Joe Loewy and I wish to speak.

[Duly sworn, Joe Loewy, testified as follows:]

MR. LOEWY: Good afternoon. My name is Joe Loewy. I live at 6 Monterey Road, Santa Fe, New Mexico, 87508. My presentation to you today is to support the request for a Conditional Use Permit applied for by the Eldorado Area and Water Sanitation District to construct a 3,600 square foot facility at the corner of U.S. Highway 285 and Avenida Eldorado. [poor connection – inaudible] from two different points of view. First, I am an EAWSD ratepayer and I serve EAWSD as a volunteer, appointed member of the EAWSD Capital Planning Advisory Committee and the EAWSD Communications and Customer Service Advisory Committee. Second, my wife and I have owned Barn #4 at the Eldorado Community Stables which are adjacent to the

EAWSO proposed facility since 2012. I built my home in 2012 in Eldorado. One of the most significant reasons for my wife and I moved to Eldorado was the fact that the water district had a safe and reliable water system with sufficient wells to produce water for the approximately 7,000 residents in our area. Over the past years of service as a member of two different water district advisory committees I have learned the EAWSO is considered to be one of the best run utilities in the State of New Mexico. Their request before you is further example of the district's effort to improve the efficiency – the new facility will provide a safe and secure enclosure for storage of the district's heavy equipment including its backhoe, tractor, dump truck and mobile generator. The facility will allow for better organization and storage of spare parts and materials critical to the safe and reliable operation and maintenance of the water system. It provides an indoor workspace for routine meter and other repairs currently being performed outdoors by operations staff from the back of their trucks.

The architecturally designed building will greatly improve the appurtenance of the site. The increased traffic from district vehicles will be minimal and usually during normal working hours. That and minimum noise levels will not be of any increase danger or concern to the horses in the adjacent Eldorado Stables. I have not heard a single complaint or concern stated by my fellow barn-owners about the current EAWSO site in the almost nine years of owning a barn in the Eldorado Stables.

Lastly, my horses will sleep more soundly knowing that their water supply is more safe and secure. Thank you.

HEARING OFFICER VIRTUE: Thank you, Mr. Loewy. Is there anyone else present who would like to speak in favor of the Application? Hearing none, I would ask if there is anyone who is attending the meeting has any questions for the witnesses that have testified so far and that would be Mr. King, Mr. Pate and Mr. Loewy? Okay, hearing no questions we will turn to opposition. Are there any persons attending the meeting who wish to testify in opposition to the Application?

Hearing no one who wants to testify in opposition, I will hereby close the public hearing on this matter and I will issue a written recommendation within 15 working days of today with respect to the Application.

- B. Case #20-5080 John Stanton, Applicant, Mario Madrid, Agent, requests a variance of Chapter 7, Section 7.17.10.4.1 (Disturbance of 25 percent Slope) to allow a driveway to access buildable area and disturb 4,842 square feet of 25 percent slope, a variance of Chapter 7, Section 7.17.10.1.1 (Building Area Analysis 50/50), a variance of Chapter 7, Section 7.17.9.2.1, to allow a 3,500 square foot residence and a 319 square foot studio to be constructed on a ridgetop, a variance of Chapter 7, Section 7.17.10.6 (Ridgetop/Ridgeline Setbacks) to allow for the main residence and studio to be constructed on the ridgetop with no setback, a variance of Chapter 7, Section 7.17.9.2.7 (Significant Trees), to allow removal of 11 significant trees to accommodate the driveway and residence, and a variance of Chapter 7, Section 7.17.4.1, (Rock Outcroppings) to allow the removal of one (1) visual rock outcropping. The site is within the Residential**

Fringe Zoning District. The property is located at 21 Ridge Road via Old Santa Fe Trail within Township 16 North, Range 10 East, Section 21. SDA-2 (Commission District 4)

Hearing Officer Virtue read the case caption as listed above and staff provided the report as follows:

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

The Applicant is the owner of the property as indicated by Warranty Deed recorded in the records of the Santa Fe County Clerk on September 24, 2008, recorded as Instrument #1539069. The lot was created in 1973 as Tract #13, Unit No. 2 within the Overlook Subdivision. A lot line adjustment was created on March 16, 2006, to amend property boundaries.

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

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

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

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

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

The Applicant has addressed the variance criteria and staff has responded as contained in this memo, Hearing Officer.

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

HEARING OFFICER VIRTUE: Yes, you may.

Conditions:

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

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

MR. LOVATO: Thank you, and I stand for any questions you may have.

HEARING OFFICER VIRTUE: I don't have any questions at this time.

With that I will turn to the Applicant's presentation. Will the Applicant or the Applicant's representative please identify themselves by name and address and we will swear you in.

JOHN STANTON: I am the Applicant, John Stanton and my wife Kathy Stanton is with me. We are currently living at 1550 Hazelwood Road, Clarksville, Tennessee, area code 37042.

[Duly sworn, John Stanton, testified as follows:]

HEARING OFFICER VIRTUE: Go ahead and proceed, Mr. Stanton.

MR. STANTON: Okay, thank you. I am a now retired physician and we lived in Clarksville Tennessee. I was in the army and spent some time in the Santa Fe area years and years ago. We found this lot and we fell in love with it because of the beautiful views it has by virtue of the fact that it is on a ridgeline. We actually purchased this lot in 2007 and when we bought the lot it had been set forth for a home to build on that lot and in fact we got a set of plans for a house in the only buildable area and a driveway in the only area that is amenable for a driveway. As mentioned, there was a lot line change had been established in 2005 and the homeowners in that area had all agreed to changing the lot line and to the driveway in its location that we are currently asking for. That was before we had even purchased the property. [Interference on the line]

So I am now retired and in 2019 I came up with plans for a house on the only buildable area. I had originally the 4,200 square foot house and I modified those drawings to actually make a curved house along the contour lines of that only buildable area. And it is in congruity with the same contour lines that would follow around to the east to the driveway. As was mentioned, it is a 7.5 acre lot that six of the acres on the side of the cliff. There is only about one acre of usable land and on that one acre there is only one area which is about 3,200 square feet that you can build on that has the minimal slope in that entire ridge.

We are planning on trying to get this house built this summer [interference on the line] we tried to last summer or the summer before that because we tried to conform with all the requirements of building on a ridge above 7,400 feet that I believe we've come up with as much of a compromise as we can and then my wife and I want to live out there once this house is built, hopefully at the end of this year.

You also have Mario Madrid available and he is the civil engineer who has been working with us for the last year and he can offer some further information.

HEARING OFFICER VIRTUE: Mr. Madrid, are you going to testify?

MARIO MADRID: Yes, I will.

HEARING OFFICER VIRTUE: Let's swear you in and then you can present your testimony.

[Duly sworn, Mario Madrid, Santa Cruz, New Mexico, testified as follows:]

MARIO MADRID: I've been working with Mr. Lovato and Mr. Kavanaugh for the last year after the Stantons hired me, and just preparing the documents to show everything according to the SLDC. The project has a lot of constraints. One for example, the ridge shoulder to the west, if you try to take the offset and you take the shoulder on the east and apply that offset, you'd end up with like a sliver of one foot. So it won't meet the requirements entirely but I've done my best to put it in the most buildable spot that it can be and the same thing for the driveway. I tried to put in a driveway that has the least amount of disturbance to trees and can fit according to slope.

That's about it really. Everything has been presented in the design drawings and the requirements of what I had to meet for requirements of the SLDC.

HEARING OFFICER VIRTUE: Thank you, Mr. Madrid. Does anyone have questions for Mr. Stanton or Mr. Madrid? Hearing none, we will turn to those wishing to speak in favor of the Application. Do we have anyone present who wishes to testify in favor of the Application?

MS. LUCERO: Mr. Virtue, if I could just unmute everyone and those who may not have heard, if you want to speak and you're on mute, you just press star 6 to unmute yourself and then you'll be allowed to speak.

HEARING OFFICER VIRTUE: Okay, thank you for that. So I will repeat, does anyone wish to testify in favor of the Application? We'll turn to those in opposition to the Application.

[A faint voice came on line while staff and the Hearing Officer encouraged the speaker to move closer to the microphone.]

AMALESH KRIEN: I am as close to my phone as I can possible be. I'm not sure what to do here. I am representing all of the neighbors here at Old Santa Fe Way and Mandy Lane. I am right here in front of the phone so I'm not sure what else to do.

HEARING OFFICER VIRTUE: I can hear you now so wherever you are, please stay there.

AMALESH KRIEN: Okay, that's good. My name is Amalesh Krien and I'm just representing a few concerns that neighbors are having on Old Santa Fe Lane and Mandy Lane.

HEARING OFFICER VIRTUE: Please identify yourself for the record, including name and address and we'll swear you in.

[Duly sworn, Amalesh Krien, 27 Mandy Lane, Santa Fe, testified as follows:]

HEARING OFFICER VIRTUE: Okay, please proceed, Mr. Krien.

MR. KRIEN: We saw the poster requesting the variance and we weren't aware that it was going to be virtual. So just basically we collected signatures from 15 neighbors here on Old Santa Fe Way and Mandy Lane. And I guess I wasn't aware that this was the only possibility to build this property because we weren't able to view any plans or plotting plans –so I just wanted to understand that if the effort was made to not intrude into the ridgeline of the mountain top which right now is completely pristine and

so I guess I am a little bit at a loss because I don't quite understand how it is actually going to impact the views that we are getting from this side of the mountain.

MR. MADRID: May I address the question?

MR. KRIEN: Yes, please.

MR. MADRID: There was a visual impact analysis that was done and there was photos done from multiple angles that show how the view will be impacted. It's not exactly on the ridgetop. It's on the ridgeline – the top of the ridge is completely unbuildable because it's bare rock. There's a home below that and 21 Ridge Drive is below that existing home.

MR. KRIEN: Yeah, I am familiar with the area, yeah. Okay, so we are not actually even looking at a house that sits on top of a ridge.

MR. MADRID: No, it's not on top of the ridge. The ridge is bare rock and there's one home below that and then there's 21 Ridge Drive.

MR. KRIEN: Okay. So I guess this was the only concern here because, you know, it's very visible from where we are here on the bottom of the hill and as long as it is blending in nicely, of course we want the owners to be able to build their home.

One other concern that Gwen and Tom Paine of 29 Mandy Lane had was that they're at the very intersection of where all the runoff from the mountains converges on their property which in a flooding situation can be pretty dicey. They wanted to ensure that, you know, that erosion control is – you know, someone is keeping an eye on erosion control and water runoff management up there.

MR. LOVATO: Hearing Officer Virtue, if I could address the two points that this gentleman has.

HEARING OFFICER VIRTUE: Please.

MR. LOVATO: The Applicant is required as a condition to submit a landscaping plan to buffer and to mitigate any visual impacts that this may have on surrounding locations. That is a part of the requirements of the code as well. Furthermore, he will be required to submit a building and drainage plan to control runoffs so that pre- and post-mountain drainage contributing or coming off this site do not increase and rather stay in similarity to what is already there. So those are requirements of the code and it is a condition of approval as well.

MR. KRIEN: Okay. Now one more question, is there a way to take a look at the planning and proposals that you have remotely?

MS. LUCERO: Hearing Officer Virtue, I could address that. This is Vicki. If you have access to our website, all of the material that the applicant has submitted is on the website including the plans and their report and our staff report and recommendations and conditions. We'd be happy to walk you through on how to access that if you have internet and if not, we can provide you with the information via email, if you want to contact our office at 986-6225.

MR. KRIEN: All right. I'll go ahead and do that. And thank you very much for your answers.

GWEN PAINE: Sorry, but is somebody able to answer me?

MR. KRIEN: Oh yeah, this is Gwen and Tom Paine. These are the folks that I told you before had the concern about the runoff because they have some concern where channels were flowing on their lot.

[Duly sworn, Gwen Paine, 29 Mandy Lane, testified as follows:]

MS. PAINE: My concern at this meeting is that it doesn't seem to support the Sustainable Land Use Plan that was part of the County development back in 2015. And again in restoring the natural environment vision statement as 1.2 – and [poor connection] the goal was to actually protect dominant natural features such as the distinctive rock and landform under the category known as scenic viewsheds emanating from the proposed will be visible. The lights, any types of [inaudible] landscaping that you put in there will be destructive of the base upon which it is being built. Those mature trees go down a minimum of four feet and the umbrella that they provide extends to all of us. It sounds like I am disconnected.

UNIDENTIFIED SPEAKER: I can hear you.

MS. PAINE: Thank you. I quite frankly don't understand – I mean, I really don't want to disappoint these respective buyers and citizens. I really, really don't; however, if we continue to offer these variances you develop a cynicism in not only the existing population but in terms of expectations of what people can do to develop out here. I am not a NIMBY but I really, really wonder from the get-go when these permits were applied for, when the licenses were given for the construction, what type of follow through from this Sustainable Growth Management Plan was available other than here are the forms that you have to fill out, here are the – you know – the restrictions here, the guidelines that you have. Where is the encouragement to not take out 11 huge trees and in order for you to do that, to put in the structure at all, basically blast out rock that's been there for a gazillion years.

It doesn't seem to fit. And I appreciate the fact that everybody has expended a lot of effort up until this point to file the permitting and file the descriptions and file legal photos but I really, really question the commitment from the planning standpoint and from the people who we, you know, we've deferred to to make these judgments to allow these types of variances. It doesn't seem to be what you had in mind back in 2015. Or maybe you weren't even around in 2015 but if you were around – I wasn't around in 2015, but I came out here. Oh, yes I was, beg your pardon. Yes, I was. But I came out here so that we can preserve our location and in the sense of its beauty then where is the encouragement to do that here. Look at the destruction. I'll let you come in on this, but basically I'm reading from the 2015 Santa Fe County Sustainable Growth and Management Plan as published. But if you – again, I don't want to disappoint anybody. I don't want to destroy somebody's retirement goals in moving out here. I just would ask that the County in its operations follow through on some of these – on this vision and this planning from the get-go so we don't have to come to these sorts of unfortunate experiences. Thank you.

MR. STANTON: May I say something?

MS. PAINE: Please.

MR. STANTON: This is John Stanton, the owner. A couple of issues: we purchased this lot in 2007 which is well before the Sustainable Use Program was developed viable – eight years later, I suppose. The land was subdivided for a house to be built on it which is why we purchased it. It wasn't just raw land. This was a subdivision and it has a number of lots on which every year or two somebody buys a lot and builds a house out there. The lot that we happened to buy in 2007 happens to have a

nice view because it's on a ridgeline. My wife and I love trees and we don't like to cut down trees either. The trees that we're talking about are between eight and ten feet tall and in Tennessee they would be considered large bushes. But they are trees. They are not like big Ponderosa Pines. These are trees that are kind of gnarly trees of about eight or ten feet tall and the ones that are being removed are the ones that are along the driveway area which is on the eastside of the ridge and really visible to no one because it faces towards Baldy Mountain and – I think it's Baldy Mountain – any way it faces east toward government land. It's not facing towards any other houses.

As far as rock out crops, there is a major out rock crop which we dearly love and the house is setback and off at an angle from that because we did not want to remove any rock outcrops.

You are welcome to go up there. The road is open and you're welcome to go up there and look at the lot. What you'll see is that someone had attempted a driveway up from the bottom up towards the buildable area that is way too steep and that the Fire Department would never have allowed that. The lot as we've come up with a location is basically a bare area. It's a flat area, well it's flat relative to everything else. It is about a 15 degree slope. The problem is it's close to north and south, it's close to a 25 degree slope but it's not really intruding. The house is designed not to intrude in any of those slopes. So, in other words, there is one rock that is going to be removed. Not a rock outcrop. The big rock outcrop which is due southeast of our house we are maintaining because we like that rock outcrop and the only trees that we'll be removing are not big Ponderosa Pines, they are just small scrubby trees on the eastside where the driveway has to be.

If we can't build a house then the lot is basically useless and we've invested money in something that we'll never be able to sell because if you can't see a lot to build a house on it, nobody is going to want to – if you can't build a house no one is going to want to buy a lot unless they just want to go sit out there in a lawn chair because you can't even build an area to put a tent or a camper out there because that violates all of the local ordinances.

So we've been trying to build this house for two years on a lot that we bought way back in 2007 and we have tried as much as possible to avoid any significant trees or any rock outcrops it just basically is one boulder that is being removed. And as Mario said, he made efforts to go to all the major roads to see if you can even see the house from these major roads and it is only visible from the highway because it is way up on the ridge. You can't see it from Santa Fe road because the Santa Fe road is down below the edge of the property where it drops off. So it's not going to have a major impact. It's going to be a typical Santa Fe style house. It's going to have a flat roof, an adobe style house. The windows are going to be behind covered porches so there won't be any glare or bright reflections from the windows. And we have made efforts, Mario who has worked up several different options as far as water retention so that we would avoid runoff of water because we do have neighbors who are concerned about drainage down below onto a lot below our land and we'd like to retain that water and use it and disperse it slowly from a storage tank. So we are trying to make every effort we could to not involve damaging the environment or having the house where it is going to be obtrusive but it is really the only place on that lot where you can build a house on that lot that can

only be about 3,500 square feet and as I said, if we can't build a house, then this lot is – we've wasted our time and our money for the last 13, 14 years on this lot.

MS. PAINE: Thank you, Mr. Stanton. I appreciate those comments.

MR. LOVATO: Mr. Virtue, if I can comment from staff's point.

HEARING OFFICER VIRTUE: Certainly.

MR. LOVATO: Staff has been working with Mr. Stanton's agent and his contractor for about a year now. These lots were creating in 1973 or '74 – '73 apologies. This is before our Sustainable Land Development Code was in effect and also before any code was in effect. These lots were created pre-code. If these lots came in today, a lot of these lots would not be allowed to create. The subdivision would not be allowed in a lot of this area without variances which would be harder.

Staff has done three site visits. We have made every effort and staff to mitigate as much as we can to allow Mr. Stanton a place to build but with that comes the request for variances. And I just wanted to put that out there that staff has done its due diligence in trying to do the best we could to look out for the individuals that are in the surrounding neighborhoods and as well as Mr. Stanton.

MS. PAINE: Thank you for that.

MR. MADRID: What I was going to add was that the lot was subdivided, I didn't know that far long ago, but yeah, it was subdivided a while ago and perhaps enough analysis wasn't done on the slopes to know that that was the only place that was going to be able to have a home.

[Ms. Paine's response is inaudible]

HEARING OFFICER VIRTUE: Sorry, Ms. Paine, you're cutting in and out. Can you speak up or get closer to your phone or move somewhere else.

MS. PAINE: Like I said earlier, I am not interested in being a barrier to residential development of any kind in the sense that we certainly welcome people and I had not known, prior to now, that this parcel and perhaps several others were sold in the anticipation of development well before the County had decided to develop a management plan. So I am very appreciative of these comments. There's nothing I can say at this point that would – that I would want to be used as an argument against Mr. Stanton's project. I'm hoping that this is a potential neighbor that he shares in all of our community's appreciation of what he's going to move to which is a beautiful place.

MR. STANTON: Absolutely.

MS. PAINE: Thank you for this opportunity.

HEARING OFFICER VIRTUE: Okay, are there any questions for Ms. Paine? Ms. Paine I would suggest that you consider taking staff up on its offer to really discuss the process and how it works and what the process has been up to date and what it will be going forward. I think that might be beneficial for everyone as the process moves forward. I just wanted to make that comment.

MS. PAINE: Okay, whenever – I mean, I don't know how that invitation might happen but –

HEARING OFFICER VIRTUE: I believe Ms. Lucero gave a phone number. Vicki, can you give that again.

MS. LUCERO: Sure, Mr. Virtue. It's 986-6225 and that's the number to our main line and they can give you directions and walk you through how to access the

material that is on our website for this case or they can put you in touch with John who is the case manager and he can answer any other questions that you might have.

MR. LOVATO: I can give you my number as well. This is John Lovato with Building and Development Services. My number is 505-986-6228.

MS PAINE: I'm sorry, I didn't get that.

MR. LOVATO: Okay, 986-6228.

MS. PAINE: And the case number is?

MR. LOVATO: Case number is 20-5080.

MS. PAINE: Twenty –

MR. LOVATO: Five zero, eight zero.

MS. PAINE: That's 20-5080?

MS. LUCERO: Yes.

MS. PAINE: Just repeating; the case number is 20-5080.

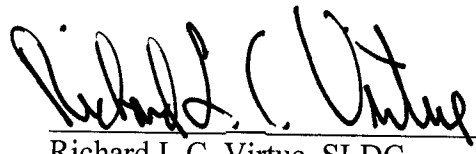
MS. LUCERO: That is correct.

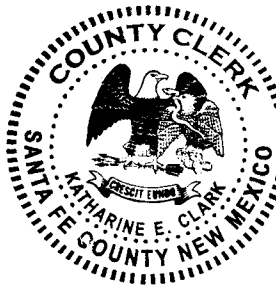
MS. PAINE: Thank you so much.

HEARING OFFICER VIRTUE: Thank you, Ms. Paine. Is there anyone else present who wishes to testify in opposition to the Application? Anyone who wishes to testify in opposition of the Application should unmute and speak up now. Hearing nobody who wishes to testify further, I will close this public hearing and will issue a written recommendation with respect to the disposition of this matter within 15 business days. And with that I will close this public hearing and this meeting.

4. **Adjournment** - The meeting adjourned at approximately 4:00 p.m.

Approved by:

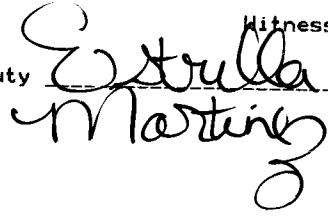

Richard L.C. Virtue, SLDC
Hearing Officer Santa Fe County



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

SLDC HEARING OFFICER M
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Hereby Certify That This Instrument Was Filed for
Record On The 17TH Day Of March, 2021 at 02:34:57 PM
And Was Duly Recorded as Instrument # 1946845
Of The Records Of Santa Fe County

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