

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

Santa Fe, New Mexico

May 25, 2017

I. This meeting of the Santa Fe County Sustainable Land Development Code Hearing Officer meeting was called to order by Santa Fe County Hearing Officer Nancy Long on the above-cited date at approximately 3:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Staff Present:

Vicki Lucero, Building & Services Manager
Rachel Brown, Deputy County Attorney
Tony Flores, Deputy County Manager
John Salazar, Development Review Specialist
Mathew Martinez, Development Review Specialist
Paul Kavanaugh, Building & Services Supervisor

II. **APPROVAL OF AGENDA**

Hearing Officer Long approved the agenda as presented.

- III. A. **Case # V 17-5050 Barbara Stromquist/Randy Felker Variance.** Barbara Stromquist and Randy Felker, Applicants, James W. Siebert and Associates, Inc., Agent, are requesting a variance of The Sustainable Land Development Code Section 7.17.9.2 Steep Slopes, Ridge Tops, Ridgelines, and Shoulders Standards to allow the construction of a home on a ridgetop despite having other buildable area on the property. The 14.79 acre property is located at 45 Eagle Ridge Dr. within Section 18, Township 16 North, Range 10 East (Commission District 4) SDA-2
[Applicants' Exhibits A – D]

Hearing Officer Long recited the case caption. John Salazar presented the staff report as follows.

JOHN SALAZAR: Thank you, Hearing Officer, John Salazar, Development Review Specialist Senior. Hearing Officer Long, the applicant is as you stated requesting a variance of the SLDC, Section 7.17.9.2 in order to construct a home on top of a ridgetop.

The applicant addressed the variance criteria. Number one of the criteria, the applicant states that putting the proposed structure on top of the ridgetop will be less – you won't see it as much from I-25.

SFC CLERK RECORDED 06/29/2017

Staff conducted a site visit on May 19, 2017 after requesting that the applicant install story poles in order to see where the proposed structure would be on the ridgetop. Staff concluded after that site visit that the residence along with the driveway would still be visible from I-25. The applicant's agent also states that the noise levels are more significant in one of the building areas closer to I-25 whereas on top of the ridgetop it would be less by point, I believe it is .1 of a decibel or 1.2 of a decibel.

Staff went out with the County Sheriff's office on May 19th as well and we conducted sound readings with Sergeant Tim Benavidez. Staff took noise readings at three different locations on the property. Site 1 is the same site as noted in the applicant's report. On site 1 we found that the noise reading was 61 decibels and we also took a noise reading closer to the cul-de-sac that the road ends on at the property, this reading was 61.4 or 62.9, excuse me. Site 2 as noted on the applicant's submittal is 61.4 decibels. The difference between site 1 and site 2 as the applicant states though our readings was .4 decibels and this was with the noise reading instrument provided by the County Sheriff's Office. Temple University Department of Civil/Environmental Engineering, states that 10 decibels is the equivalent to the sound of breathing. So staff finds that .4 of a decibel does not warrant a significant enough drop in noise for the applicant to move the building site onto the ridgetop. The SLDC does not address noise as a mitigating factor either, Hearing Officer Long, for locating a residence on a ridgetop.

The applicant's agent states that the intent of the SLDC is to have structures on hillsides and steeper slopes less visible from the locations having high level of visibility. That's why the applicant is proposing to put this on the ridgetop. They feel that it is less significant of impacting sight or viewsheds from I-25.

Two thirds of the lot contains less than 30 percent slopes with no other ridge on the property. The slope analysis provided by the applicant shows a proposed driveway which will affect 20 percent slopes in order to get to the building site on the ridgetop. The proposed driveway may also disturb rock outcroppings which is prohibited by the SLDC and would require an additional variance. Utilizing the buildable area on the lower two thirds of the property would not affect any such slopes or rock outcroppings.

I'll move to staff recommendations. Staff recommends denial of the applicant's request for a variance to allow the construction of a home on a ridgetop. As stated earlier, there are multiple buildable sites on the property where the house and the driveway will not disturb 20 percent slopes. If the decision of the hearing officer is to recommend approval of the variance staff recommends the following condition be imposed. Hearing Officer Long, may I enter those into the record?

HEARING OFFICER LONG: Yes, you may.

The conditions are as follows:

1. The Applicant must obtain building permits for the residence meeting the standards set forth in Chapter 7 of the SLDC.
2. The height of the dwelling unit shall not exceed 14 feet in height.
3. The Applicant shall not disturb any rock outcroppings or 30 percent slopes.
4. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application

MR. SALAZAR: And I'll stand for questions.

HEARING OFFICER LONG: In the report you state that staff concluded that either site will have a visual impact from I-25; were those the two sites that the applicant posed and one is the ridgetop site, correct?

MR. SALAZAR: Correct.

HEARING OFFICER LONG: And the other is just an alternate building site?

MR. SALAZAR: It's an alternate building site, lower closer to I-25.

HEARING OFFICER LONG: And staff concluded that either site would have roughly the same visibility?

MR. SALAZAR: That's correct, Hearing Officer Long. You're going to see the residence from either side.

HEARING OFFICER LONG: And I take it from your report that there are other sites that would be suitable for building that would not disturb 20 percent slopes in addition to site 2?

MR. SALAZAR: Yes, 2/3s of the site contains buildable areas.

HEARING OFFICER LONG: Okay, and then you state that the proposed driveway may also require a variance for the potential of disturbing rock outcroppings but that would be a variance that would be applied for later as the house was being designed.

MR. SALAZAR: Correct.

HEARING OFFICER LONG: Okay.

VICKI LUCERO (Building & Services Manager): Hearing Officer Long, if I could just clarify on the visibility point. The site that is on the ridgetop, the driveway to that site would actually be much more visible than the driveway leading to the site closing to the interstate.

HEARING OFFICER LONG: Because of the climb of that driveway up the slope?

MS. LUCERO: Because of the climb and the length of the driveway in order to get to the building site.

HEARING OFFICER LONG: Okay, thank you. Thank you. We'll hear from the applicant next.

[Duly sworn, Jim Siebert testified as follows]

JIM SIEBERT: My name is Jim Siebert. My address, business address is 915 Mercer, Santa Fe. I'm going to have Randy Felker start out here. I think there is some history to the subdivision that is important in consideration of this case. Randy, in fact, was one of the developers of the subdivision so he has some insight. So with that I will turn it over to Randy.

HEARING OFFICER LONG: All right. Mr. Felker, we'll have you come forward and be sworn in and give us your address.

RANDY FELKER: And also may I proceed.

HEARING OFFICER LONG: Yes, I'll ask you to be sworn in to start.

[Duly sworn, Randy Felker testified as follows]

MR. FELKER: My mailing address is 911 Old Pecos Trail, Santa Fe, 87505.

Hearing Officer, I was involved in the original purchase of this property in the 1980s a property that subsequently subdivided was approximately 200 acres of property which is generally located at the southeast portion of the intersection of the freeway and Arroyo Hondo Road. The property is hilly with ridgelines and a few valleys within the subdivided area.

There was an application with the County of Santa Fe for subdivision approval. The property was eligible for 50 lots at a 5-acre density. The density that was finally submitted for and approved by the County was for a 10-acre density. The density was slightly more than 10 acres. The lot that we're concerned with today is lot 8. Lot 8 I believe is the second largest lot within the subdivision and it's around 15 acres in size.

When the application was submitted to the County of Santa Fe, the County of Santa Fe worked with us and approved the covenants that were adopted for the property and the recorded

plat reflects that. The covenants provided for on ridgetop lots that there would be a 14 foot maximum height above the ground level. This was requested by the County and was granted by the developers. The developers were all Santa Fe residents. I and Barbara Stromquist, the other applicant, were married at the time, and the application was submitted and it was approved ultimately by the Planning Commission, it was not appealed. And the covenants were filed at the same time that the plat was approved. And the covenants required, and this was not a County requirements, but the covenants require that the architectural design review committee of the subdivision review in advance all plans and that they would reject the color scheme, the specification, plat plans and the building plans and the location of any structure that was not in harmony with the general surroundings or the proposed building site being near or adjacent to a location that would be incompatible with the area. That's on page 6 of the covenants. On page 8 of the covenants, the Santa Fe County did require this, that for ridgetop lots and those were lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 19, 22, 23, and 24 that there was a height limitation of 14 feet. The other sites the height limitation was 22 feet above natural ground level. And as I understand it, the County allows 24 feet and that would be over natural ground level so the bottom line with the covenants is that one building near a ridgetop is limited to 14 feet above the natural grade and one not building on the ridgetop is limited to either 22 feet above the original grade or 24 feet by the County standards. And the property was developed, in fact, Barbara Stromquist and I built a house within the subdivision on a ridgetop. It was approved by the County and the house that was built has been used as a demonstration of how a house can be built on a ridgetop and how a house can comport with the natural surroundings in an unobtrusive way. Several organizations have used that as an example. During this process of development of the subdivision most of the building lots have been developed and most of the ridgetop lots have been developed on the ridgetops. This property is located on Eagle Ridge Road and on Eagle Ridge Road every lot except this one has been developed and built on on the ridgetop approved by the County of Santa Fe – every single lots. And every single lot not only has been built on, there have been some guest houses that have been built so houses plus guest houses have been built on the ridgetop on this particular road and all but three lots that were ridgetop lots have been built on on the ridgetop.

And it is true that there is an alternate building site and I suppose depending upon how big you want to say a building site is, this lot, lot 8, could be built on a lower portion of the lot than this ridgeline and I think that is unquestionable but the bottom line is that if the building of a house on the lower portion of a lot is accomplished not only will the height restriction of 14 feet not be applicable, or the County's 24 feet or the subdivision's 22 feet above the highest ground level, original ground level, will come into play. And I think, notwithstanding staff's comment, and a 24-foot house or even a 14-foot house built closer to the freeway would be much more obstructive and much more visible than a house that is beyond the ridgetop and the planned house site here is not only on a level spot, it's not on an escarpment, and it is not near a rock escarpment and in fact the driveway does not cross or pass a rock escarpment. It is on a level field that is roughly about half the size of a football field and it's the best site, frankly, in the subdivision. It's the site I bought the lot for – I bought the lot many, many years ago. I've been paying taxes on it for many, many years and while we were married, Barbara Stromquist and I thought that that might ultimately be our dream house.

The value of the lot is substantial if I one can build on the ridgetop on this level building site. The value of the lot, if one is relegated to build near the freeway is insubstantial and I would say insubstantial I would say certainly more than \$100,000. In this process of our attempts to build on this property, and by the way, Barbara Stromquist and I were divorced and we're together

again in this process we start designing a ridgetop lot several years ago using a designer and obtained a building design on the ridgetop. When the building design was submitted to a local builder, who also had an architectural staff Tierra Concepts, it was pointed out to us that the County had just adopted the new land use plan I believe in 19 – excuse me, 2016 that would prevent this without an adjustment.

The plans have been scrapped according to the outcome of this hearing. In the interim, all the neighbors have been notified. The neighbors not only within the subdivision, the neighbors within the Sunlit Hills Subdivision were all notified. There was a public meeting. The people that attended the public meeting all were very supportive and spoke very highly of the proposal. There were absolutely no negative comments whatsoever. Every one of the neighbors that has been notified and all have been have supported the application. We have letters from the adjoining lot in Sunlit Hills and it's a lot right next to the building site. The owner of that lot is supportive of the application. The lots on Eagle Ridge Road are also supportive of the location. The one lot that has a house and a guest house built on the ridgeline has written letters of support. The adjacent has written a letter of support and there are letters of support in the files. This Eagle Ridge Road I believe there's something like, and Mr. Siebert will explain it, five houses or structures built on the ridgeline and there is one that is kind of an L on the ridge and there's another lot on that that is built on the ridgeline.

The application I believe is clear in my mind that this structure that would be built on the ridgeline would not nearly be as visible and obtrusive as a house or a structure built near the freeway. I'm somewhat skeptical of the sound readings. I have lived in the subdivision. I know when the wind is blowing one way the sound levels are very low and inconsequential. When the wind is calm or blowing the other way the sound levels are very consequential. And I can say from living there, the sound levels anywhere near the freeway are huge at certain portions of the day. For example, the 8 o'clock traffic, the 5 o'clock traffic when semi-trailers are going by, the sound levels are huge. The planned building site, even though staff believes it will be visible, yes it can be seen from a subdivision – excuse me, it can be seen from the subdivision and the freeway but the top of the planned house, the top of the elevation of the planned house is lower than the trees on either side of the projected house so the trees and Mr. Siebert will show you pictures, the trees are actually higher than the planned elevation and the highest elevation of the house as it's projected and that would not be the case if the house were built lower. And essentially the freeway would be looking almost at a level site when one would look at the house or a 24-foot house or a 22-foot house from the freeway they would be looking level. If they were looking at the planned house on the ridgeline the trees would eclipse the vertical levels of the house from the freeway in a much less obstructive manner.

We're asking that the County allow this. The plans and the application provides that we would berm the house in. The house would be built towards the other side of the ridgeline, away from the freeway and it would be built into the ground and not be built on top of the existing ground level. Doing so, as I mentioned, will bring the top of the house below the tree level on each side of the house. And as far as the road goes, the property is fairly heavily forested, most of the pinon trees are 12 to 14 feet high. It is heavily forested with pinons and junipers and they would all eclipse the view of the road. The road would be essentially at percentage grade and the trees towards the freeway would all block visibility of the road. In fact, I was out on the freeway the day before yesterday and then yesterday and I couldn't even see the flags from the freeway. I couldn't see the flags and the post from the freeway for the expected or intended building site on the ridgeline.

Mr. Siebert has got the letters of support from everyone of the neighbors. There has never been a protest of this. The whole subdivision has been developed on the ridgeline. This would be the only lot that development would not be allowed on the ridgeline. So I'll give this to Mr. Siebert.

HEARING OFFICER LONG: Thank you.

MR. SIEBERT: Madam Hearing Examiner, I'm going to hand out some exhibits that I'll be going through in my presentation. I've already given one to the recorder by the way. So I'm going to go through the boards first, well, let me just on this Exhibit A this is actually a portion of the covenants and it describes the height limit established by the covenants on certain lots, this being lot 8 and lot 8 is included as having the restriction to a 14-foot height.

This is I-25, this is the end of the cul-de-sac, this is the boundary of the property. We picked two different sites. One is located here and the reason for that is that this is below 30 percent but it is fairly, still fairly steep. There's a plateau here which seemed like another logical site because it did begin to flatten out in this particular area. There's a drainage on either side of it. This is the site that we're looking at for the variance. We'll talk about the noise study later but one thing that you can see by this particular photograph is the density of the vegetation. So, yes, there would a road coming down here but as Mr. Felker pointed out that majority of the road would be obscured by existing vegetation.

And then we did within the subdivision we did an analysis of how many lots currently are built on ridgetops and the ones with the circles on them currently were constructed on ridgetops. The one thing that is in your packet is a view of a house and actually it is taken from this road here and it's this particular house here. It's the – who is the doctor? Damron, Dr. Damron and he has a house and a guest house. Those pictures that you see in the packet are actually pictures of how you can build on ridgetops – I mean this is taken directly from the road and pretty much obscure the visibility of the unit. And the idea is the same. He took it, slid it slightly on the other side of the hill and sunk it into the hill. The concept that is proposed here is the same.

So this is a demonstration, just a section through each of the houses that the alternative site and the site that is up on the ridge and if you're comparing SLDC to SLDC the limit for this is on any ridgetop is 14 feet from any point on natural grade and that's what this represents here. The other site is one that would be, could be built under the SLDC and once again it's measured 25 feet from any point on grade and what I did is – and I think this is pretty logical, you'd step it down the hill and in order to meet that grade. One of the other limitations which we've taken into account is the finished floor can't be any higher than 5 feet above natural grade. So we've taken that into account as well. But what happens is the real visible height of the structure is actually 30 feet tall, although each point is only 24 feet from natural grade when you're looking at the structure overall it has a height of 30 feet.

So this is an enlargement and what we've done is taken several sections through the house to see how it actually fits into the land. And what takes place is at the point that is most visible which is point A actually, the A Section is 10 feet above grade. And then as you go up the hill it's going increasingly down into the slope so on the Section C you're 7.5 feet and on Section D which is this one here which is the furthest up the slope you're 4.5 feet out of the ground and actually 8 feet into the ground.

The Exhibit B, I noticed there were two letters in the packet which I believe you received. There is a total of four letters and they're all in support of the location up on the ridgetop. And these are people that are immediately adjacent to the particular property.

So, let me talk about the three issues that staff has raised. One is the noise readings. They

went out and took some noise readings and it ended up being a little different from our consultant came up with. The consultant we used is one that does noise readings as a profession. In fact, she is the consultant hired by the County to do the noise readings on the northeast connector road. I'd only received this packet two days ago and I had asked for her credentials that she would provide that to me. She's been out in the field and I will have to just simply supplement that later. But she's a nationally recognized noise expert. What she's using is a computer model and this model actually is accepted and I think it was even developed by the Federal Highway Administration. And when you think about it what are the elements of noise? It's the interference between the remitter and the receiver, what kind of obstructions are there? Is it trees, is it buildings, is it houses? And distance. And she took those two factors and what it does is it eliminates the kind of environmental issues. It doesn't depend on wind. It doesn't depend on rain and it is very – I was out there one day when it had just rained and it is very noisy – probably much noisier than what was estimated in the study. But it eliminates those factors. It is strictly just a scientific assessment accepted by a variety of agencies including the Federal Highway Administration. We never had the opportunity to ask if the noise instrument had been recently calibrated or, you know, what kind of experience the operator had in using the instrument.

The other issue is that this requires a variance from the fire standards. Once again, we only two days to work on those. We have been in contact with Renee Nix which the Fire Department explaining to her – we asked her what kind of drawings she got. Apparently, they may have been old drawings. We feel confident that we can work this out with the Fire Department and a variance is not required from the fire standards.

In terms of the rock outcropping, what in the exhibit, and it's called Exhibit C, we've provided what we consider to be a real outcropping. No doubt about it. We don't disturb this rock outcropping. In our opinion, we don't disturb any rock outcropping. Let me read the section of the code and this is from the SLDC and what it says is, this is a definition of rock outcropping: An area that is a part of a rock formation or geologic formation structure that is exposed or visible at the surface of the earth naturally or artificially and is unobscured by soil, vegetation or water. So what this other photo demonstrates is – and this is at the highest – what would be the highest point on the site are various loose rocks with soil and vegetation between them. This is kind of the worst situation you would see there. In our opinion, it is simply no a rock formation, not a rock outcropping so it doesn't meet the definition stated by the SLDC.

The other last two, Exhibit D, is the view that was taken from I-25 pull off to the side of the road. And, yes, you can see two of the poles. These are poles that are 10 feet tall. We painted them red at the top to increase their visibility. As you can see, that actually the tree behind it would be taller, at least in one case, and slightly in the other, would be actually taller than the 10 foot pole itself. And then what we did was used a telescopic lens which I think was either 500 or 1,000 millimeters to show where exactly this would fit on the lot and then once again you have to remember that as you go up the hill, which is to the right, everything gets more into the ground.

In addition, I was talking to my client today and they would accept a condition that they would plant enough evergreen vegetation that 50 percent of the façade would be totally covered by vegetation that would be visible from I-25.

So in summary why we think the ridgetop is a preferable location is that it is further away from I-25, it further away from the noise, there's a significant reduction in noise by simply sinking it into the ground and then buffering that particular side. The other thing is that it is just simply less visible, in our opinion, much less visible from I-25. You could have a much higher, much taller building at the lower site which not only would be closer to I-25 but in our opinion it would

be much more visible from I-25. And I think one of the real advantages that this house can be constructed on one level. And the advantages, I was talking to Barbara today and she said this is going to be our last house and I think the idea is to live there as long as possible and having elevations in the house is really a disadvantage as you get older.

The ridgetop, the house on the ridgetop also is oriented, if you take a look at it, it's oriented away from I-25. It has the ability to create patios that are the same level that would face in the opposite direction of I-25. If you take a look at the other site not only would the patio have to be down probably two stories but it would also be facing, unless you want to build a humongous thing into the hill, would have to face toward I-25.

And I think the last thing, the neighbors most immediately impacted by this project, think this is the preferable location. So with that we'll answer any questions you have.

HEARING OFFICER LONG: Thank you. Thank you for the presentation by both of you. It was very thorough and well organized and I appreciate that. I think I have a few questions for you, Mr. Siebert.

In the staff response and in their report today there is the statement that the SLDC does not address noise as a mitigating factor. Are you including noise as an exception situation or condition of the property under that category for meeting a variance?

MR. SIEBERT: I would certainly think it falls in the exceptional category. You know, like I stated, I've been out there several times on the site and, you know, obviously, noise levels fluctuate according to environmental conditions and weather conditions but it's a serious factor. I guarantee you I wouldn't want to live next to I-25 in that particular location.

HEARING OFFICER LONG: And then regarding the rock outcropping issues, I think what you're saying if I'm understanding it is, that you may be seeing rock outcroppings differently from the way staff is seeing it. You provided me the definition from the code but that some of those rocks that would have to be disturbed to build this house you're not seeing as a rock outcropping as defined under the Code?

MR. SIEBERT: That's correct.

HEARING OFFICER LONG: Okay. And then in regard to the fire standards are there any issues with complying with the Fire Prevention Division requirements?

MR. SIEBERT: Well, the last one, we meet the 9 percent grade, and the last thing I heard in our conversation with Renee Nix, she said I don't see any evidence that the turnaround at the top meets the 3 percent grade and, in fact, we had not prepared that in the original submittals. So we did ask the engineer to take a look at that. So this is the turnaround here, and originally we had it extending this way and what we did was turned it more or less parallel to the grade and by doing that we're able to meet the 3 percent grade that is required by the SLDC. And I admit because we only have two days the engineer worked on it last night and staff hasn't had the opportunity to look at that.

HEARING OFFICER LONG: And in regards to the ridgetop lots as they're defined in the covenants, there is the height restriction for those particular lots of 14 feet; correct?

MR. SIEBERT: Correct.

HEARING OFFICER LONG: And is that height limitation in effect for anywhere on that lot?

MR. SIEBERT: I assume it is only if you build on a ridgetop; is that correct?

MR. FELKER: May I?

HEARING OFFICER LONG: Yes, you may answer that question.

MR. FELKER: The height limitation for these particular lots is 14 feet above the

highest point of the lot. And so conceivably somebody could build a 200-foot high building if the building code allowed that on a lower portion. So on a property that is on the ridgetop can only be built 14 feet high. Anything lower than that, however, can be a maximum height. I'm not sure if I understand your question or if I've satisfactorily answered yours.

HEARING OFFICER LONG: The way I'm reading the covenant is that on lots, and it lists all the lots and so your Lot 8 is there, no structure shall exceed 14 feet above the highest natural, undisturbed, original, ground level on the lot or 20 feet above the natural, undisturbed, original, ground level at the base of its walls whichever is less. So my question was is that height limitation applicable to the entire lot and not just where you might build on the lot. That's the way I'm reading it. Is it anywhere on Lot 8 the height could only be 14 feet above the natural grade?

MR. FELKER: That's interesting. I wrote this with the permission of the County and that hasn't ever been interpreted that way. Now all of the other houses if interpreted the way you do, it would – they would all be in violation of the covenant and nobody has claimed that.

I would like to make a point too. Barbara Stromquist and I are not people that are moving into town and trying to build a monument on a ridgeline or a castle or something like that that will be obtrusive. Barbara was born here. Her parents were business people here. Barbara was a school teacher here. I've lived here for I think almost for 50 years. We want to build our end house, our last house and we want to do it nicely. We want to berm it in. We want to shield it. Our record of doing so has been proven, I think, and we are just hoping that we will not have to build a house right next to the freeway. I don't think we would do that. I think the property would be sold at a substantial loss. But we relied on the County's approval of these documents. Now the County approved the height limitations. The County in its plat approval designated, I believe, five no build areas within the subdivision and this isn't one of the. I relied on that by buying what I thought was the best lot in the subdivision and paying taxes on it for 20 some odd years. And I'm hoping that we'll be able to build a nice house that blends in with the surroundings. The letter that Mr. Yoeckel wrote and the letter that the Damrons wrote in support of this all point out that we have a very, very, let's say active homeowners architectural review committee that imply these standards of being in harmony with the surroundings and the other structures. And we must deal with that. And none of these people have indicated any waiver of the architectural standards from the architectural review committee. They're only requesting that the County give a variance on the ridgetop development.

HEARING OFFICER LONG: Thank you. Let me ask if there's anyone here for this hearing that would like to speak to this application. The applicants are here and the applicant's agent. I don't see anyone else. But I will state for the record that there is no one that wishes to speak to this application.

Let me ask staff a few questions. Did the new Sustainable Land Development Code change what could be built on this lot? In other words, prior to the implementation of the code would the applicant have been able to build where they're proposing to build without a variance?

MS. LUCERO: Hearing Officer Long, if I could just go back to when the subdivision was originally approved which was back in 1992. At that time the County did not have terrain management regulations. Our regulations for terrain management came into effect in 1996 and this particular area has been under several different jurisdictions. It was originally under the Extraterritorial Zone and then under the County code and now under the Sustainable Land Development Code. But under the previous codes, they were allowed to build on ridgetops but they had to meet certain requirements and I believe the height limitation was one of their

requirements, setback requirements – so those regulations were in effect under the old code.

HEARING OFFICER LONG: Thank you. And I think I should have asked this question of Jim. Do you believe that another variance may be required for the driveway if this driveway is granted an upheld?

MR. SIEBERT: No, we do not.

HEARING OFFICER LONG: Okay. Was there anything else that staff wanted to offer in response to the applicant's presentation?

MS. LUCERO: Hearing Officer Long, as far – I think I heard the applicant or the agent state that they may be willing to move the structure, shift the structure, if that's the case we would have to analyze it to assure that they meet the setback requirements based on their new proposed location.

Can you hear me?

HEARING OFFICER LONG: It doesn't sound very loud but I'm sure it's on.

MS. LUCERO: Is that any better? Hearing Officer Long, what I was stating is that I had thought I heard the applicant or the agent mention that they may want to shift the building in one direction or the other and there are setback requirements from the ridgeline so we would have to analyze any new proposed location to assure that it meets the setbacks.

MR. SIEBERT: Just to clarify. We are not shifting the building. The only thing we shifted was the turnaround. We actually shifted it further away from the property line.

HEARING OFFICER LONG: Thank you for your presentations. As I said it was very well done. You certainly have neighborhood support, there is no question about that. There was no one here that spoke in opposition to your request. It is a difficult request as I see it because there are pretty strict applications for a variance that have to do with the conditions of the land. I do think the noise factor can be a serious one just not in the evidence that was presented here today, but I think we all know how noise from a major highway can affect the livability of a structure and your outside area. That's something I'm going to have to think about. I make a decision that is only a recommendation to the Planning Commission and I have 15 days to do that. So I will issue a written decision and then that will be forwarded on to the Planning Commission for their consideration.

All right. Thank you.

B. Adjournment

With no further business, Hearing Officer Long adjourned the meeting at 3:55 p.m.

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

SLDC HEARING OFFICER M
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I Hereby Certify That This Instrument Was Filed for
Record On The 29TH Day Of June, 2017 at 02:29:37 PM
And Was Duly Recorded as Instrument # 1829767
Of The Records Of Santa Fe County

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

Approved by:

Nancy Long
Nancy Long, SLDC Hearing Officer
Santa Fe County



roofs shall be allowed. Notwithstanding compliance with other established height restrictions, no structure may exceed two stories in height in a single plane and no facade shall be more than thirty-five feet in length in a single plane. All facades with offsets of less than one foot are defined as being in a single plane. Cantilevers of greater than three horizontal feet are prohibited. All guest houses, studios and out buildings shall be similar in style, exterior materials and coloration to the main structure.

Section 3. Single-Family Dwelling. No structure shall be erected, altered, placed or permitted to remain on any Lot or building site subject to this Declaration other than one detached single-family residential dwelling per Lot, for private use, a single attached or detached guest house, a private garage, a stable and/or barn, solar heating devices, evaporative cooler or coolers and improvements incidental to residential use of the premises. No outbuilding or guest house shall be constructed prior to the commencement of the main dwelling.

Section 4. Prohibited Structures. No modular homes, outhouses, lean to's, sheds, storage sheds, shells, trailers, tents, geodesic domes, prefabricated structures or mobile homes may be placed on or kept on any Lot. No other structure which is not expressly allowed by this Declaration may be constructed on, placed on or kept on any Lot without the prior written approval of the Committee. No commercial or religious structure shall be placed or erected upon any property subject to this Declaration. During construction, a construction office and open storage of construction material shall be permitted. In no case may a construction office, shed or loose construction materials remain on any lot for more than twelve (12) months.

Section 5. Height Limitations. No vertical wall which is unbroken by a portal or other significant architectural feature shall exceed eighteen (18) feet in height. On Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 19, 22, 23 and 24, no structure shall exceed fourteen (14) feet above the highest natural, undisturbed original ground level on the lot or twenty (20) feet above the natural, undisturbed original ground level at the base of its walls, whichever is less. On the other lots, no wall of any structure shall exceed twenty-two (22) feet above the highest natural, undisturbed original ground level at the base of its walls. Chimneys shall not be included in computing height limitations. No terrace and or patio wall shall exceed twelve (12) feet above the highest natural, undisturbed, original ground level at the base of its walls.

Section 6. Solar Homes. Solar homes are encouraged. However, solar collectors shall be shielded from view from other Lots insofar as is possible, and shall be designed and located in an aesthetically pleasing manner insofar as is practicable.

Section 7. Setbacks. No house or guest house may be built within one hundred (100) feet of interstate highway right-of-way. No sewage disposal system or potential source of contamination not be built or maintained within two hundred (200) feet of any well established by Declarant. No roofed structure may be built within fifty (50) feet of any boundary of another Lot, or within any other applicable setback requirements imposed by any governmental authorities. No barn, corral, stable or other animal containment structures may be built or maintained within one hundred (100) feet of any boundary of another Lot, or within any other applicable setback requirements imposed by any governmental authorities, whichever setback is greater. No television antennae or satellite dish may be built within fifty (50) feet of any boundary of another Lot, or within any applicable setback requirements imposed by governmental authorities, whichever setback is greater. Structures built near lot lines adjacent to property which is not part of the subdivision shall be subject only to setback requirements imposed by governmental authorities.

Section 8. Well Houses and Tanks. All well houses and tanks, including propane tanks, whether installed by Lot Owners, the Association or joint well groups, shall be placed underground. However, the fire protection water tank to be installed by Declarant may be partially above ground.

Section 9. Floor Space. Each single-family dwelling shall have at least 2,200 square feet of heated floor space, not including the floor space of any garage, guest house or recreational facilities. No guest house shall have more than 1,400 square feet of enclosed floor space, not including its garage, which shall not exceed 600 square feet of enclosed floor space. No barn shall have more than 1,000 square feet of enclosed floor space. No stable shall have more than 500 square feet of enclosed floor space.

Section 10. Construction Materials. All dwellings, garages, guest houses and other permitted structures shall be constructed on site of wood frame, masonry, rock or

SFC CLERK RECORDED 06/29/2017

Barbara I. Damron PhD, RN, FAAN
31 Eagle Ridge Dr.
Santa Fe, NM 87508



February 19, 2017

To: Santa Fe County

To whom it may concern:

I am a resident in Arroyo Hondo Vista Subdivision and neighbor residing on lot 6 at 31 Eagle Ridge Drive. There is a single lot between my lot and lot 8 which is the subject of a variance request by Barbara Stromquist.

I have reviewed documents showing the proposed site plan for Barbara Stromquist's planned home, and I have no objection to the proposed building site of her planned home. Furthermore, I have no objection to her requested variance and fully support her application.

My home and my guest house are both built at the ridgeline west of Eagle Ridge Drive, as are four other houses which are also located on the ridgeline west of Eagle Ridge Drive. There are several other residences which have been built on ridgelines within the Arroyo Hondo Vistas Subdivision. The proposed building site for the Stromquist home which is approximately 300 yards from my home is totally in keeping with the character of the neighborhood and existing home structures.

I strongly believe that the preferred home construction building site on lot 8 occur on the proposed site for Barbara Stromquist's planned home and not on a site adjacent to the nearby I-25 freeway as that site is far more noticeable and intrusive to neighbors and passersbys.

The Arroyo Hondo Vistas Subdivision has extensive building covenants which allow construction of residences on ridgelines and hill tops, subject to height limitations. The strict building covenants for the Arroyo Hondo Vistas Subdivision requires all construction to be approved by the subdivision's Architectural Review Committee. There are height restrictions which are applicable to hilltop and ridgeline construction, which preclude construction of structures from being built higher than 14 feet above the lot's highest point. This limits the height of structures built near ridgetops on hills. The Subdivision's covenants allow much higher structures on lower portions of lots within the subdivision.

Before building on lot 8, Barbara Stromquist will be required to obtain written approval of the subdivision's Architectural Review Committee. I am confident that the strict building covenants for the Arroyo Hondo Vistas Subdivision which require all construction to be approved by the subdivision's Architectural Review Committee will protect the owners of lots within the subdivision.

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EXHIBIT B

As additional information, several years ago, Barbara Stromquist constructed a home on a ridgeline within the Arroyo Hondo Vistas Subdivision. The home was designed, sited and constructed in a manner which was unobtrusive and very compatible with the character and ambience of the subdivision and the beautiful surroundings. I have confidence that her planned construction will be appropriate with the subdivision's attractiveness and applicable building covenants.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara I. Damron". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Barbara I. Damron, PhD, RN, FAAN

SFC CLERK RECORDED 06/29/2017

COUNTYLAND USE ADMIN.OFFICE
RE: CASE # V17-5050

LETTER OF SUPPORT

TO WHOM IT MAY CONCERN:

I AM THE OWNER OF LOT 2, BLOCK 1 OF THE SUNLIT HILLS SUBDIVISION,
WHICH IS THE LOT DIRECTLY ADJACENT TO LOT 8 OF THE ARROYO HONDO
VISTAS SUBDIVISION.

I HAVE NO OBJECTION TO THE APPLICATION OF BARBARA STROMQUIST
FOR A VARIANCE TO BUILD A RESIDENCE NEAR THE RIDGE TOP OF LOT 8
OF THE ARROYO HONDO VISTAS SUBDIVISION, AND I SUPPORT HER
APPLICATION.

THROUGHOUT THE SUNLIT HILLS SUBDIVISION AND THE ARROYO HONDO
VISTAS SUBDIVISION, OWNERS HAVE CONSTRUCTED HILLTOP
RESIDENCES. THE PROPOSED LOCATION OF BARBARA STROMQUIST'S
RESIDENCE IS IN KEEPING WITH DEVELOPMENT IN THE AREA.

IT IS MY HOPE THAT MY PROPERTY WILL NOT BE ADVERSELY IMPACTED
BY ANY "NEW" LIMITATIONS AND/ OR RESTRICTIONS DUE TO THE
VARIANCE AS MY LOT HAS LIMITED AREAS TO BUILD. IF THIS IS CORRECT
I HAVE NO OBJECTIONS.

Margaret C. Hall 4-25-17
MARGARET C. HALL
8820 HORACIO PLACE NE
ALBUQUERQUE, NM 87111
505-298-7983

SFC CLERK RECORDED 06/29/2017

To: Santa Fe County and to whom it may concern

I am a neighbor and own lot 18 of the Arroyo Hondo Vistas Subdivision. I have reviewed documents showing the proposed site plan for Barbara Stromquist's planned home.

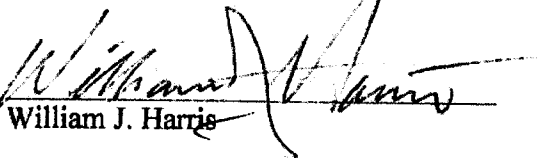
I have no objection to the proposed building site for Barbara Stromquist's planned home, and have no objection to her requested variance. I support her application.

There are a number of other residences which have been built on ridgelines within the Arroyo Hondo Vistas Subdivision, and the proposed building site for the Stromquist home is in keeping with the neighborhood and existing structures.

The Arroyo Hondo Vistas Subdivision has building covenants which allow construction of residences on ridgelines and hill tops, subject to the height limitations. The building covenants for the Arroyo Hondo Vistas Subdivision require all construction to be approved by the subdivision's Architectural Review Committee. There are height restrictions which are applicable to hilltop and ridgeline construction, which preclude construction of structures from being built higher than 14 feet above the lot's highest point. This limits the height of structures built near ridgetops or hills. The Subdivision's covenants allow much higher structures on lower portions of lots within the subdivision.

Before building on lot 8, Barbara Stromquist will be required to obtain approval of the subdivision's Architectural Review Committee. I am confident that the building covenants for the Arroyo Hondo Vistas Subdivision which require all construction to be approved by the subdivision's Architectural Review Committee will protect the owners of lots within the subdivision.

It is my preference what any construction on lot 8 take place on the proposed ridgeline building site for Barbara Stromquist's planned home, rather than near the I-25 freeway, which would be far more noticeable and intrusive to neighbors and to passersby. The subdivision has 14 foot height restrictions on ridgeline structures, but no restrictions on lower building sites. If someone were required to build near the I-25 freeway, a two story house could be built there, which would be far more noticeable and intrusive to neighbors and to passersby.


William J. Harris

SFC CLERK RECORDED 06/29/2017

JOHN M. YOECKEL

Telephone 405-842-4035

Cell 405-833-0317

e-mail address: jyoeckelj@kplproduction.com

616 NW 144th Street
Edmond, OK 73013-1861

April 18, 2017

County Land Use Administrator
P O Box 276
Santa Fe, NM 87504-0276

RE: Case # V 17-5050 Barbara Stromquist/Felker Variance

To Whom It May Concern:

I am the owner of the property adjacent to the subject site at, 37 Eagle Ridge Drive, also within Section 18-16 North-10 East, Santa Fe County.

My home is on the ridgeline to the west of Eagle Ridge Drive along with four of my neighbors who are similarly sited. The Stromquist house, if approved as requested, would be closer to me than to any other neighbor.

Building a house close to I-25 would be more visible to motorists and our neighbors and would not serve the intent of the Sustainable Land Development Code Section 7.17.9.2 Steep Slopes, Ridge Tops, Ridgelines and Shoulder Standards Ordinance and would, in fact, be counter to the intent.

Our subdivision has very detailed covenants governing building heights when constructed on hilltop or ridgeline sites, limiting the building height to 14 feet above the lot's high point. Those limits do not apply to building sites below the top or ridgeline of the lots. The covenants require Architectural Review Committee approval of all construction within the subdivision including many issues in addition to building height, including but not limited to style, stucco siding, type and unbroken plane length. The review of the Stromquist/Felker application by our Architectural Review Committee will serve the interests of the general public and the other homeowners in Arroyo Hondo Vistas, in my judgement.

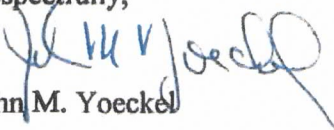
SFC CLERK RECORDED 06/29/2017

County Land Use Administrator
April 18, 2017
Page 2

I have no objection to the proposed building site and no objection to the variance request.

I am unable to the hearing on the 27th of April. I am happy to address any issues raised in my letter. I can be reached by email and the cell phone number above.

Respectfully,


John M. Yoeckel

SFC CLERK RECORDED 06/29/2017

J.R. Damron, MD, FACR
31 Eagle Ridge Dr.
Santa Fe, NM 87508

February 19, 2017

To: Santa Fe County

To whom it may concern:

I am a resident in Arroyo Hondo Vista Subdivision and neighbor residing on lot 6 at 31 Eagle Ridge Drive. There is a single lot between my lot and lot 8 which is the subject of a variance request by Barbara Stromquist.

I have reviewed documents showing the proposed site plan for Barbara Stromquist's planned home, and I have no objection to the proposed building site of her planned home. Furthermore, I have no objection to her requested variance and fully support her application.

My home and my guest house are both built at the ridgeline west of Eagle Ridge Drive, as are four other houses which are also located on the ridgeline west of Eagle Ridge Drive. There are several other residences which have been built on ridgelines within the Arroyo Hondo Vistas Subdivision. The proposed building site for the Stromquist home which is approximately 300 yards from my home is totally in keeping with the character of the neighborhood and existing home structures.

I strongly believe that the preferred home construction building site on lot 8 occur on the proposed site for Barbara Stromquist's planned home and not on a site adjacent to the nearby I-25 freeway as that site is far more noticeable and intrusive to neighbors and passersbys.

The Arroyo Hondo Vistas Subdivision has extensive building covenants which allow construction of residences on ridgelines and hill tops, subject to height limitations. The strict building covenants for the Arroyo Hondo Vistas Subdivision requires all construction to be approved by the subdivision's Architectural Review Committee. There are height restrictions which are applicable to hilltop and ridgeline construction, which preclude construction of structures from being built higher than 14 feet above the lot's highest point. This limits the height of structures built near ridgetops on hills. The Subdivision's covenants allow much higher structures on lower portions of lots within the subdivision.

Before building on lot 8, Barbara Stromquist will be required to obtain written approval of the subdivision's Architectural Review Committee. I am confident that the strict building covenants for the Arroyo Hondo Vistas Subdivision which require all construction to be approved by the subdivision's Architectural Review Committee will protect the owners of lots within the subdivision.

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As additional information, several years ago, Barbara Stromquist constructed a home on a ridgeline within the Arroyo Hondo Vistas Subdivision. The home was designed, sited and constructed in a manner which was unobtrusive and very compatible with the character and ambience of the subdivision and the beautiful surroundings. I have confidence that her planned construction will be appropriate with the subdivision's attractiveness and applicable building covenants.

Sincerely,

A handwritten signature in black ink, appearing to read "J. R. Damron", with a stylized flourish at the end.

J. R. Damron, MD,FACR

SFC CLERK RECORDED 06/29/2017



tabbles®
EXHIBIT
C

EXHIBIT C
ROCK OUTCROPPING

SENT CLIENT RECORDED 06/29/2017

LOOSE ROCK

SFC CLERM RECORDED 06/29/2017



Riparian Area: refers to the habitat and life forms along streams, lakes and wetland.

Riverine: relating to, formed by, or resembling a river (including tributaries), stream, wash or arroyo.

Road: a right-of-way that provides a channel for vehicular circulation; is the principal means of vehicular access to abutting properties; and may include space for bike lanes, utilities, sidewalks, trails, pedestrian walkways, and drainage. Any such right-of-way is included in this definition, regardless of whether or not it is developed.

Road, Collector: a road that serves as a connection between local roads and one or more arterial roads.

Road, Local: a road that provides access to a limited number of abutting properties, and that is further classified as a subcollector.

Road, Major Arterial: a road that has two to six driving lanes. A major arterial road may be divided with a median, and may provide additional right-of-way for turning lanes and at major intersections. Also for more detail see Table 7-13.

Road, Minor Arterial: a road that has two to four driving lanes. A minor arterial road may be divided with a median, and may provide additional right-of-way for turning lanes and at intersections. Also for more detail see Table 7-12.

Roadway: the portion of the road available for vehicular traffic and, where curbs are laid, the portion from back-to-back of curbs.

Road, Sub-collector: a road that provides access to a limited number of abutting properties that is similar characteristically to a local road. For further details see Table 7-12.

Rock Outcropping: an area that is part of a rock formation or geologic formation/structure that is exposed or visible at the surface of the earth naturally or artificially and is un-obscured by soil, vegetation or water.

Roof Line: the uppermost line of a flat pitched roof of a building; in the case of a parapet, the uppermost height of the parapet.

Safe Sight Triangle: an area required to be free of obstructions to enable visibility between conflicting movements. See Figure 7.5.

Sand and Gravel Mining: mineral extraction activity for construction materials, including but not limited to, stone, sand, gravel, aggregate, or similar naturally occurring loose rocks and materials such as granite, basalt, shale, slate and sandstone. Producing gravel like materials by blasting and breaking solid rock shall be included in this definition.

Sanitary Landfill: an area of land upon which solid waste is disposed of in accordance with standards, rules, or orders established by the State of New Mexico.

Satellite Dish Antenna: a device incorporating a reflective surface that is solid, open mesh, or bar configured; is in the shape of a shallow dish, cone, or horn; and is to be used to transmit and/or receive electromagnetic waves between terrestrially and/or orbitally based uses.

Satellite Earth Station: a device or antenna, including associated mounting devices or antenna supporting structures, used to transmit or receive signals from an orbiting satellite, including television broadcast signals; direct broadcast satellite services; multichannel, multipoint distribution services; fixed

EXHIBIT D
I-25 ROW VIEW



SFC CLERK RECORDED 06/29/2017



TELE PHOTO LENS VIEW

SFC CLERK RECORDED 06/29/2017

