

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

Santa Fe, New Mexico

March 12, 2020

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 3:00 p.m. at the Santa Fe County Administrative Complex, 100 Catron Street, Santa Fe, New Mexico.

Staff Present:

Vicki Lucero, Building & Development Services Manager
Paul Kavanaugh, Building & Development Supervisor, Financial Guarantees
Nathaniel Manzanares, Case Manager
Cristella Valdez, Assistant County Attorney
Jaome Blay, Fire Marshal

2. **Approval of Agenda**

HEARING OFFICER RICHARD VIRTUE: Good afternoon. This is the monthly meeting of the Sustainable Land Development Code Hearing Officer. My name is Richard Virtue. I'm the Hearing Officer. We have one matter on the published agenda today. Are there any changes to the published agenda?

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

HEARING OFFICER VIRTUE: Thank you. Then we will proceed to the one item on the agenda.

3. **Public Hearings**

A. **Case #18-5250 Tierra que Canta Conceptual Plan & Variance: Rembe Las Campanas, LLC, Applicant, James W. Siebert & Assoc., Agent, request approval for a Conceptual Plan to allow 22 residential-lots to be developed in two (2) phases and three (3) Variances. The three (3) variances requested for the project are of Chapter 7, Section**

SEC CLERK RECORDED 04/09/2020

7.17.9.2.4 Steep slope disturbance in excess of thirty percent (30%), with more than three separate areas exceeding 1,000 square feet each; Chapter 7, Section 7.17.9.2.1 to allow structures to be located on a ridge top, ridgeline, or shoulder unless there is no other buildable area on the property; of the Sustainable Land Development Code; and a variance of Ordinance 2017-7, Section, 7.11.12.4 to allow driveway separation of less 100 feet from return radius of an intersection. The proposal is located within the Las Campanas Planned Development District (PD-16) on tracts B & H of the previously approved Los Santeros Subdivision. Tract B consist of 9.83 acres and Tract H consist of 2.4 acres, total acreage for Tierra que Canta development is 12.23 acres (±). The proposed development is accessed via Calle Gonzales to the east of Las Campanas within T17N, R8E, Section 15, SDA-2, Commission District 2

NATHAN MANZANARES (Case Manager): If I may, Hearing Officer, the total acreage for the development is actually approximately 12.23 acres not 22.

HEARING OFFICER VIRTUE: Thank you for that correction.

MR MANZANARES: The history of the project is as follows: In 1992 the Board of County Commissioners granted approval for the development known as Las Campanas consisting of 1,419 residential lots to be developed in multiple phases This approval included two golf courses and a club complex, tennis and equestrian center, and related accessory facilities on 3,549 acres.

On February 8, 2000, the Board of County Commissioners approved the Master Plan, Master Plat and Final Plat for Los Santeros at Las Campanas de Santa Fe. This approval consisted of a residential subdivision consisting of 68 lots to be developed in one phase, with an additional eight tracts to be developed in future phases. The total number of phased Master Planned lots approved for Los Santeros was 194 lots on 128 acres. The February 8, 2000 Los Santeros Master Plan and Master Plat approval included Tracts B and H which allow a for a total of 22 Master Plat lots on 12.23 acres.

On July 17, 2019 an application was submitted for a Conceptual Plan and three Variances for Tierra que Canta Subdivision. The Applicant also submitted for Preliminary Plat and Final Plat which was deemed incomplete by Staff. The Applicant states they will proceed with Preliminary and Final Plat at a later decision once Conceptual Plan and variances request have been heard.

Project Summary: The Applicant request a Conceptual Plan to create 22 lots, residential lots, within a Planned Development District. The Conceptual Plan is proposed to be built-out in two phases. The phasing schedule consist of 11 lots within Phase I and 11 lots within Phase II to be platted over a three-year period after the recordation of Phase I.

The Applicant also request the following variances for the project: A variance of Chapter 7, Section 17.9.2.4, more than three isolated occurrences of up to 1,000 square feet. Chapter 7, Section 17.9.2.1, Steep Slopes, Ridge tops, and Shoulders Standards. The SLDC , states that, "No structure may be constructed on a ridge top, ridgeline, or shoulder unless there is no other buildable area on the property." And the variance of

Ordinance No. 2017-7, in regards to road designs standards of the SLDC, stating that all return radius from a driveway to an intersection must be a minimum of 100 feet away.

Additionally, this Application has been reviewed for compliance with the applicable design standards as set forth in Chapter 7 of the SLDC. These standards included Access, Fire Protection, Landscaping, Signage Parking, Water and Wastewater, Stormwater, Terrain Management, and Open Space.

In conclusion, Staff has established the findings of this Application with its proposed variances of the SLDC are needed to create a functional road network with the Tierra que Canta Subdivision and also to establish ridgetop lots within the subdivision a variance will be required. Staff recommends that the variances be conditionally approved subject to the conditions as stated in the staff report.

Hearing Officer Virtue, may I enter the variance approval conditions into the record as states in the Staff Report?

HEARING OFFICER VIRTUE: You may and they will be entered.

MR. MANZANARES: Thank you, sir. Staff has also established findings for this application for conceptual plan to allow for a 22-lot residential subdivision know as Tierra que Canta to be developed in two lots is in compliance with the criteria set forth in the SLDC.

If the Hearing Officer recommends approval of the variances requested, staff recommends approval of the conceptual plan subject to the conditions as stated in the staff report. If any of the three variances requested are denied by the Hearing Officer, Staff recommends denial of the Conceptual Plan. If the Conceptual Plan is approved Staff recommends conditional approval with the conditions set forth in the staff report. Hearing Officer Virtue, may I enter the conceptual plan approval conditions into the record as states in the Staff Report?

HEARING OFFICER VIRTUE: You may, and they will be entered.

The conditions and recommendations are as follows:

Recommendation for variance of Chapter 7, Section 7.17.9.2.4 (More than (3) isolated occurrences of up to one thousand (1000) square feet. Staff has established findings that this Application with its proposed variance of the SLDC to create a functional road network to the Tierra que Canta Subdivision is in compliance with criteria set forth in the SLDC and should be conditionally approved subject to the following conditions:

- a. The Applicant must present a reclamation plan with Preliminary and Final Plat submission to ensure that as much disturbance as possible is reclaimed and revegetated.
- b. The boundaries of the development area shall be clearly marked on site with limits of disturbance (LOD) and fencing or construction barriers to be approved by Staff prior to any grading or clearing and before starting construction in accordance with submitted engineered Grading & Drainage Plan.
- c. Applicant must provide an approved Storm Water Pollution Prevention Plan (SWPPP) prior to any grading taking place on the property.

- d. Mass grading of the site will be prohibited and noted as “Special Building Condition” on recorded Conceptual Plan and transferred to any other plats associated with Tierra que Canta.
- e. Limits of grading shall be addressed with Preliminary Plat submittal.

Recommendation for variance of Chapter 7, Section 7.17.9.2.1 (Steep Slopes, Ridge tops, Ridgelines, and Shoulders Standards). Staff has established findings that this Application with its proposed variance of the SLDC to establish ridgetop lots for the Tierra que Canta Subdivision is in compliance with criteria set forth in the SLDC and should be conditionally approved subject to the following conditions:

- a. All residences built on lots classified as ridgetop lots be limited to fourteen (14) feet in height and be built in accordance with terrain managements standards set forth in Chapter 7 of the SLDC.
- b. All residences built on Lots 17, 18 & 19 meet a minimum setback of 25-feet from slopes in excess of 30% this restriction is also for any accessory structures built on Lots 17, 18 & 19.

Recommendation for variance of Ordinance 2017-7, Section 7.11.12.4. An ordinance amending and restating in its entirety section 7.11 (Road Design Standards) of the Santa Fe County Sustainable Land Development Code (SLDC), Ordinance No. 2016-9. Staff has established findings that this Application with its proposed variance of the SLDC to create a functional road network to the Tierra que Canta Subdivision is in compliance with criteria set forth in the SLDC and should be conditionally approved subject to the following conditions:

- a. All driveways within Tierra que Canta to be a minimum 25 feet from the return radius of the proposed 4-way intersection.
- b. Applicant must submit a reconfigured road design showing all driveways within the development 25 feet from the return radius of the proposed 4-way intersection, prior to this request being heard by the Planning Commission.
- c. Construction gate located at the end of Calle Gonzales must be removed upon completion infrastructure and road construction.
- d. Limits of grading shall be addressed with Preliminary & Final Plat submittal.

Conceptual Plan Recommendation:

Staff has established findings that this Application for Conceptual Plan to allow a 22-lot residential subdivision know as Tierra que Canta to be developed in two (2) phases is in compliance with criteria set forth in the SLDC. If the Hearing Officer recommends approval of the variance request staff recommends approval of the Conceptual Plan subject the conditions listed below; If any of the three (3) variances requested are denied Staff recommends denial of the proposed Conceptual Plan.

- a. The Conceptual Plan showing the site layout and conditions of approval shall be recorded at the expense of the applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.9.9.
- b. Applicant must comply with all Review Agencies Comments and Approval Conditions.

- c. Applicant must submit missing documentation pertaining to Landscaping, Parking, Signage and, Water Service Agreements, Waste Water Service Agreements and a reconfigured road design showing all driveways with the development 25 feet from the return radius of the proposed 4-way intersection, prior to Preliminary & Final Plat being heard by the BCC.
- d. The Applicant shall submit a Geo-Technical Report for approval by the Administrator which verifies the stability of the rock and soil within the development prior to Preliminary and Final Plat approval for the development.
- e. An Engineered Traffic Impact Analysis showing updated calculation for trips generated from Las Campanas Drive to Calle Gonzales be submitted to County Staff for review prior to the Applicant submitting for Preliminary & Final Plat approval.
- f. The Applicant must present a reclamation plan with Preliminary and Final Plat submission to ensure that as much disturbance as possible is reclaimed and revegetated.
- g. The boundaries of the development area shall be clearly marked on site with limits of disturbance (LOD) and fencing or construction barriers to be approved by Staff prior to any grading or clearing and before starting construction in accordance with submitted engineered Grading & Drainage Plan.
- h. Applicant must provide an approved Storm Water Pollution Prevention Plan (SWPPP) prior to any grading taking place on the property.
- i. Mass grading of the site will be prohibited and noted as "Special Building Condition" on recorded Conceptual Plan and transferred to any other plats associated with Tierra que Canta.

MR. MANZANARES: Thank you, sir. Staff requests the Hearing Officer memorialize the findings of fact and conclusions of law in a written order for this matter to go forward to the Planning Commission with the hope of a public hearing on April 16, 2020. Hearing Officer, I will stand for any questions at this time.

HEARING OFFICER VIRTUE: Okay, thank you very much. I don't have any questions now. I may have some later. We'll turn to the applicant and the applicant's presentation. Would those persons who will testify on behalf of the applicant please identify yourself for the record and be sworn in.

[Those wishing to speak were duly sworn]

JIM SIEBERT: I'm Jim Siebert. My address is 915 Mercer, Santa Fe, New Mexico.

WAYNE CARSON: Wayne Carson. Address, 37 Sunflower Drive, Santa Fe.

HEARING OFFICER VIRTUE: We are only addressing those people who are testifying on behalf of the applicant at this time.

MR. CARSON: That's not me.

HEARING OFFICER VIRTUE: Okay, we will get to you later. So is Mr. Siebert the only witness the applicant has?

JAY REMBE: I might. Jay Rembe. Address is 1718 Central Avenue SW, Albuquerque, NM 87104.

[Duly sworn, Jim Siebert testified as follows]

MR. SIEBERT: Should I do that from here? I'll move back and forth. Let me say first of all that Jay Rembe who is here tonight is a well known and well respected developer that has done a great deal of work in Albuquerque and has established some pretty impressive credentials there. He also has done some work in the Los Santeros development which this is part of and has proven his ability to provide quality housing in Los Santeros.

To give you a little background, Jay bought the property in 2008 it was prior to the recession and has really been kind of waiting until the housing market has come back to the point where it would justify the financial investment in this particular property. And since he did buy the property in 2008 the SLDC, which is the current code, was adopted in 2016 and what he has found is that there are some significant differences between the code he would have operated under if he had developed prior to 2016 and today's current SLDC.

We have held three meetings with the residents of Los Santeros to provide background on the project and most recently I sent out a letter providing some additional information and also offering to hold another meeting prior to this meeting if they felt that that was appropriate and notifying them of the meeting today, although we did send out legal notice as well on this.

So with that what I would like to do is go to the aerial photo – can you see that?

HEARING OFFICER VIRTUE: Has this been submitted as part of the application or is this new?

MR. MANZANARES: Hearing Officer Virtue, this is part of your – it's Exhibit 4, but there is a slight change in the driveway separations than what you see.

MR. SIEBERT: Actually, what we have is a clearer photo today than what we presented in the packet. So it is just a clearer representation of basically the same thing.

HEARING OFFICER VIRTUE: Okay, so can you identify where this appears?

MR. MANZANARES: Exhibit 4, sir.

HEARING OFFICER VIRTUE: Exhibit 4?

MR. MANZANARES: Yes.

MR. SIEBERT: So, the background on this is first of all, this is Las Campanas Drive. The black line is the outline of the property which is approximately 12 acres. It has a road through it and this is called Calle Gonzales. And all of this over here is part of the Los Santeros development as well. There's a golf course that wraps around this property both on the east and the south. The golf course serves as a bit of a buffer between this development and the existing Los Santeros development. Over here what we have is the complex, administrative offices and complex for the wastewater treatment plant for Las Campanas. This lagoon here is for Las Campanas. This area here is a dog park that was recently developed by Las Campanas.

What I'll do is, we'll talk about each of the three variances. This by the way we don't have, but we did have, but we may have to go back and get that from the office, we seem to have left them behind.

HEARING OFFICER VIRTUE: Let me just clarify. This is not – what you're talking from is not in the written report?

MR. SIEBERT: There is a slope map but it's different than this particular slope map.

HEARING OFFICER VIRTUE: So you will provide copies for us.

MR. SIEBERT: Yes, yes. And what this does is two things. It talks about two variances. One variance has to do with the slopes and what I just wanted to point out is that this terrain is fairly unique in that we have pockets of 30 percent slopes. And typically what you find is that you have ridges and that on either side of the ridge you have well defined 30 percent slopes. In this we have areas that are smaller areas that have small pieces of 30 percent slope. Generally, they are small isolated drainages. The reason that I wanted to point this out is that in doing your design, especially with a tract that's a smaller tract with 22 units to it, it is very difficult to design around the 30 percent slopes. We have done our very best in terms of driveways and roadways and actual building sites trying to keep it mainly, the disturbance mainly to driveways and roadways. You are allowed under the terms of the code three exceptions not to exceed 1,000 square feet. We had originally thought that that applied to each of the tracts but we were informed that that is not the case. It applies to the property as a whole. So the actual amount of disturbance, with taking that 1,000 square foot each of the three occurrences into account, we ended up with a total disturbance of 2,030 square feet of 30 percent slopes that are disturbed at this point which is pretty insignificant when you look at an approximate 12-acre parcel.

In the staff report there are five conditions that are listed, we agree to all of those conditions as stated by staff.

The other variance has to do with building on a ridgetop and it's really just this area here for these three dwelling units. The heavy black line is the ridge itself. The requirement is that you have to be setback at least 25 feet from the ridge and it still requires a variance. But if you cannot setback 25 feet from the ridge then there is not a variance you just simply can't build on the ridge. In this case, we can build on it. We can satisfy the requirement for a 25 foot setback. This is kind of more typical of the way a ridge would work in that you see that the white area here, that's an area of less than 10 percent. The area around it is the area that's 30 percent and that's kind of typical of the way that slopes typically work. You have a ridge and you have the slopes on either side and once again the problem is here that all of a sudden we didn't have the isolated 30 percent slopes that are occurring especially down here is where the problems occurs. The issue here is one, when Jay bought the property, the reason he did it was he had access to the golf course, in particular the fairway that sits right here. So these three lots are particularly important to Jay. They do have access to the golf course and if he loses those three lots then all of a sudden there's a question about whether to what degree the project is financially feasible.

That leaves us with the last variance which is setback from slope from the driveways at the intersection of any driveway has to be setback from the intersection which sits right here by 100 feet. I think what the SLDC didn't contemplate is that you would have these kinds of development for very high density. These lots here range from 6,000 to 10,000 –

HEARING OFFICER VIRTUE: Mr. Siebert, can you identify what you're talking from and where it appears?

MR. SIEBERT: Yes, this is referred to on the bottom it says site plan but it actually what it refers to is the dimensional setback of driveways from the radius return of the road intersection. We'll get you a copy of this.

MR. MANZANARES: Hearing Officer Virtue, that's Exhibit 3, A-63.

MR. SIEBERT: The difference of what's in the staff packet and here is one of the conditions that is stated in the staff packet is that everyone of the driveways has to be a minimum of 25 feet from the radius return of the road intersection. What this does is it actually shows that we satisfied that requirement. So we have satisfied that condition with this particular drawing here.

HEARING OFFICER VIRTUE: Just to clarify, this is not the exact version, what you're talking from is not at this point –

MR. SIEBERT: That's correct.

HEARING OFFICER VIRTUE: It requires further detail and I'd ask you to provide that too.

MR. SIEBERT: There is a drawing; I think it is Exhibit 16 in the packet. Exhibit 16 basically shows how the driveways would have to be – a recommendation for how the driveways would have to be realigned to meet the 25 foot setback and that's what this drawing does. It takes the hand drawing and turns it into a computer drawing. We'll provide a copy of that.

The one thing I would like to point out that in the SLDC there is a section in the code that states and this is 7.11.12.1. It says, "in TC, RC, MU or PD districts," and this is a PD district, "or where existing lot boundaries or existing legal structures do not allow the separation the Administrator may reduce this distance." So I can only assume the staff is recommending approval of the variance is relying in some degree to that statement in the SLDC that really the setback and somewhere they realized that you can't apply that kind of a setback that you would normally apply to say a 2.5-acre lot to a 6,000 square foot lot.

The one thing on that particular variance is that there are a set of conditions and we agree to all conditions but there is a condition c, little c, that says that the applicant is required to remove the gate at Calle Gonzales. Right now there is a construction gate that is electronically operated and that gate actually belongs to the Las Campanas Homeowners Association. So we really have no right to do anything to that gate. We really do not agree to that particular condition.

The terms of the conceptual plan itself, there was really kind of three reasons we did that and one of the key purposes/the one thing that triggers that conceptual plan is if you plan on developing in phases which we're planning on doing and there's some reasons for that. One reason is to help minimize the financial risk. We do one phase and if it's successful then you immediately move on to the next phase. If it's not, then you figure what else you need to do to the project. The other thing is it establishes the concern of the neighbors which is how are you going to grade this? We're not going to grade the whole site. We will grade only that portion of the site that we plan to develop for that particular phase. The reason for that is that the dust that it creates during the grading process and the dust that it creates while it sits there for a future development. The other thing is it provides a better description to the neighbors of what you actually

plan to do there and actually as part of this process and the three meetings we did go through some changes to the plan itself, hopefully to make it more palatable.

The one thing that I forgot to point out is that on the area where the three units are within the ridgetop, the maximum height of these units can be 14 feet. That was a concern on the part of the neighbors is how many of these units are really going to be two-story units. With that we did, as part of the agreements that we came to with the neighbors, what we'd like to do is enter for the record the agreements as part of the record. So for the record and I'll read these in and they would be conditions of approval of the concept plan.

1. Gonzales Road would be continuous with the Rembe Tracts B and H and will be paved with asphalt to a 20-foot width.
2. The current sharp bend on Gonzales Road will be realigned to a safer curve and the intersection will be improved to a four-way stop intersection.
3. 40 percent of the lots on the cul-de-sac road, that's the one that goes to the north, Tierra que Canta facing the dwellings on the east side of the fairway will be restricted to one story.
4. The development will not be mass graded. A phased grading plan will be provided to the County as part of the subdivision application.

And with that I conclude my presentation.

HEARING OFFICER VIRTUE: Okay, just a couple of housekeeping matters. The first map, Mr. Siebert, that you were talking from that's not in the record, we're going to call that Hearing Exhibit 1 and I'll ask you to provide it to the staff and they'll give it to me for purposing for me preparing my recommendation.

MR. SIEBERT: All right.

HEARING OFFICER VIRTUE: And then the second map that you were talking from that is not in the record at least in the form that you were talking, we'll call that Hearing Exhibit 2 and I'll ask you to provide that to the staff also and they'll provide it to me.

MR. SIEBERT: Okay.

HEARING OFFICER VIRTUE: Just so we establish what's going to go in the record here. I don't think we need a separate exhibit for what you just read into the record. That's sufficient.

Is there anyone else present that wishes to speak on behalf of the applicant? Okay. Is there anyone else that wants to speak in support of the application other than the applicant? We'll turn to other public testimony. Are there members of the public who wish to speak in opposition to the application? Please identify yourself by name and address and be sworn.

WAYNE CARSON: Should I stay here or –

HEARING OFFICER VIRTUE: You can do it however you feel is comfortable.

[Previously sworn, Wayne Carson testified as follows]

MR. CARSON: Ladies and gentlemen, my name is Wayne Carson.

HEARING OFFICER VIRTUE: Was he sworn?

RECORDING SECRETARY: Yes.

HEARING OFFICER VIRTUE: Okay, thank you.

MR. CARSON: I'm at 37 Sunflower Drive in Las Campanas. I am going to apologize right now for not having enough information because I recently moved here and I just got notice of the application for development.

I oppose it for a number of different reasons. First let me tell you the big reason, the basis, I come from South Florida. South Florida – well, I can describe it this way, the county I lived in has as many people as the State of New Mexico. It is obnoxious that kind of crowding. I came here because this is a nice place. Wide open spaces. Now, I understand development has to be done, will be done. But this is really not correct.

The County had a plan, enacted laws, set them up, Rembe bought the land, I am sure, knowing every single rule and regulation. But now they want to change those regulations which were made by the County because the County thought that was better. So they came in, and asked you for I believe instead of six units 22. Now that's almost four times and when you make four times the density not only do you increase density but you increase all the problems that comes with density and by density you create certain problems for yourself in building. Now they come in and say, 'Look, now that we did this we need to have you accommodate us so we can solve the problems that we made when we first came here.' That doesn't seem to be right because what they're saying is, this is a great one-sided deal. We come in, we build these houses, we may create certain problems, we rape the land and what is the neighborhood and what is the County getting in return for this unattractiveness? Marginal extra tax revenue which in the County's large domain is not really meaningful at all. This is a one-sided deal and should not be granted because it's not fair. If that's the idea of a good deal, I've got a bridge that you guys might be interested in that connects Manhattan and Brooklyn. A lot of people go across it. We charge a lot of money. That's what you got here and I'm against it. I promise and I know there's another hearing in October [sic] I will get myself a little more educated on the technical points that I can then address with more – not with more but with accuracy, I'm not doing any now. But what I'm urging this body to do is to say, Wait a minute; what are we getting here? I know what Rembe is getting here. By the way, I don't blame Rembe. I had a business. I retired from that business. It was thank goodness a successful business. I understand profit. But this is going too far and I thank you for the time you gave me to address you. I guess I'll be seeing you all again in a couple of months.

HEARING OFFICER VIRTUE: Thank you, Mr. Carson. Is there anyone else present from the public who wishes to testify on this matter?

SUZY ESKRIDGE: I would like to point something out.

HEARING OFFICER VIRTUE: Please, you need to identify yourself, name and address and we'll get you sworn in.

[Duly sworn, Suzy Eskridge, testified as follows:]

SUZY ESKRIDGE: My name is Suzy Eskridge, E-S-K-R-I-D-G-E. I live at 95 Estates Drive, Santa Fe, New Mexico.

I just wanted to point something out. The three and I don't know whether they're lots or units or whatever, that are right on the top there and they say have access to the golf course. Now, that golf course is private property and it belongs to the Club at Las Campanas which is an owner like any other owner, neighbor, whatever – right up there the red stuff. And I just don't know that the club will give access to the developer – I mean, how. I mean, I don't know, even other people who live on the golf course, the one

unit houses, they don't have direct access to the golf course. You can't have a cart. You can't have a car or whatever and drive onto the golf course.

So I'm just pointing it out. I am not against or for, it's just something that everybody should consider and I don't know why somebody from the Club at Las Campanas, it's a private club, why they're not here. I mean, maybe they don't know that the developer needs access or thinks they're going to have access.

That's all. Thank you.

HEARING OFFICER VIRTUE: Great, thank you very much.

MS. ESKRIDGE: Sure.

HEARING OFFICER VIRTUE: Is there anyone else from the public who would like to testify concerning the application? Go ahead.

[Duly sworn, Scott Vandenberg, testified as follows:]

SCOTT VANDERBERG: I'm Scott Vandenberg, V-A-N-D-E-N-B-E-R-G.

I actually live right across from the golf course from where these places are going to be built. Just across to, I guess to how would I put it – just across up in this area. It's my understanding that of course as a Las Campanas resident we don't really have any say in who can or cannot develop these lots which as you say were set out many, many years ago. But we are concerned and we want to see that they fit into the community.

You've mentioned the four things that we are concerned about. The road, paving the road, and now is it my understanding that there will be no three stories on that side of the –

[Previously sworn, Jay Rembe responded to questions]

JAY REMBE: We're not going to do three-story but there are –

MR. VANDENBERG: Excuse me, two stories.

MR. REMBE: We agreed to limit the number of two story so that –

MR. VANDENBERG: That's what I heard but I heard you say in your presentation that there would be no two stories across the way.

MR. SIEBERT: No, no. In fact the condition I said on that particular roadway, the one that goes to the north, that two story units –

MR. REMBE: There's no two story on the ridge, the three on the ridge and then we're limiting the balance to 40 percent, no more than 40 percent of these two story –

MR. VANDENBERG: And how many lots are there? The balance is what, six lots?

MR. REMBE: Yeah, let's count. One, two, three, four, five, six, seven, eight.

MR. VANDENBERG: So you're saying three of them are. Okay. And they will not be taller than the ridge line because the ridge line comes up.

MR. REMBE: I haven't calculated that. They will be whatever the code allows but I would assume that they're going to be higher than the ridge line because they're going to be built on top of the ridge line.

I think the compromise is a good one. Part of the variance actually protects, I think, some of these views. Per code that site is allowed to do seven attached units all two story. We are not looking at doing seven attached units. We prefer to put as many units on the golf course as possible because those are the premium lots. I felt the

compromise was to limit the two story height that was important to the neighbors, especially you guys across the way. I heard also that you wanted the road paved –

MR. VANDENBERG: Yes, of course.

MR. REMBE: -- which I agreed to do.

MR. VANDENBERG: There are no non-paved roads in Las Campanas, It would not fit in.

MR. REMBE: And I don't disagree. I am happy to do that. And the variance really allow for a better design. I think if they're not approved, we still can move forward but it is going to create a lot of attached product. It will create a different house type. One of which I am going to have to redesign which I'm not sure how that would end up. Hopefully, it will be as best as it can be. The existing product that we're presenting exists today and I know from experience that everybody is worried about new design, they want the right aesthetic.

MR. VANDENBERG: That's correct.

MR. REMBE: I'm interested in design and so we have a proven product that is existing. Everyone can see it. They can feel it. They can touch it. I have provided photos.

MR. VANDENBERG: So you're saying if you have to, if you don't get these variances, then they would be attached places.

MR. REMBE: I think what happens, if you just look at the dimensions of the site, it is just forcing my buildable area. They become smaller. So the houses have to probably go higher to accommodate the size. I prefer not to do that. I think what we have presented is really probably the best plan for the site. So I hope I answered your question.

MR. VANDENBERG: My concern as a resident of course is the view. I understand that houses are going to be built there. They are a ways away and the number of two stories.

MR. REMBE: The other thing to think about and I think we provided a photograph is that the portion of the two story that we're proposing is very limited. So if you look at what's existing, it's really only about 300 to 400 square feet above the garage and it's on the back side it's not on the front side.

MR. VANDENBERG: I understand that. There are other units right around the corner that were built that way.

MR. REMBE: Yeah.

MR. VANDENBERG: I don't think you started them but you finished them.

MR. REMBE: We didn't start them. It was ASW and then we were brought in to finish that project.

I think you have a really good balance and massing with the existing design too. So we're not putting the majority or even 50 percent of the house on the second floor. It is just a limited amount and it's on the back side further away from your view.

MR. VANDENBERG: Right, one room.

MR. REMBE: Right, exactly. It is one room.

MR. VANDENBERG: So it's basically the same design as the other places.

MR. REMBE: Correct, yeah.

MR. SIEBERT: Scott, the other thing –

MR. VANDENBERG: One last thing.

MR. SIEBERT: Go ahead, I'm sorry.

MR. VANDENBERG: And the other, I forget the name of the street. It goes down, it's beyond that on the other side of the golf course.

MR. REMBE: San Sebastian.

MR. VANDENBERG: Yeah. Did you do that one? And those are attached.

MR. REMBE: No. Well, I did the ones in Vias I and II. Not the ones down that road that have the brick.

MR. VANDENBERG: Yeah, the brick.

MR. REMBE: Yeah, it's really pretty.

MR. VANDENBERG: It is.

MR. REMBE: I wish I had.

MR. VANDENBERG: They are more or less attached.

MR. REMBE: I would be proud of that project.

MR. VANDENBERG: Yeah, they're nice. All right, you wanted to say.

MR. SIEBERT: I just have a photograph [Hearing Exhibit 3] and what this is, I stood on this site at the buildable area and took a photo. It's a 55 millimeter lens which is pretty much what the human eye sees and the observation was that at least on the first floor, and you're right, at least three of these units are two story units. But at least on the first floor on the ones that are a single story, what you're really looking into is you're looking into trees. And you can see that on the aerial photograph as well, the density of the tree cover in that area.

MR. VANDENBERG: And of course the trees; we want to make sure that the trees are not disturbed that don't have to be.

MR. SIEBERT: Yeah, and that's the other thing. The condition that the County imposed is that you have to establish the boundaries of where the grading takes place and it can't take place outside the boundary of the development.

MR. VANDENBERG: Correct.

MR. SIEBERT: And there's trees on this side as well. So those will be protected as well. The trees are pretty good size.

MR. VANDENBERG: Yes, they are.

MR. SIEBERT: They're 10 to 12 feet.

MR. VANDENBERG: Okay, and I should point out for clarity, I guess, that I do live in a two story house.

MR. SIEBERT: Yeah, I figured you did.

MR. VANDENBERG: A pretty big one.

MR. SIEBERT: No, keep that if you like. [Hearing Exhibit 3]

MR. VANDENBERG: We have talked about our concerns and you've got them written right down here. Thank you.

MR. REMBE: Thank you, Scott.

HEARING OFFICER VIRTUE: Yes, sir.

[Duly sworn, Chip Munday, testified as follows:]

CHIP MUNDAY: My name is Chip Munday, M-U-N-D-A-Y. I live at 23 Avenida de Mercedes. I am also the General Manager of Las Campanas Master Association, the Homeowners Association.

I wanted to address the point, that one condition that Jay and Jim mentioned that they could not agree to which was the removal of the gate on Calle Gonzales. The Association wants to maintain a gate in that location and as the project moves forward we may try and negotiate whether that is a normal access or an emergency access. But to remove that gate and leave it open as a public thoroughfare would compromise the security of Los Santeros. Los Santeros is gated access everywhere including Calle Gonzales and to remove that gate would compromise that security because Las Campanas Drive, as you know, is a public thoroughfare.

In all fairness to the applicant, I must say that the Design Review Committee of Las Campanas Master Association is satisfied with the design of the residences that are anticipated and is willing to work with the applicant to make it the best that it can be.

That is all that I have to say. I wanted to clarify that thing on the gate.

HEARING OFFICER VIRTUE: Okay, thank you very much, Mr. Munday.

MR. VANDENBERG: I notice that we have the Fire Marshal here and, of course, we always worry about that. And that gate, to go back to that gate, I guess would be access in case of a fire and would be the quickest way to those places rather than through the Los Santeros gate, where you'd have to come around and back. Is that why you're here?

FIRE MARSHAL BLAY: Hearing Officer Virtue, Mr. –

MR. VANDENBERG: Vandenberg.

FIRE MARSHAL BLAY: Vandenberg, either or is fine with us. Whether you leave the gate that is existing or not. If you have a gate it's obviously going to have a Knox switch we would be able to access immediately. It's not a factor for us.

MR. VANDENBERG: Yeah, there's the main gate.

FIRE MARSHAL BLAY: And I'm not here just for that.

MR. VANDENBERG: Okay, just wondering.

MR. REMBE: Am I able to clarify something that Mr. Carson said earlier?

HEARING OFFICER VIRTUE: Certainly.

MR. REMBE: He had mentioned that I had bought the site where it was only approved for four lots – six lots and that's absolutely not true. It was entitled for 22 lots before I bought it. I bought it knowing I had 22 lots. I have never spoken to the gentleman and would be happy to talk to him just for clarity.

MR. SIEBERT: It has always been because Las Campanas was part of a master plan and the initial master plan showed 22 lots when they imposed the PD zoning district by the SLDC they continued to recognize that because that's what they did. If you had an existing approved master plan the SLDC would continue to recognize that master plan and the densities proposed on it.

HEARING OFFICER VIRTUE: As I understand it, in order to meet the design requirements and the other requirements of the Sustainable Land Development Code that was adopted after the applicant bought the property, that applicant needs variances.

MR. SIEBERT: Right.

HEARING OFFICER VIRTUE: Okay. Is there anybody else who wishes to testify on this matter? Okay, with that I'll close the public testimony portion of the hearing.

I wanted to ask a question – oh, let me backup. The photo that Mr. Siebert was talking from I don't believe was in the record, although it resembles a photo I looked at but I'm not sure it's the same. But just to be clear I'm going to mark that as Hearing Exhibit 3 and we'll enter that into the record.

So just a question about the ridgetop properties and I'm trying to understand what hardship would result or what you believe would result in terms of a hardship if those were not allowed as part of the development?

MR. SIEBERT: We'd lose three units.

MR. REMBE: You may not lose three but you're going to force a lot of attached product or two story product which the neighbors I don't think want. It does provide a lot of financial hardship because I think the product is less desirable if you're doing that. So I haven't studied how we fit those on there to be honest but I'll figure, if that's your decision, I'll figure out how we get it on there. I think it would be an inferior design and I really believe that for everyone.

HEARING OFFICER VIRTUE: So if the ridgetop units were not allowed you could still get 22 units on the site?

MR. REMBE: Potentially. And I have a feeling that the neighbors are going to come after me for two story product because I'm going to need it at that point.

MR. SIEBERT: You're putting the same units on a smaller tract of land so they're going to be squeezed together.

MR. REMBE: I think if you look at the site plan, you can see it's pretty tight already. It's not like we have large side yard setbacks. Some are attached. Some aren't, but they're very close. It's meant to be designed that way. So it's completely designed. I'm already a year behind and the economy is already kind of tanking and that's what put me in trouble the first time. I literally bought in 2008 and it tanked and I'm kind of right back in the situation that's similar.

HEARING OFFICER VIRTUE: I don't have any additional questions. If there's nothing further to come before the hearing – I see Ms. Lucero would like to say something.

MS. LUCERO: Hearing Officer Virtue, I just wanted to address a couple of things. The gate being one of the issues. I know the Fire Marshal didn't have an issue with them keeping the gate. The SLDC, however, does prohibit gated subdivisions. So anything that comes in under the SLDC they're not allowed to have gates within the subdivisions. So the County would not allow that.

The other issue that I would like to address were the conditions that the agent brought up that they had agreed to at the neighborhood meeting. The one is particular being the Gonzales Road condition that it would paved to a 20-foot surface. The County is fine with that but we just want to make sure that it does meet County code standards so we would request or recommend that it also state that it would meet collector road standards of the SLDC.

That's all I have, Hearing Officer Virtue.

HEARING OFFICER VIRTUE: Okay.

MR. VANDERBERG: I still have a question about gates. In other words, that gate would have to be removed?

MS. LUCERO: That's correct.

MR. VANDERBERG: And there would be no gate there at all?

MS. LUCERO: There would be no gate there at all because it wasn't permitted previously under the old code.

MR.. VANDERBERG: But the old standards allowed for gates and that gate was put in there then.

MS. LUCERO: It wasn't permitted though. It was installed but it wasn't permitted as a permanent gate. It's construction only.

MR. MUNDAY: What about the new gate that is being installed at Estancias III, which is called Tesoro Enclave? That one is being constructed as we sit here.

MS. LUCERO: We'll have to look at that. I don't know if that was permitted through us. But if it wasn't permitted through us or under the old code, it wouldn't be allowed either.

MR. REMBE: Is there flexibility to leave it in place knowing the reasons the HOA wants to keep it there?

VICTORIA DALTON (Siebert & Associates): Maybe as an after-the-fact permit.

MS. LUCERO: No, if it wasn't grandfathered in under the old code it would be a whole brand new application with new submittals having to meet the SLDC requirements.

MR. MUNDAY: Then may I ask, if this did go through would you still require that gate to be removed?

MS. LUCERO: That's correct.

MR. MUNDAY: There would be a big fight on that.

MR. VANDERBERG: There are no rules for a gate that has been there for so many years, it's grandfathered in?

MS. LUCERO: Or if it was permitted under the old land development code then it is grandfathered in.

MR. VANDERBERG: So what you're saying is that that gate was never permitted?

MS. LUCERO: Not the construction gate that we're referring to on this project here.

MS. ESKRIDGE: I'm sorry, I don't follow. You say that there are no gates permitted within the subdivision?

MS. LUCERO: Within any subdivision, yes.

MS. ESKRIDGE: But, I don't know. Is that within or is it on the border on the border of the subdivision?

MS. LUCERO: It would anywhere, within or on the border of the subdivision.

MR. MUNDAY: So we have 42 gates that we have to remove?

MS. LUCERO: If they were never permitted, yes.

MR. REMBE: Unless you permit them.

MS. LUCERO: They are not allowed under the current regulations.

MR. VANDERBERG: I know those gates were put in long before that.

MS. LUCERO: So if they are a part of an approval or a permit then under the old code we would allow them to remain. But anything that wasn't permitted.

MS. DALTON: Vicki, under the old code were six-foot gates – was that just for fences or did that include gates under the old land development?

MS. LUCERO: Well, it would have been approved as part of the subdivision.

MS. DALTON: And then couldn't you have put a gate, like a six-foot gate as how you could go ahead and do that under the old land development code or was it just for fences?

MS. LUCERO: That was just for fences. This is access so you would be restricting access.

MS. ESKRIDGE: When the subdivision was approved there were plans submitted, I suppose, to the County and –

MR. VANDERBERG: As well as the state.

MS. ESKRIDGE: Yeah, and it would have shown all the gates.

MR. MANZANARES: Ma'am, the issue here is that the gate that is in question was for construction purposes during the Los Santeros development. That was never permitted. The intent was that that gate was only to be there for construction. The construction has taken 20 years. Now that the construction is going to be taking place, the gate will have to be removed because it was never permitted.

MR. SIEBERT: If it was permitted for construction then they should allow it during the construction for the phased development.

MR. MANZANARES: And then remove it.

MR. REMBE: And any other project in Los Santeros, right? Because every lot in Los Santeros is using that construction gate.

MR. MUNDAY: Would a solution then be to make Calle Gonzales a dead-end – Paseo Aragon, so you don't need a gate?

MR. MANZANARES: That would probably have to be a separate application and we'd analyze it at that point and you could potentially seek another variance which the County may or may not recommend approval on because it doesn't meet the code. But that would be a separate variance through your entity, through Las Campanas.

MR. MUNDAY: In other words to remove the construction road at a certain point.

MR. MANZANARES: Either dead-end it or gate it. That would be another application and potentially trigger another variance through your Las Campanas association.

HEARING OFFICER VIRTUE: It appears as though we're not going to resolve the gate issue at this time.

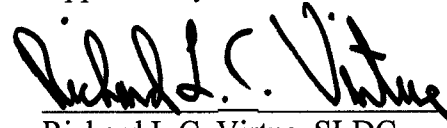
MR. VANDERBERG: We did not realize we had an issue with this.

HEARING OFFICER VIRTUE: I'm going to at this point terminate the public portion of the testimony today. I will declare the meeting and hearing concluded and I will make a written recommendation within 15 working days of today. Thank you.

4. Adjournment

Hearing Officer Virtue adjourned the hearing at approximately 4:00 p.m.

Approved by:



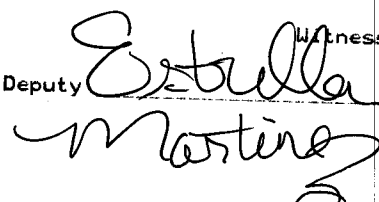
Richard L.C. Virtue, SLDC
Hearing Officer Santa Fe County

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COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

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

