

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

**Santa Fe, New Mexico**

**June 22, 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  
Tony Flores, Deputy County Manager  
John Lovato, Development Review Specialist  
Mathew Martinez, Development Review Specialist  
Paul Kavanaugh, Building & Development Supervisor  
Andrea Salazar, Assistant County Attorney

**II. Approval of Agenda**

HEARING OFFICER LONG: I'll approve the agenda. I don't believe there are any amendments but I understand that the case listed as III. C, which is Fredance, LLC Variance, is tabled at the request of the applicant. So that third case will not be heard today. Is that correct?

**III. Public Hearings**

- A. **Case # V 17-5100 Regina Buckley Variance. Regina Buckley, Applicant, Scott Hoeft, Agent requests a variance of Ordinance 2016-9, Chapter 8.6.5 Table 8.9, (Dimensional Standards) Residential Fringe (RES F) to allow 9.19 acres to be divided by way of Family Transfer, into two 4.6-acre lots. The property is located at 11 Sudeste Place, within Section 24, Township 16 North, Range 9 East (Commission District 4) [Exhibit 1: Area Map; Exhibit 2: Letter from the Covers]**

JOHN LOVATO (Case Manager): Thank you, Hearing Officer Long. The applicant requests The Applicant requests a variance of Chapter 8.6.5, Table 8.9, Dimensional Standards, Residential Fringe to allow 9.19 acres to be divided by way of a Family Transfer into two 4.6-acre lots. Minimum lots size in the Residential Fringe

Zoning District is five acres per dwelling. Currently there is a 1,694 square foot residence on the property in which the applicant resides in.

If the variance is granted the applicant intends to give her son one of the lots, so he can construct a residence to reside in.

The applicant's agent states, The property is located in Sunlit Hills, an area composed of a variety of residential lots that range in size from one acre to 25 acres. The site abuts Seton Village to the north, which is a Residential Community and features one-acre densities."

The applicant has addressed the variance criteria and staff has responded as contained in the report.

Recommendation: Staff recommends denial of the applicant's request to allow 9.19 acres to be divided by way of a Family Transfer into two 4.6-acre lots. The property lies within the Residential Fringe Zoning District. The base density in the Residential Fringe is five acres per dwelling unit. Allowing a variance creates a precedent to surrounding properties and creates substandard lot sizes. Previous lot sizes that range from one to 40 acres are legal non-conforming or created prior to the Sustainable Land Development Code.

If the decision of the Hearing Officer is to recommend approval of the request, staff recommends the following conditions be imposed. Hearing Officer Long, may I enter those into the record?

HEARING OFFICER LONG: Yes, you may.

[The conditions are as follows:]

1. No further division of this property will be allowed.
2. Accessory dwelling units will not be allowed on either lot due to the substandard lot size.

Staff requests the Hearing Officer memorialize findings of fact and conclusions of law in a written recommendation. The Santa Fe County Planning Commission will be holding a public hearing on this matter on August 17, 2017.

MR. LOVATO: Thank you, Hearing Officer Long. I stand for any questions.

HEARING OFFICER LONG: Your report notes that the 1996 land development code also required five acres in this area. Is that correct? Unless there's community water.

MR. LOVATO: Hearing Officer Long, that is correct.

HEARING OFFICER LONG: So that pre-dated the 2016.

MR. LOVATO: That is correct.

HEARING OFFICER LONG: And then you also note that an accessory structure would be allowed on the lot. Is that correct?

MR. LOVATO: Hearing Officer Long, that is correct.

HEARING OFFICER LONG: Would that be limited in terms of square footage?

MR. LOVATO: It would be limited to one half the 1,694 square foot residence that's currently on the property.

HEARING OFFICER LONG: Okay. All right. That's all I have. Thank you.

VICKI LUCERO (Building & Services Manager): Hearing Officer Long, if I could just clarify. I think the question was whether or not an accessory dwelling unit would be allowed on the property.

HEARING OFFICER LONG: Yes.

MS. LUCERO: Yes, a second dwelling. So an accessory dwelling unit would be allowed.

HEARING OFFICER LONG: Just that it would be limited to half the size of the –

MS. LUCERO: Heated area of the main structure. Right. And I think it was mentioned accessory structure, so I just wanted to clarify that it was accessory dwelling unit.

HEARING OFFICER LONG: Accessory dwelling. Okay. Thank you for that. All right. Is the applicant – the applicant's agent is here I believe. I ask you to be sworn in.

[Duly sworn, Scott Hoeft testified as follows:]

SCOTT HOEFT: Scott Hoeft, Santa Fe Planning Group, 109 St. Francis, Santa Fe, New Mexico, 87505. So first of all, I'd like to thank John for the excellent staff report. I thought it was well drafted and put together. One correction though – actually two corrections. On the second page under summary it states the variance was granted to give her son one of the lots so he can construct a residence to reside in. You know, I'm not sure if he's actually going to construct a residence on the property. I did say that in our affidavit that the lot is intended to be provided to her son, but I'm not sure if he's going to construct a residence on it. I'm not sure if that's what his objective is. The whole intent of this is a family transfer for planning purposes. Ms. Buckley lives – she's a professor in Pennsylvania, I believe, at Villanova. And she's elderly and she is distributing her land and her holdings to her children. And Jonathan Cohen is one of her three children, and that's the intent of this.

The parcel itself as was stated is 9.1 acres and it's interesting in terms of the question for the justification for the variance and I just want to approach with a handout for you, Ms. Long. So earlier, you had a question, Ms. Long, about the parcels in the area and pre-code, what would have been permitted in the area. So you can see on this sheet that the green arrow is pointing to the subject lot, which I have a 9 by, 9 acres. And you can see the lots surrounding it range in size from 3.4 – actually 2.8 all the way up to 5.2 in size. And so what's interesting is this split via the family transfer is permitted. It's still, those two parcels, is going to be greater than almost all the parcels that surround it. And then second of all, if you look to the north, where you see the red and those lot sizes, those lot sizes are actually .6, .5, .5, .9. That's the Village of Seaton and that's a small, traditional community there. So again, I think the point here is to demonstrate that even with the division at 4.6 acres, that parcel, those two parcels are still greater than the surrounding land.

The third point I'd like to make is that it was stated in the staff report that the project is not able to connect to community water and that's not necessarily true. There is a community water service area in the area called the Sunlit Hills Community Water Service and I believe it is privately run. The intent is – the objective would be to hook up to that water system if that's available. The question, however, is he has to have enough hookups available for us to be able to hook up to that lot if the lot is ever developed. And

so we're not 100 percent sure if we could hook up. The default position is actually drilling a well to service the lot.

HEARING OFFICER LONG: Is there a well on the lot now then?

MR. HOEFT: The existing home has a well, yes. And so on the parcel that's divided. You're going to have two parcels that remain if it's divided. The 4.6 and the 4.6. On the second 4.6, the newly created, that would be served either via the Sunlit Hills Water System, if a connection could be gathered, or via well.

And again, I'd just like to highlight, this is for family planning purposes. This was a family transfer application. The applicant didn't think it was that big of a deal until I mentioned that of course we were in an area that required five-acre minimums and she asked could we still proceed, and I indicated that we could, through the variance process, which is why we're here today. We feel that because of the map that I handed out, the variance and the request, and because the parcels that are created are still larger than most of the parcels in the area I think we have strong justification. The other thing to do is look at that handout that I passed out and look at some of the other parcels even to the north. You can see that this area, in terms of parcels is quite diverse, from the small, tighter projects just to our north, to the large lots above which – that must be a 30-acre parcel to the one to the west, which has to be at least a 15-acre parcel.

So this area is varied in terms of lot sizes. With that I stand for questions.

HEARING OFFICER LONG: Did you have any attendees at your neighborhood meeting?

MR. HOEFT: We had three individuals that attended. They don't seem to be here this evening. They were curious about the process of what we were doing and their main question was who was the parcel going to be transferred to. And I got back with them in an email that indicated that Jonathon Cohen was the son that was selected of her three children.

HEARING OFFICER LONG: Handed out today – did you see this letter? I was handed a letter.

MR. HOEFT: I did review it. It's interesting, I just comment to John that that parcel, that is one of the lots to – if you look at my map where the green arrow is at, that is either – right where the green arrow is at, that address is either the 3.4-acre lot or the four-acre lot. I'm not 100 percent sure. But still, the parcels that we're creating are greater than that person.

HEARING OFFICER LONG: And just for the record I'll state that this is a letter that was handed out today, dated June 16, 2017, voicing an objection from Chuck and Susan Cover. And the address is 22 Camino de las Minas, which you can see on your lot map.

MR. HOEFT: It was one of the abutters that we sent notice to.

HEARING OFFICER LONG: Okay. Okay, thank you.

MR. HOEFT: Thank you.

HEARING OFFICER LONG: All right. Is there anyone here this afternoon that would like to speak to this case? I will note that there is no one that wishes to speak. Let me ask the applicant's agent one more question and I take it that you have reviewed the recommended conditions of approval if the variance were granted, and are you in agreement with those, specifically that there would be no accessory dwelling units allowed on the other lot?

MR. HOEFT: Yes.

HEARING OFFICER LONG: Okay.

MR. HOEFT: We are in concurrence with the conditions of approval.

HEARING OFFICER LONG: Okay. Thank you. All right, that will conclude the hearing on this case and I will issue my recommended decision. I usually get that done within two weeks and then staff will notify you and it will go on to the Planning Commission as you know for their consideration.

**III. B. CASE # V 17-5110 Willa Shalit Variance. Willa Shalit, Applicant, Craig Hoopes, Agent, requests a variance of Chapter 7.17.9.2.3.2 height of a structure to exceed 18' on a ridgetop and allow a two story residence on a ridgetop. The property is located at 63C La Barbaria Trail within, Section 9, Township 16 North, Range 10 East, (Commission District 4) [Exhibit 3: Letter from the Sheltons; Exhibit 4: Letter from Mr. Horowitz]**

MR. LOVATO: Thank you. The applicants are represented by their architect Craig Hoopes to pursue the request for a variance to allow a proposed 3,679 square foot residence to be 21 feet 4 inches in height on a ridgetop and to allow a second floor.

On March 3, 2017, the applicant obtained a perm, #16-656), to demolish a 928 square foot residence and reconstruct a 3,679 square foot residence/studio. Currently, there are two other accessory structures on the property. The permitted residence contains a great room, a bedroom, a kitchen, an office, a powder room, and a pantry. The max height on the permitted residence is 18 feet. The applicant is now requesting a variance to place a second floor within the previously permitted structure. The garage contained a high ceiling and the applicant is now proposing a second story within the garage. The applicant intends to add 325 square feet to be utilized as a master bedroom and bathroom.

This addition is directly above the garage area and is 18 feet in height from final cut grade. In addition to the master bedroom and bathroom, the applicant intends to add a series of clerestory windows to allow for light to enter the house. This addition is located on the main portion of the house above the great room and this section of the house is 18' in height. However, the grade on this portion of the house is 3 feet 4 inches above grade of the garage and increases the height on the south and west elevation at 21 feet 4 inches.

The property consists of 5.07 acres within the Residential Fringe Zoning District as defined by Ordinance 2016-9, Sustainable Land Development Code. Chapter 7, Section 7.17.9.3.1.2, states, Structures on ridges, ridgelines and shoulders shall not exceed fourteen feet in height and shall be limited to one story. This section further states, A structure on a ridge or ridgeline that is a one story pitched roof shall not exceed 18 feet in height so long as it is screened from view from an arterial or major arterial road.

Height Variance: The applicant has addressed the variance review criteria and staff has responded as contained in this report.

The two story variance. The applicant has addressed the variance review criteria and staff has responded as contained in this report.

Recommendation: Height: Staff recommends denial of the requested variance. The SLDC in Appendix A, Rules and Interpretation, Definitions, and Acronyms states, The vertical dimension of a structure measured from any point on the upper surface of a structure to the natural grade or finished cut grade on any building elevation, whichever is lower, directly below that point.

The previous plan showed a total height of 18 feet on the south elevation from upper elevation to lower final cut grade. The proposed change/variance request shows a total height of 21 feet 4 inches from the uppermost of the building to the final cut grade to allow for clerestory windows. The applicant's existing permit meets code, and they should construct in accordance with their permit. The proposed increase in height makes the site more visible from surrounding properties from the western and southern portion of the property.

Two Story: The applicant could use the buildable area where the proposed third accessory structure is to increase the home's square footage by converting the studio next to the house into a master bedroom/bath and connecting it to the main residence, rather than having another studio in addition to the two other accessory structures on the property. This would eliminate the need for the second story. Staff recommends denial of the applicant's request.

Staff requests the Hearing Officer memorialize findings of fact and conclusions of law in a written order. The Santa Fe County Planning Commission will be holding a public hearing on this matter on August 17, 2017.

Thank you, Hearing Officer Long. I stand for any questions.

HEARING OFFICER LONG: Thank you. So the permit that has been issued does allow for 18 feet in height because of the pitched roof, rather than 14 feet?

MR. LOVATO: Hearing Officer Long, that is correct.

HEARING OFFICER LONG: And then is there a proposed additional accessory structure? Or does it already exist? I think in your recommendation you indicate that the applicant could use the buildable area where the proposed third accessory structure is. So that's a proposed structure?

MR. LOVATO: Hearing Officer Long, that is a proposed structure. The previously approved set of plans. Currently, they have two other accessory structures that are located on the property.

HEARING OFFICER LONG: Okay. Has a permit been issued for that accessory structure as well as a part of this permit?

MR. LOVATO: Hearing Officer Long, that is correct. It has been.

HEARING OFFICER LONG: Okay. All right. Thank you. All right, Mr. Hoopes here for the agent. I'll ask you to be sworn in to start with.

[Duly sworn, Craig Hoopes testified as follows:]

CRAIG HOOPES: Hearing Officer Long, first, I would like to correct some facts that are in the report. We are not building a 3,679 square foot house. We have been permitted to build a 1,799 square foot house. The 3,679 square feet was from an original plan that we submitted in October of last year. The project was put on hold while we worked through some of these issues. At a meeting on November 15<sup>th</sup> with Mr. Lovato it was agreed that we could build only 1,800 square foot enclosed, heated space on this property. As such, our permit is for 1,799 square feet. We have a roofed area, because there are portals and unheated space of 2,943 square feet. So this is far smaller

than the – the 1,800 square feet is far small that what the report suggests that we are building here.

The original house that was on the property was 1,202 square feet and not 928 square feet, so we would like those figures put into the report correctly so that we're clear on that.

Now, if I may I'd like to show you –

HEARING OFFICER LONG: And those corrections will be in the minutes but the report has already been issued.

MR. HOOPES: Thank you.

HEARING OFFICER LONG: And we can request that the staff look at that before it goes to the Planning Commission.

MR. HOOPES: These are copies of these photographs which were up here. I want to show you the original house that was here. The original house was two story and it was built on two different levels. One level was 3'4" below the other, so these are showing – this portion of the house was two story. You can see in the photographs I gave you there's another portion, this portion which was two story. So this was a two-story house that existed. I can't tell you the date but I can tell you it was not well built and we needed to pull it down to build something that would meet today's code.

As you can see from the property there are very large, mature trees that exist on the property and this is five acres. It sits in an area that is surrounded by other large acreage plots from four to 30 acres. It is not a house that is close to other homes because of that. So that's there. The staff report is correct; there are three buildings on the property. One was the house, one is a cabin and the other one is not a studio but a shed that is used for storage, and these are on the property.

We would not be able, under today's building code, to rip down the shed and build another studio because the property there is in excess of 30 percent slope. There is no way that we could build on that property with today's code, that portion of the property.

This property has a small area on which to build. It is the ridgetop as we agree. Our agreement with Santa Fe County was that we could not go any closer to the shoulder of the ridgetop than the existing house went. So we have maintained that setback around the perimeter of the ridgetop and that is what describes the buildable area for the house, along with the requirements from Santa Fe Fire Department for having access to the property with turnarounds and those sorts of things. Between those two items we were left with a very small buildable area. There is no place else on this property to build that is not 30 percent or that does not violate the Fire Department's ability to access the property.

The way the house is designed that we have two pieces of building. One – both of them at two different levels that is divided by the 3 feet 4 inches. At no point do we have anything that exceeds 18 feet. As the rules and interpretation clearly say the vertical dimension of a structure measured from any point on any upper surface of a structure to the natural grade directly below that point is how you come up with the measurement. At no point around the perimeter of this house do we exceed 18 feet. However, because of the 3 feet 4 inches from the two building planes that you saw in the picture, one part of the house is 3 feet 4 inches taller than the other portion but at no point in the perimeter, at

any point directly below have we exceeded the 18 feet. So in terms of the height we feel we are in compliance with this height. We have not exceeded that in any manner. It just happens to be the nature of this particular plot of land which has two different levels on which to build. We feel this is the reason for a variance, that it is a unique situation and we feel we meet the criteria on that.

On the second variance, the variance of inserting a floor within the already permitted volume, we do not feel that we are violating any of the code because even though the code says everything must be single level, we've already been permitted for the 18 feet, which is enough space in which to insert this other level within the house.

So we feel that we have been in compliance not only with the code but with the spirit of the code for doing these things so basically that's what we feel we're doing here.

I didn't include the surveys of this property but you can see by the closeness of the lines how steep this is around there. So we have per the requirements of Santa Fe County we have kept away from the shoulder of the property and feel that we have done everything we can to comply with the requests.

HEARING OFFICER LONG: Mr. Hoopes, you're taking exception with the way the County is interpreting how the measurement is done.

MR. HOOPES: That is correct.

HEARING OFFICER LONG: The perimeter of the building but could not get them to see things your way so we're here on a variance request.

MR. HOOPES: That's correct. Right now, the way the County – the County always used to do the 18-foot perimeter and as long as you that requirement you were fine. What they are saying now is because when you look at an elevation of our project, because of the split, they're seeing this as a 21 feet 4 inches in height. We disagree with that. We feel that we have complied with the 18 feet and as it says in the code, directly below the point and we have in no instance violated that part of the code.

HEARING OFFICER LONG: Thank you. We have someone who would like to speak to this case, Mr. Karnes. Now we know why you stayed.

JOSEPH KARNES: Exactly. Thank you, Hearing Officer Long. Joseph Karnes, Sommer Karnes and Associates. I'd just like to add four quick points on behalf of the applicants. I can be sworn if you'd like.

HEARING OFFICER LONG: Yes. Go ahead. Doesn't hurt.

[Duly sworn, Joseph Karnes testified as follows:]

MR. KARNES: Thank you. Initially, Hearing Officer Long, just this afternoon, an additional letter of support was submitted by Jay Shelton. I gave copies of it to Mr. Lovato and I'd like to make sure you get it for your review.

HEARING OFFICER LONG: I will note that there were letters of support in the packet as well that we received.

MR. KARNES: Thank you. And then a couple of other brief points. It looks to me in the staff report that the response to variance criteria 2 on each of the two variance responses was switched in the staff report and I just wanted to bring that to your attention as you're interpreting it. If you track Mr. Hoopes' letter, the variance request for the two story with the interior addition of a second story, his submittal states for number two, The homeowner's request in this variance says they cannot build elsewhere on the site due to the steep terrain surrounding the house and the fact that it's in the ridgetop



zone – that was transposed, so when you're looking at it, Hearing Officer Long, if you just take that into account and make sure that the staff report tracks the application letter.

HEARING OFFICER LONG: All right.

MR. KARNES: And then there's also a statement in the staff report on page 4 speaking about the two-story variance request. This says granting of the variance would set a precedent that would allow other property owners to circumvent the code in this manner. It's been my experience that the purpose of the variance process is to reflect the unique conditions of the site and the variance criteria are set up with that in mind. In my experience as a land use lawyer I've not had success pointing at the granting of one variance to effectively support my request on a different case. If that's a new interpretation by staff I'll take that into account going forward but I haven't found that to be the case. I don't expect that this would set a precedent that would bind in any way the County in acting on other variance applications. So I want to make that point.

And then finally, I was just presented a letter from a neighbor in opposition to the application. I just had a moment to look through it before the hearing. I expect you have a copy. It's a three-page letter that has a photograph on the third page. It may be presented to you if it hasn't already. I just want to make one point.

HEARING OFFICER LONG: What's the name of the neighbor?

MR. KARNES: The person is Adam Horowitz. And this letter is dated – I don't see a date on it. I know staff has the letter; I got it from them.

HEARING OFFICER LONG: I don't see that with the other letters.

MS. LUCERO: Hearing Officer Long, it's not part of the packet. It was handed out at the beginning of the meeting.

HEARING OFFICER LONG: I don't believe I have it. Okay. Thank you.

MR. KARNES: And my one point, Hearing Officer Long, is on the third page there are two photographs and I'd just like to point out that the top photograph, as Mr. Hoopes explained to you, the previously existing house has been demolished and so this looks to be a relatively recent photograph that doesn't have the house there that has been demolished under the existing permit. The house is not there. And then the bottom photograph shows what's represented to be the proposed structure, and I just observe that you can see in front of, closer to the camera on the top photograph there are many trees closer to the photograph than the house foundation, those are disappeared in the bottom photograph, making it look as if the applicant is proposing to or has removed all of those trees in between the photographer and the footprint of the home. That's simply not the case. No trees have been removed in between the footprint and the photographer nor are any trees proposed to be removed. So I don't think this representation is accurate in any sense. So with that, Mr. Hoopes and I will stand for any questions you have. Thank you very much.

HEARING OFFICER LONG: Let me ask if there is anyone here at the hearing this afternoon that would like to speak to this case. All right, sir. Come on forward, and I'll ask you to be sworn in and give us your name.

[Duly sworn, Jay Shelton testified as follows:]

JAY SHELTON: I'm Jay Shelton. I live in the neighborhood. I've been there for 35 years, probably longer than anybody else, always have taken an interest in neighborhood issues and this one does concern me. Let me be very clear at the beginning. I fully support the requests for these variances. I have been the snow-plower for the

neighborhood for most of my life. I travel it a lot, I hike a lot. I drove around the whole neighborhood today to look at impact on views of this structure. So I know a little bit about what I'm talking about.

The request for the variance for the layer, to make a second story inside the house – don't care what people do inside their homes. I believe that people should do what they want to do and it has no impact on the neighborhood. I totally would support that.

The height increase request potentially of course does have an impact on the neighborhood and its view. So here's what I have done to try to assess that. The distance – it's a very low dense neighborhood as has been pointed out before. Acreages tend to be pretty big. The closest house which potentially can see this site is about 450 feet. I did some rough measurements on google maps. The furthest one that I think can see it is perhaps 800 feet. It's on the order of 400 to 800 feet are the distances from those houses which might have a visual impact.

If you raise a structure by four feet, which is what I understand is the increase that we're talking about, as viewed from those other houses, the impact in terms of angle of degree is a small fraction of one degree of angle, which is very, very small. To make that maybe a little more comprehensible, it would be comparable to the angle subtended by a rolled up sleeping bag half way or all the down at the end of a football field. It's about that much increase potential in skyline obstruction. I find that, and the neighbors that I have spoken to find that utterly negligible from anybody's point of view. It's not that it's invisible but compared to everything else that's out there a change of a fraction of one degree of angle just doesn't matter. And in general, my feeling is I like to let neighbors have as much freedom as possible in terms of what they do.

I'm not quite sure what the code – how important it is, what you can see from roads but from almost all the roads out there you can't see that site at all. We own property on the east and the west. We have a home on the east side of this. We aren't direct abutters but we're very close. We own a 20-acre vacant land parcel in the west and if we were to build there or somebody else were we probably would be the fourth house that could see, have some visual impact of this house. There are three neighbors that do have an impact. The numbers I've given you are actually maximums because most of those houses are down below. You're looking up, and so I've made an over-estimate of the visual impact. There are trees there so it's not as bad as I'm estimating, but it's just utterly negligible in terms of visual impact because we're so far apart from each other, basically. And that's it. Thank you.

HEARING OFFICER LONG: Thank you. Thank you for doing your survey work out there today. Appreciate your comments.

Let me ask staff to comment regarding the measurement around the perimeter of the house and the difference that the applicant sees in how the County's interpreting that.

MS. LUCERO: Hearing Officer Long, in regards to the definition of height in staff's interpretation, the definition as stated in the Sustainable Land Development Code is the height is the vertical dimension of a structure measured from any point on the upper surface of a structure to the natural grade or finish cut grade on any building elevation. And that language, that statement on any building elevation was added into that definition because that would be the impact that you see on the structure, is the entire elevation, not just what's on that perimeter wall.

HEARING OFFICER LONG: I see. So it takes account of the entire structure and not the perimeter only.

MS. LUCERO: That's correct. Everything you can see from that particular elevation.

HEARING OFFICER LONG: That's helpful. Thank you.

All right. Anything else from the applicant, from what you have heard.

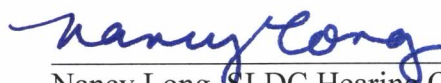
MR. HOOPES: I would just add that that code section says directly below the point. It does not say whatever you can see combined. It says directly below that point. And that is the critical language I think that defines what the measurement is. Thank you.

HEARING OFFICER LONG: Thank you. All right. That will conclude the hearing on this case then. As you heard I issue a recommendation and will go on to the Planning Commission in August. Thank you all for your time and your presentations today

#### IV. ADJOURNMENT

With no further business, Hearing Officer Long adjourned the meeting at approximately 3:45 p.m.

Approved by:



Nancy Long, SLDC Hearing Officer  
Santa Fe County

COUNTY OF SANTA FE       )  
STATE OF NEW MEXICO    ) ss

SLDC HEARING OFFICER M  
PAGES: 18

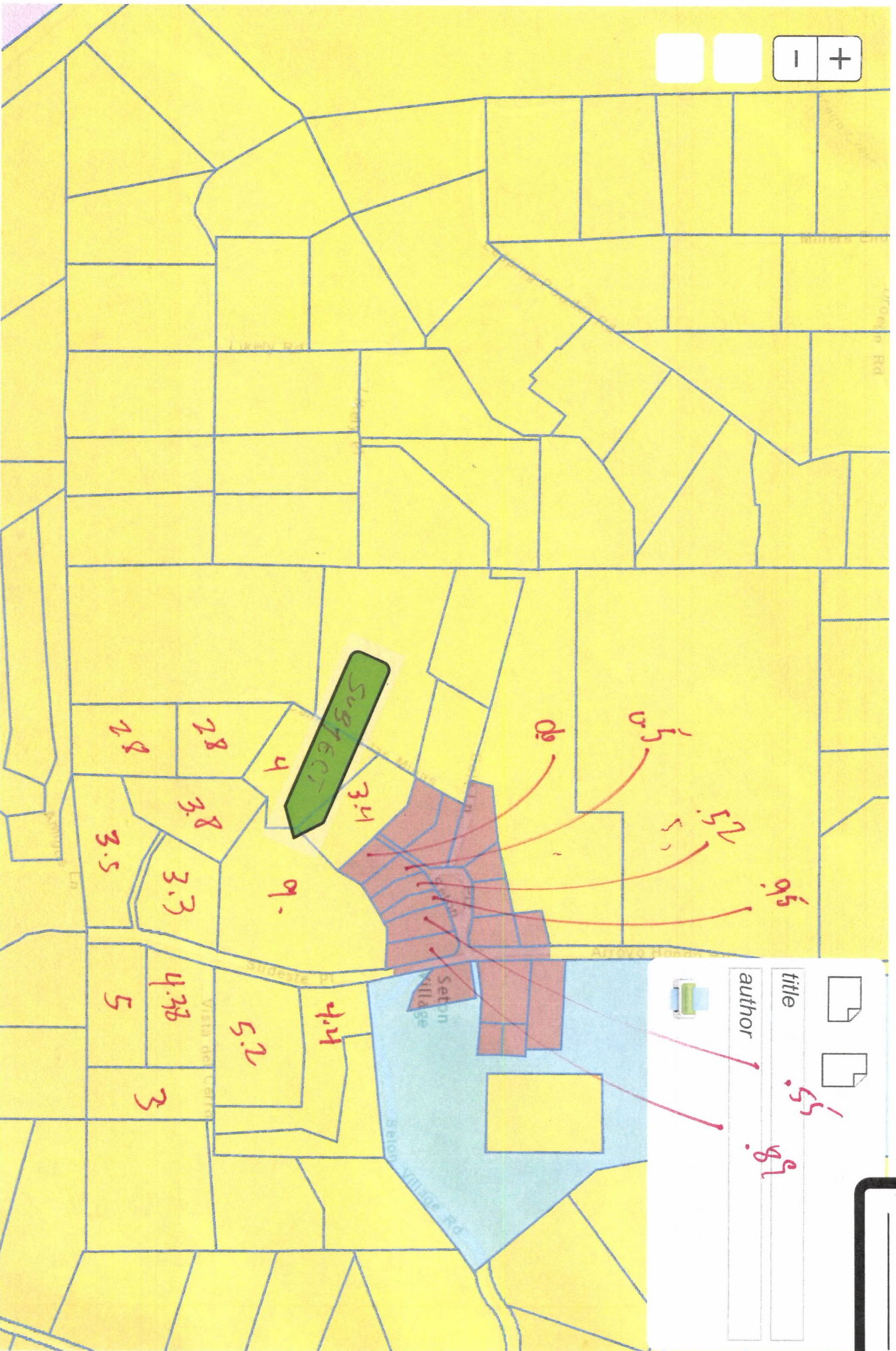
I Hereby Certify That This Instrument Was Filed for  
Record On The 10TH Day Of August, 2017 at 04:17:45 PM  
And Was Duly Recorded as Instrument # 1833405  
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office  
Geraldine Salazar

Deputy  County Clerk, Santa Fe, NM







Res. Form 5 1 on 5-ac.



June 16, 2017

RE: CASE # V 17-5100 Regina Buckley Variance

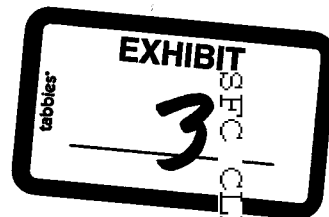
To: County Land Use Administrator

With this letter we are registering our objection of the request by Regina Buckley for a variance of Ordinance 2016-9, Chapter 8.6.5 Table 8.9 to subdivide the property at 11 Sudeste Place, within Section 24, Township 16 North, Range 9 East (CASE # V 17-5100 Regina Buckley Variance). In our view the subdivision would do nothing to improve the neighborhood. The housing density in the area, historic Seton Village, is already much more dense than the general surrounding area. There are also homes that have been built very close together, on lot 21B, that may not even meet the land use regulations. We feel that subdividing the lot in question will reduce the value of the surrounding properties. These county regulations were formulated in the best interested of the county and its residents. Unless there is a benefit to all properties that surround 11 Sudeste Place, any request for a variance must be denied.

Thank you,

A handwritten signature in cursive script, appearing to read "Chuck Cover".

Chuck and Susan Cover  
22 Camino de las Minas  
Santa Fe, NM 87508



**From:** jshelton@newmexico.com  
**Sent:** Thursday, June 22, 2017 1:32 PM  
**To:** jlovato@santafecountynm.gov  
**Subject:** Will Shalit variance

Re Case #SVAR 17-51100 Shalit Variance

We support Willa Shalit's variance request.

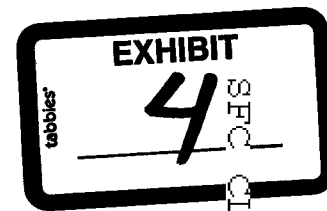
We have lived in the La Barbaria Trail neighborhood for decades.

As we understand it, there are two requests. One is to be allowed to put in a floor in a part of the home that is two stories high so that it can be useful as two stories on the inside. This has no impact on the neighborhood. We support this variance. We believe people should be able to do whatever they want inside their own homes.

As we understand it, the other part of the variance request involves increasing the roof height over a different part of the structure by 4 feet over what is already approved. We have walked around the neighborhood many times over the decades we have lived here, and find that the impact of the proposed roof height variance on views from other homes and from roads to range from zero to negligible.

Jay and Katherine Shelton





SFC CLERK RECORDED 08/10/2017

Commentary Re: Case #SVAR 17-5110 Willa Shalit Variance request

From: Adam Horowitz, Resident, Santa Fe County

Dear Santa Fe Planning Commission Members, and Hearing Officer,

Regarding Ms. Shalit's application for two distinct ridge-top variances, I see that she has already received approval to build a large, brand new home 18' feet high, on a highly visible, and very exposed location on a ridge-top. Her requested variances to go even higher than this and also build a second story with balcony, are extravagant and unnecessary additions to this approved plan, and if granted, they would clearly violate the letter, and the spirit of the law regarding ridge-top construction in Santa Fe.

Because of Ms. Shalit's location right in the middle of the valley of La Barbaria, her new construction will in any event be highly visible to residents of most of the Overlook subdivision, as well as to various residents living on La Barbaria Road, Double Arrow Road, and others, including myself. I personally live in the direct, adjoining property to Ms. Shalit, on Owl Creek Road, and I look directly at her house construction site, and her future house, from my living room, kitchen, patio, and my master bedroom. Please note that I have lived on my property here for more than 28 years, and I built my house here with my own hands.

Ms. Shalit's requested variances to exceed the maximum legal building height, and to allow a prohibited second story, would have direct, and permanent negative impacts on the primary views from my home, and her proposed second story windows add not only significant reflective glazing, but would negatively impact my privacy as well. To illustrate, I have attached two photographs (see below) taken from my house, showing Ms. Shalit's ridge-top location as it appears now, at the beginning of her construction, with the second photo showing how the proposed construction with the requested variances, would appear from my living room.

In addition to the direct, negative impacts that these variances would have on me personally, equally or perhaps more important in this situation, is the negative impact that would occur to the public interest, by undermining and overriding the long established and popular "Ridge-top" ordinance.

As confirmed by Santa Fe Planning Department staff, the granting of these variances would definitely set a new legal precedent, sending a message to all future home builders in the Santa Fe mountain zone that the main and central tenets of the Ridge-top ordinance have no authority, and can be overridden.

If Santa Fe Planning Dept. grants permission, in this case for a prohibited second story, and for additional building height to 22'feet, then in larger fairness and according to basic tenets of 'common law,' they will have to extend these same variances to all who apply, thereby gutting the law. The existing ridge-top ordinance already allows for buildings up to 18'feet high in limited circumstances, a height which could ALWAYS easily hold two-stories, with two 9'foot high stories (or an 8'foot and 10'foot story, etc.) So the argument that Ms. Shalit is making, that she, "can fit two stories within this legal 18' high envelope," means that IF GRANTED, her variance would become essentially a permanent and de-facto LOOPHOLE to the current law prohibiting second story floors on ridge-tops.

I would hope that the SF Planning Department will not simply ignore, undermine, and for all practical purposes overturn their own laws and regulations regarding this important and popular environmental protection because Ms. Shalit, or any other applicant, simply asked.

The ridge-top ordinance allows for variances only when they are, "not contrary to public interest," and when would they would "result in exceptional difficulties," or "exceptional or undue hardship." In the case of Ms. Shalit, what "exceptional difficulties," or "undue hardship," could she possibly claim in this case? She has used and resided in a very nice, well built solar adobe home on the same house-site for more than 25 years, before she tore it down a few months ago. She razed her own house, of her own volition, knowing full well what the ridge-top ordinance says regarding rules for a replacement structure. She could not, in good faith, have reasonably expected to be able to defy this well known and long standing law.

Simply put, if the existing ridge-top ordinance prohibition on building a second story on a ridge-top is in itself, an "undue hardship," or an "exceptional difficulty," then the ordinance would be self-nullifying and would have been struck down years ago. But the ordinance has been on the books for many years, and has been effective and very popular in preserving the beautiful views of Santa Fe's Sangre de Christo mountains to the benefit of residents and visitors alike.

Undermining and weakening this law simply so that Ms. Shalit can build a second story with balcony and clerestories, is clearly, 'CONTRARY TO THE PUBLIC INTEREST.' As I mentioned, these variances would be directly detrimental to my own views and enjoyment of my property, and I too am a member of the "public" whose interests should also be protected by the law. In the bigger picture, granting these variances would insult and weaken environmental laws that are meant to protect all of the citizens of Santa Fe. To what end? And with what justification?



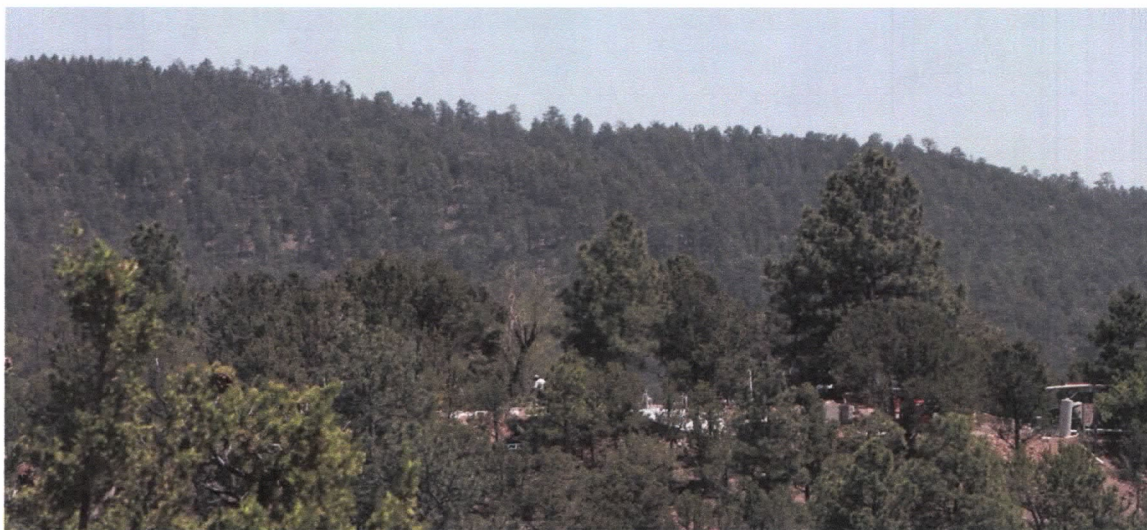
Finally, the ordinance requires that the, "spirit of the SLDC is observed and substantial justice is done." To this end, the Hearing Officer and the Planning Commission should deny the application for these variances. They are clearly not in the public interest, and certainly no "undue hardship," to the applicant can be demonstrated by upholding the law.

Sincerely,

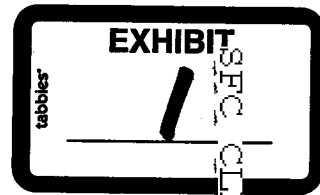


Adam Jonas Horowitz, Santa Fe, NM Tel 505 699 3505

Below, two photograph of W. Shalit's RIDGETOP house construction site, with architect's rendering of the WEST FAÇADE of her proposed house in second photo. (Photos were taken from my house, outside of kitchen window.)



BCC  
CDBG Consideration  
6/27/17 2:00 PM



Good afternoon Commissioners, County Manager, Staff and friends. My name is Joe Loewy. I live at 6 Monterey Road, Santa Fe. I am here today as the Community Board Member of the Santa Fe County Housing Authority Board and as a private citizen with a sincere passion for Public Housing.

We seek your approval of the project request before you prepared by the Housing Authority staff for submission of a State of New Mexico Community Development Block Grant Application. We believe this application fulfills all three criteria for the CDBG program: 1. 100% is for low to moderate income residents, 2. Prevention of slum and blight and 3. Urgent community need. This application is for the re-roofing of units at all 3 of our Public Housing sites: Camino de Jacobo, Valle Vista and Valle de Esperanza (also known as Santa Cruz.) The sites are all located in Santa Fe County and are in three different districts. There is a housing set aside for the State giving our application far less competition than other types of projects. The application is in the amount of \$750,000 with a matching contribution of \$75,000 from the Housing Authority for a total project cost of \$825,000.

It has been recognized for many years that our County Public Housing stock has been aging. Roofs and canales are nearing or exceeding the end of their useful life. With increasing frequency we have had to repair or re-roof units due to leaks from normal wear and tear, snow accumulation and rain storms. Our funding source for these repairs, the HUD Capital Fund Program has consistently decreased year after year with indications from the current Federal Government that this downward trend will not only continue, but likely accelerate in the near term future. This project will also save us funds on our operations since our heating costs will decrease.

Our project is "shovel ready" with 4 local Santa Fe County roofing contractors already on a contract with the County for re-roofs and maintenance of our existing buildings. The scopes of work are already in our system. We can finish this project before the next application cycle. We anticipate using \$75,000 from our HUD Capital Fund Program. We will also be combining energy savings from the roofing project with the Energy Performance Contract Program already in process in order to maximize our savings. We hope to use these savings to replace all of the furnaces in our units and possibly install solar cells.

Please vote to approve this project to benefit all of our residents. Many of them, **with no pun intended**, might literally be ***without a roof over their head*** if not for our Santa Fe County Public Housing.

Thank you!