

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

Santa Fe, New Mexico

November 8, 2018

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 Richard Virtue 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 & Development Services Manager
Paul Kavanaugh, Building & Development Services Supervisor
Jose Larrañaga, Case Manager
Eric Ames, Assistant County Attorney
Jaome Blay, Fire Marshal
Robert Griego, Planning Manager
Penny Ellis-Green, Growth Management Director

II. **Approval of Agenda**

HEARING OFFICER VIRTUE: My name is Richard Virtue. I'm the Santa Fe County Land Development Code Hearing Officer. We'll call this meeting of the Hearing Officer to order. The first matter is whether there are any changes to the agenda.

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

HEARING OFFICER VIRTUE: Thank you.

III. **Public Hearings**

- A. **Case # SCSD 18-5190 Village at Galisteo Basin Preserve (aka "Trenza") Conceptual Plan.** Commonweal Conservancy, Applicant, Ted Harrison, Agent, request approval for an amendment of a Conceptual Plan to allow a 36-foot tall communications tower (and its associated switching infrastructure) as an allowed use within the Galisteo Basin Preserve/Trenza Planned Development District (PD-2). The proposed Cell Tower will be on Lot 22 which comprises 468.08 acres. The site would take access from Astral Valley Road, via US 84-285. Lot 22 is located at 99 Astral Valley Road within T15N, R10E, Section 31, SDA-2 (Commission District 3) [*Exhibit 1: Letter from Dianna Suslo*]

SFC CLERK RECORDED 12/04/2018

JOSE LARRAÑAGA (Case Manager): On June 12, 2007, the Village at Galisteo Basin Preserve was approved by the Board of County Commissioners. On December 10, 2015, the BCC approved an amendment to the master plan to reduce the density from 965 residential units and 150,000 square feet of commercial, educational and civic land uses to allow 275 residential units and 71,000 square feet of commercial, educational and civic land uses.

The prior approvals did not address communication towers as an allowed use. On December 8, 2015, with the implementation of the Sustainable Land Development Code, the 2,502-acre planning envelope associated with the approved Master Plan was designated as a Planned Development District

The applicant is requesting approval of an amendment to the conceptual plan to allow a 36-foot tall communications tower as an allowed use within the Galisteo Basin Preserve/Trenza Planned Development District.

SLDC, Section 8.10.10.3, Expansion of Existing PDs states, "An expansion of an existing PD is a request for any enlargement, greater density or intensity of non-residential uses, relocation, decrease in a project's size or density, or modification of any condition of a previously approved and currently valid PD."

SLDC, Section 4.9.9.1 Conceptual Plan Purpose states, "A conceptual plan is comprehensive in establishing the scope of a project, yet is less detailed than a site development plan. It provides a means to review projects and obtain conceptual approval for proposed development without the necessity of expending large sums of money for the submittals required for a preliminary and final plat approval. A conceptual plan submittal will consist of both plans and written reports."

The applicant has addressed the conceptual plan criteria and staff has responded as contained in the report. Building and Development Services staff has reviewed this project for compliance with pertinent SLDC requirements and have found that the facts presented support the request for a conceptual plan to allow a communication tower as an allowed use within the Galisteo Basin Preserve Trenza Planned Development District. The proposed use is a permitted use as a mono pine or stealth tower, or a conditional use which would be a mono pole, within a planned development district as per Appendix B: Use Matrix; and the application satisfies the submittal requirements set forth in the SLDC inclusive of Criteria set forth in Section 4.9.9.

Staff has established findings that this application for an amendment of the conceptual plan to allow a communications tower as an allowed use within the Galisteo Basin Preserve/Trenza Planned Development District is in compliance with criteria set forth in the SLDC.

Recommendation: Staff recommends approval of the request for an amendment of the Conceptual Plan to allow the proposed 36-foot tall communications tower as a permitted use – stealth or mono-pine, or a conditional use – mono-pole, within the Galisteo Basin Preserve/Trenza Planned Development District, to be located on Lot 22 which comprises 468.08 acres, with the following conditions:

1. The Conceptual Plan showing the site layout and conditions of approval shall be recorded at the expense of the applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.9.9.

2. The proposed communications facility (and its associated switching infrastructure) shall comply with all criteria set forth in the SLDC prior to approvals of the development.

This report and the exhibits listed below are hereby submitted as part of the hearing record.

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 December 20, 2018.

I stand for any questions.

HEARING OFFICER VIRTUE: Thank you. Just for the record, since we didn't get it into the record before the staff report was presented. This is Case # SCSD 18-5190, Village at Galisteo Basin Preserve Conceptual Plan. Commonweal Conservancy, applicant, Ted Harrison, agent, on behalf of the applicant, and it's located on Astral Valley Road within Commission District 3.

I may have some questions for staff later, but at this time I'd like to proceed with the applicant's presentation and I would ask that anyone who wants to speak on behalf of the applicant please stand and identify yourself and be sworn.

[Duly sworn, Ted Harrison testified as follows:]

TED HARRISON: Hearing Officer Virtue, my name is Ted Harrison and I'm the president of Commonweal Conservancy, which is the non-profit organization that has been pursuing the Galisteo Basin Preserve for the past 15 years. I think that staff did an excellent job presenting the history of the project and the terms of our request. I'll just give a little bit more background if I could, and that is over the past five years Verizon Communications and another partner company called Hemphill Communications have been on the hunt for an appropriate cell tower location in the Galisteo Basin area that would support a more complete communication service to the region.

There are areas along US 285 that have either weak signals or no signal at all. The Galisteo Basin Preserve is an area of more than 10,000 acres that includes 28 miles of hiking trails and one of our concerns in the current status of the cell communication capabilities of this region is that we have folks hiking on these trails without access to communications. We've had a number of incidents where people have been hurt requiring emergency services or search and rescue service. Part of the function of the cell tower is to provide a more comprehensive quality of communications access to those hiking trails. It's also intended to provide better access and service to the existing neighborhoods in the New Moon Overlook, Southern Crescent, Lamy and possibly even Galisteo.

As I said, Verizon has been searching for an appropriate site for more than five years. One of the big challenges they faced is the proximity of their proposed cell tower locations to other homes or existing homes was such that it was of concern to those neighbors and homeowners. We spent a good amount of time over the past three years working with the neighbors that are most proximate to this location and in fact the person who owns the lot within 300 feet of the tower is in very active communication with us and chose to purchase his lot, knowing that the cell tower was under consideration.

I know that there is a letter that is part of the record, I believe, from one of the landowners in the Southern Crescent. In her case, her lot is approximately two miles

south of the proposed communication tower location. I've spent quite a bit of time speaking with Dianna Suslo, who is the person who wrote the letter, trying to give her the background information on what I understand to be the risks and benefits or challenges and opportunities of this communications tower. She's a person with chemical sensitivities and just has special concerns about cell towers within close proximity, whether it's two miles or closer.

As I said, Verizon has spent time, spent considerable money preparing their application and if we are able to go forward with this conceptual plan amendment I believe they will bring forward their development permit application in the spring of next year. If all goes well in their construction then the cell tower would be operational by late fall next year.

One of the other benefits, and then I'll conclude, is that Verizon/Hemphill is proposing to extend fiber optic cable from its existing location from, I believe Ranch Road at 285 that will then be brought down along the existing PNM power poles, such that it would tie into the fiber cable that we've already placed in the roads of the Galisteo Basin Preserve. This will provide better broadband access to the neighborhoods of the Preserve. So with that, I stand for questions.

HEARING OFFICER VIRTUE: Thank you for that presentation. I have a few questions. The tower is going to be located – proposed to be located on Lot 22, which is a 480-acre lot. Can you give me some background? What's the purpose of that lot? Is it open space? Why such a large lot within the area?

MR. HARRISON: Well, Hearing Officer Virtue, Lot 22 is the legal lot of record that has been the focus of our planning work for our master planned community known as Trenza. As the report presented, we have had a number of approvals over the past ten years that intended to allow us, or provided us with an allowance to develop as many as 975 homes within that lot, that would have been replatted to accommodate that village development. Surrounding this lot is almost 9,000 acres of undeveloped land which Commonweal Conservancy is in the process of overlaying with conservation easements.

Very recently, the planning process for our village moved to a secondary or really off the table concern or point of focus for the organization because during the recession we got ourselves quite upside down with our debt, and long story short is that the organization was at risk of foreclosure due to that debt obligation of the lands that we had acquired over the past 15 years. Fortunately, in July of this year, the Thaw Charitable Trust stepped in and in combination with other major donors have agreed to – have purchased the debt that was previously held by institutional lenders such as Los Alamos National Bank.

Part of the agreement we have with the Thaw Charitable Trust by their investment in this new portfolio is that Commonweal will move forward over the course of the next four years and overlay the balance of the property with conservation easements as well as work with the County on a TDR easement application. I'm not sure if that's exactly the nomenclature, but to actually transfer the development rights that would have otherwise been developed in the Trenza, Lot 22 geography, to other areas of the county that are looking for higher density development, perhaps in the Community College District or areas such as that.

So Lot 22 is an artifact of the ranch history of this larger property but has been the focus of our development planning for the past 10 years. It remains the large legal lot of record as a holding geography for what would have been this large community or intermediate sized community as the case may be.

HEARING OFFICER VIRTUE: Okay, so you intend that the lot will stand at that size for the foreseeable future?

MR. HARRISON: That's correct.

HEARING OFFICER VIRTUE: Okay. And can you give me a little more information about where you propose to locate the tower? I couldn't tell from looking at the maps that were submitted, the precise location. The narrative said in the northeast quadrant but I couldn't determine that from the maps. Could you just give me a little more information about the location?

MR. HARRISON: I'm going to just briefly review the materials that you have and I have other materials as well. Okay. On Exhibit 4, Hearing Officer Virtue, you can see the outline of Lot 22. It's highlighted in yellow, and on the east side of Lot 22 there is a – this is the original plat that was part of the neighborhood being developed known as New Moon Overlook, and you see the lot numbers one through 20 and then there's a larger open space lot, Lot 23 further north. There's an escarpment that follows pretty much the yellow highlighted line that divides the grass Eldorado Plain area from a fairly steep drop-off and then into a basin area below. So the cell tower location is – I can come to the podium if that would be helpful to actually point to it exactly. Would that be good?

HEARING OFFICER VIRTUE: Please do.

MR. HARRISON: This is the large lot configuration and so the cell tower is located right here.

HEARING OFFICER VIRTUE: Okay.

MR. HARRISON: So those more detailed maps show it in that location.

HEARING OFFICER VIRTUE: Okay. Yes.

MR. HARRISON: This is the property owner, the prospective owner that is bought his property knowing that the cell tower was coming in.

HEARING OFFICER VIRTUE: Where is the access to the lot from the – the main access? I'm going to have him restate what he just told me for the record and then respond to my question about access to the site, also for the record.

MR. HARRISON: Yes. So Lot 22 is highlighted, as I said, on Exhibit 4 and I pointed out to Hearing Officer Virtue that the cell tower location is in the far northeast section of Lot 22. This plat that's used as an exhibit was subsequently amended or revised and there's a road, a dirt access road that's drawn on this plat that actually cuts through an old ranch road, follows an old ranch road that has its connection to a road that is legally known as New Moon Overlook Road. Astral Valley is the connecting road to US 285. You travel about one-quarter mile west, then you turn north on New Moon Overlook Road, and then approximately one-quarter mile north you would see a cable gate and a dirt fire road-looking pathway that would lead you up to a set of water tanks. The water tanks are what serve the neighborhood of Southern Crescent that's located a mile and a half to two miles south of this project.

So what I would point out was that the location of the tower is in the northeast corner of Lot 22 and it is accessed most directly off of the New Moon Overlook Road from a dirt road.

HEARING OFFICER VIRTUE: Okay, and is the lot you referred to that was purchased with notice of the cell tower, you mentioned is 300 feet away from the proposed location; is that the lot line?

MR. HARRISON: Yes. Approximately 300 feet from the lot line.

HEARING OFFICER VIRTUE: And is that the closest lot to the cell tower site?

MR. HARRISON: Yes, it is.

HEARING OFFICER VIRTUE: Thank you. I don't know whether this is for staff or for you. You can take the first crack at it. The type of cell tower you're putting in is identified as a mono-pine tower, and then there's a reference in the staff report to something called a mono-pole. And the mono-pine is a permitted use and the mono-pole is a conditional use, as I understand it.

MR. LARRAÑAGA: Hearing Officer Virtue, that's correct. A mono-pole is – you would have to come forward through the conditional use permit process, and a mono-pine would be a permitted use which could be done administratively.

HEARING OFFICER VIRTUE: Okay. Can you just describe the difference between the two types of poles?

MR. LARRAÑAGA: I believe there's some photo-sims in your packet and the mono – it would be the same height, only a mono-pine would look, from a distance, like a pine tree. A mono-pole would just be a straight up pole.

HEARING OFFICER VIRTUE: A pole. Okay. Thank you. Those are all the questions that I have. I would now open the hearing to the public and ask that anyone from the public who wishes to speak either for or against the application please stand, identify yourself and be sworn. Is there anyone who wishes to speak for or against the application? Seeing none, I will declare the public hearing to be closed. I have no further questions of either the staff or the applicant. Does anybody else have anything further they would like to ask of the applicant or the staff? If not, I will close the hearing. Thank you very much.

IV. Adjournment

Hearing Officer Virtue adjourned the hearing at 3:21 p.m.

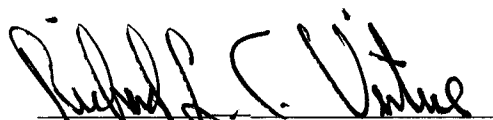


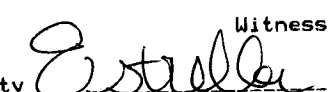
COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

SLDC HEARING OFFICER M
PAGES: 6

Approved by:

I Hereby Certify That This Instrument Was Filed for
Record On The 4TH Day Of December, 2018 at 10:59:06 AM
And Was Duly Recorded as Instrument # 1874151
Of The Records Of Santa Fe County


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

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

Sustainable Land Development Code
Hearing Officer Meeting: November 8, 2018