

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

Santa Fe, New Mexico

November 19, 2019

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 3:00 p.m. at the Santa Fe County Administration Complex Main Conference Room, 100 Catron Street, Santa Fe, New Mexico.

Staff Present:

Vicki Lucero, Building & Services Manager
Paul Kavanaugh, Building & Services Supervisor
Jose Larrañaga, Development Review Specialist
Nathan Manzanares, Development Review Specialist
Rick Word, Assistant County Attorney
Jaome, Blay, Fire Marshal

II. Approval of Agenda

HEARING OFFICER VIRTUE: We have five cases scheduled for hearing today. One has been tabled which means we'll have hearings on four of the scheduled items. Are there any other changes to the agenda?

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

HEARING OFFICER VIRTUE: Thank you.

III. Public Hearings

- A. CASE # 19-5150 Walkin' N Circles Ranch Inc. Conditional Use Permit. Walkin' N Circles Ranch, Inc., Applicant, Siebert and Associates Agent, is requesting a Conditional Use Permit (CUP) to allow a Horse Rescue and Rehabilitation Facility up to 70 horses on 29.829 acres. A new 2,400 square foot office building will be constructed on Tract 1, replacing an existing 840 square foot office. The site is zoned Residential Estate (RES-E) and is located at 198 and 188 North Weimer Road, within Township 11N, Range 7E, Section 24, SDA-2, (Commission District 3) [*Exhibit A-1: Revised landscaping plan*]**

MS. LUCERO: Thank you, Hearing Officer Virtue. I will be presenting the report. The Applicant is requesting approval of a conditional use permit to allow a

horse rescue and rehabilitation facility up to 70 horses on two tracts totaling 29.829 acres. A new 2,400 square foot office building will be constructed on Tract 1, replacing an existing unpermitted 840 square foot office. The Applicant has stated that "Once the CUP is approved and the new office is built, the 840 square foot office will be removed from the property." The Applicant is also proposing to install a new septic system that will only serve the proposed office. The existing septic system will continue to serve the residence. A total of two septic systems will be located on Tract 1. A 6,048 square foot retention pond will be constructed on Tract 2 to capture drainage.

The Horse Rescue and Rehabilitation Facility is located on Tract 1 and will operate from 8:00 a.m. to 5:00 p.m., seven days a week. There will be a full-time caretaker, four full-time employees, three-part time employees, one horse trainer, and numerous volunteers. Clientele wanting to adopt a horse is by appointment only. Tract 2 will only be utilized for its well and for use as a retention pond to capture drainage. Tract 2 is otherwise vacant with no structures. The site is zoned Residential Estate, Appendix B: Use Matrix illustrates stables and other equine related Facilities/Commercial over 12 horses as a Conditional Use.

Prior to the March 7, 2019 TAC meeting, the Applicant contacted staff to inquire about a building permit to construct a new office building at 198 North Weimer Road for the Walkin' N Circles Ranch, Inc. Horse Rescue and Rehabilitation Facility. At that time, staff informed the Applicant that they did not have a business license to operate a horse rescue and rehabilitation facility. Staff informed the Applicant that in order to operate a horse rescue and rehabilitation facility up to 70 horses the Applicant would need to apply for a CUP. Staff informed the Applicant of the CUP process.

Walkin' N Circles Ranch, Inc. has been operating without an approved business license from Santa Fe County, since 2002. Currently, the Applicant has a caretaker living on-site in the existing 2,144 square foot residence. There are numerous existing accessory structures on-site, which include a main stable, hay barn, grain barn, tack barn, east barn and several loafing sheds. The total square footage for all structures including the proposed office totals 16,802 square feet. The existing structures will continue to be used by the horse facility. Staff has been able to locate one permit, which is for the single-family residence. The site plan submitted with that permit illustrates a barn adjacent to the residence, which is identified by the Applicant as the main barn. No other structures were illustrated on the site plan.

The application was reviewed for the following applicable design standards as per Chapter 7 of the SLDC: access, fire protection, landscaping and buffering, lighting, signage, parking and loading, utilities, water supply, wastewater and water conservation, protection of historic and archaeological resources, terrain management, flood prevention and flood control, and solid waste.

The applicant has addressed the conditional use permit criteria for Chapter 4.9.6.5 of the SLDC and staff has also provided responses as stated in the staff report.

Building and Development Services staff has reviewed this project for compliance with pertinent SLDC requirements and has found that the facts presented support the request for a Conditional Use Permit to allow a Horse Rescue and Rehabilitation Facility of up to 70 horses. The use is compatible with the current development within the Residential Estate Zoning District. The use will not impact adjacent land uses; and the

Application satisfies the submittal requirements set forth in the SLDC inclusive of the Conditional Use Criteria set forth in Chapter 4, Section 4.9.6.5.

The review comments from State Agencies and County staff have established findings that this Application for a conditional use permit to operate a horse facility is in compliance with State requirements and design standards set forth in the SLDC.

Recommendation: Staff recommends approval of a Conditional Use Permit to allow a Horse Rescue and Rehabilitation Facility up to 70 horses on 29.829 acres subject to the following conditions. Hearing Officer Virtue, may I enter those conditions into the record?

HEARING OFFICER VIRTUE: You may.

[The conditions are as follows:]

1. The Conditional Use Permit showing the site layout and any other conditions that may be imposed through the approval process shall be recorded at the expense of the applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.6.8.
2. All unpermitted structures shall be permitted After the Fact (ATF) within 30 days of the Conditional Use Permit approval.
3. The Applicant shall comply with all conditions imposed by Santa Fe County Public Works.
4. The Applicant will be required to provide a drainage easement on Tract 2 for Tract 1.
5. Prior to issuance of a business license, the Applicant will be required to remove all pole mounted lights and complete required improvements (ponding, shielding of lights, relocation of sign, road improvements and parking spaces).
6. Prior to the Santa Fe County Planning Commission hearing, the Applicant will need to provide a proposed water harvesting plan for all unpermitted structures located on Tract 1.

MS. LUCERO: Thank you. Also, I've got a handout that shows the revised landscaping plan that was not part of the original submittal but it has been reviewed by staff and it was not part of the packet. And I stand for any questions.

HEARING OFFICER VIRTUE: So this is a new plan that has not been part of the record.

MS. LUCERO: Correct. It's not part of the record.

HEARING OFFICER VIRTUE: So I will call that, label that Hearing Exhibit 1, and if there's no objection I will admit it to the record at this time. Any objections? Does that include your report, Ms. Lucero?

MS. LUCERO: Yes, Hearing Officer Virtue.

HEARING OFFICER VIRTUE: I'll reserve any questions I have for staff until later. At this time I will ask that anyone who will be speaking on behalf of the applicant to please identify yourself for the record by name and address and be sworn.

[Those wishing to speak were placed under oath.]

VICTORIA DALTON: Victoria Dalton, Siebert and Associates, 915 Mercer. So since all of our clients have been sworn in I'll introduce them. So we have Richard Holder, who is the past president and who is now presently the building chair. And we have Char, who is the present president, Laurie Michael, vice president, Lauren

Garrity, secretary, Mary Ann Shinnock, board member, Roger Shinnock, volunteer. We now know that we've discovered I'm not very good at introductions –

HEARING OFFICER VIRTUE: If I could just ask you to state what the organization is that these people are officers and board members of, just for the record.

MS. DALTON: Of course. These all members of the Walkin' N Circles board of directors. What the facility is is a horse rescue as described in the staff report. The facility has been in operation and has also had a turnaround of board members and so at some point in time they may have thought there might have been a permit for the use, since it's gone on for such a long period of time.

So this is the site here. This area was site of the whole facility and right adjoining it we have residential property. I just would like to point out that the property is right above, up on the north side, that's zoned Rural Fringe and it's a permitted use to have more than 12 commercial horses. So had it been one lot up we would have been able to do this as an administrative site plan process.

We've been working diligently with staff and to get to this point we've submitted documentation. I stand for any questions.

HEARING OFFICER VIRTUE: I have no questions at this point. Well, I would like to ask, just for the record, to explain the nature of the organization. You explain it is Walkin' N Circles. Is it a non-profit corporation? Incorporated association?

WAYNE DALTON: Hearing Officer Virtue, I believe Richard Holder could answer that question a lot better than we can.

RICHARD HOLDER: Yes, sir. We are a 501(c)(3). We are licensed by the New Mexico Livestock Board. We receive an annual evaluation and inspection from that board. They're the ones who set the value of 70 horses. We currently have limited ourselves to about 40 horses or less, simply for financial reasons. We have about a hundred and some volunteers and none of them is paid. At any given time, probably five to ten are on the premises. Right now we have 35 horses, I think. Something like that, and we also have some horses that we place in foster homes around the Edgewood area.

Our mission is to accept horses that have been abandoned or have been treated badly and captured by the Livestock Board or turned in by an owner because they could no longer care for them. We bring those horses up to standard value by veterinary care, which we pay for, and by feeding them correctly. And then we train them, both for groundwork and for riding and then we try to get them adopted. And so our process is to take a horse in, feed it, have it checked up with veterinary services, ferrier services, things like that and then train it if it's not already trained and then find an adopted home for it. And that's what we do.

HEARING OFFICER VIRTUE: Thank you for that. That's helpful. What's the average length of stay at the facility, or is there a typical length or an average length?

MR. HOLDER: I think we've already done that study. Char, do you remember what it is?

CHAR HUDSON: It's about two years.

MR. HOLDER: About two years. We have some horses that have been there for a long time. They're geriatric horses and may not be adoptable, and some come in in good shape and well trained and they're gone in a month or two months. So that's a range.

HEARING OFFICER VIRTUE: Thank you very much for that. Is there anyone who would like to speak in favor of the application? I will assume that the people who identified themselves earlier who are on the board or officers are in favor. You're welcome to make an additional statement if you want. But if not we'll just note that you're in favor of the application.

MS. HUDSON: We're in favor.

HEARING OFFICER VIRTUE: Okay. Is there anyone who would like to speak in opposition to the application? Okay. With that does the staff have any response to anything that's been said by the applicant?

MS. LUCERO: Hearing Officer Virtue, I think we've already addressed everything.

HEARING OFFICER VIRTUE: Okay. With that I will close the public hearing and we'll have a written recommendation on the application within 15 business days of today. Thank you very much. We'll take a brief break to let the next group come in.

III. B. Case # 19-5200 New Mexico Gas Company Transmission Line Project. New Mexico Gas Company (NMGC), Applicant, JenkinsGavin, Agent, are requesting a Conditional Use Permit to construct approximately 13.5 miles of new underground, 20" in diameter, natural gas transmission pipeline. The proposed transmission pipeline will begin at the western boundary of Santa Fe County at the base of La Bajada and will terminate at NMGC's existing Regulator Station located on Highway 599 (corner of Highways 599 and I-25). The proposed transmission pipeline will traverse through eleven separate parcels within a proposed fifty-foot easement, within T 15 N, R 8 E, Sections 11, 15, 17, 35; T 15 N, R 7 E, Sections 21, 22, 23, 34; and T 16 N, E 8 E, Sections 26, 34, 35; SDA-1 & 3, (Commission District's 3 & 5) [*Exhibit B-1: Map – Proposed Parker Re-alignment*; *Exhibit B-2: Letter from Select ROW*; *Exhibit B-3: Applicant's Presentation Booklet*]

HEARING OFFICER VIRTUE: Are we ready to proceed? We'll go on record. I think we're ready to proceed with the staff report.

JOSE LARRAÑAGA (Case Manager): Thank you, Hearing Officer. The New Mexico Gas Company proposes to construct approximately 13.5 miles of 20-inch steel transmission mainline, which will loop the existing 12-inch Santa Fe Mainline. The route follows the existing and new right-of-way between Highway 599 Regulator Station in Santa Fe and the western boundary of Santa Fe County at the bottom of La Bajada. The project includes inline inspection, tool launcher and receiver stations, block valves, and tie-ins to existing stations.

The project will require a 50-foot easement or right-of-way for the new line, which includes 25 feet for a working lane and 25 feet for a passing lane. In addition, another adjacent 25 feet will be utilized temporarily for spoil and is only required during construction. The disturbed area will be reclaimed and stabilized per the requirements of the reclamation plan once construction is completed.

The transmission line will be installed per the standard NMGC details with a minimum cover depth of four to seven feet below existing grade and a minimum of seven feet where the line bores across any waterways. A Geotechnical Evaluation Report has been completed to fully understand the subterranean conditions and engineer the project accordingly.

Hearing Officer, it says in your report it says “attached.” The Geotechnical Evaluation is not included as an exhibit; that was a typo on my part.

NMGC is actively securing easements with 11 private landowners as well as rights-of-way with the New Mexico Department of Transportation which includes two NMDOT Rail Runner crossings and one Interstate-25 crossing. All NMDOT crossings will be done via directional drilling as to not disturb the existing improvements. The transmission line will traverse through 1.3 miles of Santo Domingo Pueblo property, 0.5 miles of National Guard property, 0.6 miles of NMDOT property, and 0.4 miles of State property, which Santa Fe County does not have jurisdiction over. The remaining 12 miles is private property where Santa Fe County does have zoning jurisdiction.

The Applicant states the Department of Energy originally built the Santa Fe Mainline, a 12-inch natural gas transmission line in the 1940’s to serve the Manhattan Project. The SFML pipeline extends through Cuba to Los Alamos across the Santa Fe National Forest and across the Valles Caldera National Preserve. NMGC utilizes this pipeline to augment the supply to north central New Mexico including Los Alamos Labs and Los Alamos County. The construction of the new 20-inch natural gas transmission pipeline in Santa Fe County would allow NMGC to eliminate the DOE Mainline, which would reduce the maintenance requirements of that line and reduce capital expenditures related to integrity assessments. Furthermore, the new transmission line will increase capacity to northern New Mexico as well as provide a 20-inch SFML loop capacity for 40+ years.

The Applicant also states the route for the proposed pipeline was selected after detailed environmental, archaeological, and technical analysis. The pipeline corridor begins at the western boundary of Santa Fe County at the base of La Bajada and ends at NMGC’s existing Highway 599 regulator station. To the extent feasible, the route follows the route of an existing 12-inch transmission line, referred to as the Santa Fe Mainline. In Santa Fe County, the pipeline route will be located primarily in new easements and rights-of-way that will be 50 feet in width. The planned route runs through 11 private parcels within Santa Fe County.

Hearing Officer Virtue, before I go on I would like to present to you an exhibit which illustrates a proposed re-alignment of the proposed easement which runs through Mr. Paul Parker’s Santa Fe Metro property. Also a second exhibit is a letter from Select ROW, a company acquiring easement for NMGC, that addresses the acquisition of the re-aligned easement and an aerial illustrating the re-alignment of the easement.

Ordinance 2016-9, the Sustainable Land Development Code, Appendix B, Use Matrix, identifies long-distance or bulk pipelines for petroleum products, natural gas, or mineral slurry as a conditional use within the Agricultural/Ranching, Rural, Rural Fringe, Mixed Use, and PD Zoning Districts.

The Applicant has addressed the conditional use permit criteria per Section 4.9.6.5 and staff has responded to the Applicant’s responses. The Applicant submitted an environmental impact report and a fiscal impact assessment. Staff has determined that

both the EIR and the FIA for the proposed CUP meet the intent outlined in both Section 6.3 and Section 6.7.

The Applicant addressed the applicable design standards outlined in Chapter 7 of the SLDC. The Applicant addressed access, fire protection, signs, protection of historic and archaeological resources and terrain management. Staff has determined that the above-mentioned design standards as addressed by the Applicant met the criteria set forth in Chapter 7 of the SLDC.

Building and Development Services staff has reviewed this project for compliance with pertinent SLDC requirements and has found that the facts presented support the request for a Conditional Use Permit to construct approximately 13.5 miles of new underground, 20 inch in diameter, natural gas transmission pipeline: the use is compatible with the current development within the affected zoning districts; the use will not impact adjacent land uses; and the Application satisfies the submittal requirements set forth in the SLDC inclusive of the Conditional Use Criteria set forth in Chapter 4, Section 4.9.6.5.

The review comments from the State Historic Preservation Office and County staff have established findings that this application to construct 13.5 miles of new underground, 20 inch in diameter, natural gas transmission pipeline is in compliance with State requirements and design standards set forth in the SLDC.

Staff recommends approval of a Conditional Use Permit to allow approximately 13.5 miles of new underground, 20 inch in diameter, natural gas transmission pipeline meandering through 11 separate properties, commencing at the western boundary of Santa Fe County at the base of La Bajada and terminating at NMGC's existing regulator station located on Highway 599 with the following six conditions. Hearing Officer Virtue may I enter the 6 conditions into the record?

HEARING OFFICER VIRTUE: Yes. They'll be admitted.

[The conditions are as follows:]

1. The CUP showing the site layout and any other conditions that may be imposed through the approval process shall be recorded at the expense of the applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.6.8.
2. Prior to recording the CUP the Applicant shall submit, to staff for the record, the recorded documentation of the acquisition of the entire 13.5 mile, 50 foot wide easement utilized by the gas transmission line.
3. All mitigation implemented as recommended in the Environmental Impact Report shall be documented and the findings submitted to staff for the record.
4. The Applicant shall place temporary monitoring fences along the edges of the TUA, for sites LA 155161, LA 157094, LA 157105, and LA 193452, where it intersects with these archaeological sites and a qualified archaeologist shall monitor all earth disturbance construction activities within 100 feet of these site boundaries.
5. A data recovery plan for sites LA 123007, LA 193454, LA193455, and LA 193505, shall be submitted to Santa Fe County and shall be reviewed and approved by SHPO before any ground disturbance can occur.
6. The Applicant shall be subject to all conditions set forth in the Excavation/Restoration Ordinance 2003-1 for any road cuts across and Santa Fe County Maintained Roads.

MR. LARRAÑAGA: Staff also recommends that a 7th condition be placed on the application, which states,

7. Prior to this application moving forward to the Planning Commission, the applicant shall submit a Geotechnical Evaluation Report; an Archaeological Study; and a Terrain Management Plan for the re-alignment of the easement on the Santa Fe Metro property, to be reviewed and approved by staff and SHPO.

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 January 16, 2020.

I stand for any questions.

HEARING OFFICER VIRTUE: Thank you, Mr. Larrañaga. Has the applicant seen these two exhibits that Mr. Larrañaga submitted?

COLLEEN GAVIN: Yes, we have.

HEARING OFFICER VIRTUE: And do you have any objection to admitting them?

MS. GAVIN: We have no objections.

HEARING OFFICER VIRTUE: Okay. So I will label the map as Hearing Exhibit #[B]-1 and the letter as Hearing Exhibit #[B]-2 and they will be admitted into the record.

At this time I would ask those who will be speaking on behalf of the applicant to please identify yourself by address and name for the record, and then we'll have you sworn in.

TOM DOMME: My name is Tom Domme, and I'm the vice president of regulatory affairs and general counsel for New Mexico Gas Company. And my address is 7120 Wyoming Boulevard, NE, Albuquerque, New Mexico.

CURTIS WINNTER: My name is Curtis Winnter. I'm the direct of safety, technical and land services for New Mexico Gas Company. Same address as Mr. Domme.

ANGELA SERRANO DE RIVERA: My name is Angela Serrano de Rivera. Let me give you my card so you can spell that. The address is on there, same address.

MS. GAVIN: My name is Colleen Gavin with JenkinsGavin and my address is 130 Grant Avenue, Santa Fe.

MS. SERRANO DE RIVERA: And I forgot. My title is director of engineering.

[Those wishing to speak were placed under oath.]

HEARING OFFICER VIRTUE: The applicant may proceed.

MS. GAVIN: Hearing Officer Virtue, thank you very much. County staff, thank you very much for your time and attention to this case, in particular Jose, who I've been working with on this. I'm going to first hand out a booklet to help us walk through the project. As Jose mentioned in his introduction, it's 13.5 miles from the bottom of La Bajada Hill to the 599/I-25 interchange, more or less. And so we have some maps in here

to help illustrate the improvements, and we also have a larger, full-sized copy on the table if that's necessary to clarify any questions that may arise.

So I'm just going to go through the presentations but before I begin I'd like to have Tom Domme, who's a VP of regulatory and general counsel for New Mexico Gas just do a very quick statement and overview.

MR. DOMME: I'll be very brief. I want to thank you for hearing us today and I want to thank the staff for all you've done on helping us preserve this today. We appreciate the opportunity to be heard and to make the presentation to you today.

As has been mentioned in the staff's report, this project is important to New Mexico Gas Company and to the State of New Mexico because what it does is it allows us to increase the capacity of natural gas to northern New Mexico from looping our Santa Fe mainline. So increasing the capacity up from Bernalillo, through Santa Fe, to Española, to Taos, to Red River, to Questa, and to Los Alamos. So this is an important project for us. It also does, as we've mentioned, allow us to focus on potentially eliminating the DOE mainline which was built back before WWII to serve gas into Los Alamos.

By doing this line it allows us to feed Los Alamos from this side instead of from the other side. We haven't yet determined whether we're actually going to eliminate that pipeline but it would allow us to downgrade it if we chose to do that, and/or eliminate it. So what this does is really help the supply of gas into northern New Mexico and that's why we're proposing this project at this time. Angela is the director of engineering for New Mexico Gas Company. Curtis is the director of land management. They're the experts on this and they will be the ones answering questions. I'm just here to thank you and to introduce them and I'll answer any questions as well from the regulatory point of view, but that's my function. Thank you very much.

HEARING OFFICER VIRTUE: Thank you.

MS. GAVIN: Okay, so we're just going to go through our booklet very quickly. I think that Jose did a very thorough staff report and I just want to state that we are in agreement with the conditions of approval. I do want to make a friendly amendment to condition number two. Condition number two reads that prior to recording the CUP the Applicant shall submit, to staff for the record, the recorded documentation of the acquisition of the entire 13.5 mile, 50-foot wide easement utilized by the gas transmission line. We would like to add to the end of that sentence: or evidence of a right of entry pursuant to the New Mexico Condemnation Statute.

HEARING OFFICER VIRTUE: Does staff have a position on the amendment?

MS. LUCERO: I think we're fine with that, Hearing Officer Virtue.

HEARING OFFICER VIRTUE: Does anyone else present have any comments on the proposed amendment? If not, I'll accept the amendment as one of the proposed conditions.

MS. GAVIN: Okay. Great. Thank you very much, Hearing Officer Virtue. Okay. So just to go through the – I want to give us enough time just to answer questions, but just briefly to go through some of our visuals here. If you go to Exhibit A, the first sheet, as the staff report says, this is basically illustrating the existing northwest service area of New Mexico Gas. So currently these are the areas that are served via the transmission lines that are in place.

And if you go to the next sheet, as Tom mentioned, these are objectives of this project, of the Santa Fe mainline looping project. Basically the real priority here is to increase capacity for northern New Mexico. And really, kind of a secondary objective is to potentially eliminate that 1940s DOE mainline that runs through the Jemez. And really the result here is really about modernization. With all infrastructure technology changes, regulatory requirements change, they advance, and it is always prudent for utilities to propose these modernizations and improvements and pursue them in the interests of the State of New Mexico and in particular, Santa Fe County.

Next is just an illustration of that DOE mainline that potentially will be abandoned or repurposed with this project. And here you can see in the green, that's an outline, kind of a very simple graphic identifying where that Santa Fe mainline is coming up and is actually coming down all the way from Bernalillo, through pueblo properties and then as stated in the staff report, as far as Santa Fe County, beginning at the bottom of La Bajada and then terminating at 599 and I-25.

I don't think I need to really repeat this. Again, it's a 13.5-mile, 20-inch steel transmission line and it's going to be running through easements and rights-of-way through the route we just discussed.

So if you go to the first tab – and this is the map that's on the table if anybody would like to take a look at it – what this does is it more clearly identifies the 11 properties that are being affected by this proposed improvement. And you can see that on the lower left hand of this map, the line in black, and that actually is an area that's I Santo Domingo Pueblo, so it is not in the purview of Santa Fe County, but where then you begin on property number one in the red line, that shows the route for the 20 inch mainline to come up and you see how it hugs – basically it is mirroring the existing line that runs up La Bajada and that existing scar that you can see as you're driving north on I-25, and then it hugs as best we can to the Interstate 25, along the properties there, crossing a few County roads and DOT. In the middle between 4 and 5, there's a small area where it crosses DOT right-of-way and then as you go up to properties 5 and 6, it then comes to the south and to the east of some residential neighborhoods.

And then coming over to some state property there on the right, coming up to the National Armory, National Guard, pardon me, and then coming up towards I-25 again and back into the DOT right-of-way.

And as Jose mentioned, there's actually about 12 miles that are in Santa Fe County private right-of-way. We've got about 1.5 miles in Santo Domingo. In the New Mexico Armory, we've got about a half a mile, DOT is just over a half a mile, and the State of New Mexico is about half a mile.

So currently, as far as acquisition of the easements and rights-of-way, we currently have six of the eleven properties have been recorded of the private properties. One is a verbal commitment and there is one that is still in negotiation, and then we have the re-alignment of course of Mr. Parker's property, which is property number 9 and so that is currently ongoing.

So if you go through the book, these are just enlargements of those sections. So the tabs identify the property that is being illustrated in the larger so I don't think it's necessary to go through it unless we have some question in particular to those properties at this time.

If you go to the tabs 9 through 11, shown on the properties 9 through 11, and go what is labeled as Exhibit D, these are some details that are included in our application, just showing the standard easement that is utilized for installing the trench and the mainline. You can see the 50-foot right-of-way for basically equipment and then the actual implementation of the installation of the pipe, and then there is a temporary 25-foot easement that's utilized for spill. And if you go to the next page you can see an actual photograph of that.

So this is a typical installation of a pipeline and you can see on the right, we have the lay-down area where equipment can come and go and the equipment is staged. We have the 25-foot section where the trench is installed, and then you have your temporary easement to the left which is where the spill is located temporarily and then obvious we locate it back when [inaudible]

And then if you just want to flip through, there's just some more illustrations of pipe installation. And this was actually – pipeline was installed two years ago up towards Taos and I don't know if you were caught up in that traffic when they were working during the evening hours, but it was a much tighter scenario of installation where they kept the – the construction site was very tight and obviously to maintain traffic two and from they had one lane open and so this scenario, obviously we are not adjacent to a major state highway where we have to keep traffic flowing and so utilizing that 50 feet with the temporary 25-foot easement is really key to having efficiencies in this installation.

So if you just flip through you can just see again visuals, just understanding how the work is done. You can see the pipe being laid into the trench. And then of course as was brought up in the staff report there are standards for how the pipe is actually drilled underneath any type of existing roadways, waterways and how it is installed underneath existing utilities. So New Mexico Gas has a protocol for installation in all those conditions. This first one is illustrating how the pipeline would do a direct boring underneath a waterway, whether it's an arroyo or a creek.

You can see the next illustration is showing the directional boring underneath an existing roadway. And then the next two are illustrations of how the pipeline would be and the standards of separation between the existing utilities.

So this pipeline is not only being installed via open trenching and laying down of the pipe, coming up from La Bajada to basically the top of La Bajada we're going to be utilizing directional boring, which I mentioned before, which is utilized under roadways and waterways. But that area, because of the existing rock and terrain, we're actually going to be doing directional boring for that segment. And so this next picture illustrates how directional boring is done.

And then the next illustration is just identifying the signage that is involved with this utility improvement and for all of the buried line there are markers that are placed along the line and then for any aboveground improvements, those markers, that signage is also utilized.

And the next photographs again just show you again an example of a new line. You can see the reclamation and stabilization of the area that was improved, and you can see those markers.

Reclamation is really key to any project that New Mexico Gas does, if there's any disturbance to the ground. In complying with the requirements of the SLDC all of these

sections will be reclaimed and here is just an illustration of a pipeline construction. You can see where there's some reclamation with reseeding and stabilization of slopes, and then you can see two years following, you can see the growth that has occurred.

And then of course, obviously, the EIR that was submitted as part of our application, of course we will be in compliance with that in documenting all of the improvements that will be installed as part of this project.

So with that we have summarized our response to the conditional use permit criteria. I think that Jose did a very thorough job of explaining that, but if we do need to review that at all or reference it, we have included it here with some highlights. So with that I would like to open this up for any questions. And we are in agreement with staff's recommendations of approval.

HEARING OFFICER VIRTUE: Does staff have any questions of the applicant?

MS. LUCERO: No, Hearing Officer Virtue.

HEARING OFFICER VIRTUE: I just had a couple. Regarding the horizontal boring, you're going to go underneath the roadways?

MS. GAVIN: Correct. Yes.

HEARING OFFICER VIRTUE: Can you do that without disrupting traffic? Is there any interference with traffic flow at all when that is done?

MS. GAVIN: Angela, would you like to go ahead and answer that?

MS. SERRANO DE RIVERA: So it depends on the area that we're doing it at that, but typically, no. That's one of the reasons that we do directional boring is because it's less impact to both traffic, to the environment, so it's a good way of less impact to the surroundings.

HEARING OFFICER VIRTUE: And what, for my background information, what's the construction timeline for this project? I assume it will be multi-year.

MS. SERRANO DE RIVERA: So we plan to start April in 2020 and complete by October of 2020, estimated time.

HEARING OFFICER VIRTUE: Very aggressive schedule. Those were all the questions I have. Does anybody else wish to speak on behalf of the applicant? Any persons that have been sworn? Okay. Are there members of the public who wish to speak in favor of the application? Seeing none in favor, are there any members of the public who wish to speak in opposition to the application?

SAM ROBERTS: Yes.

HEARING OFFICER VIRTUE: Please identify yourself by name and address.

MR. ROBERTS: Sam Roberts, Box 1535, Cedar Crest, New Mexico. I work for the Peplers.

[Duly sworn, Sam Roberts testified as follows:]

MR. ROBERTS: I represent the Peplers here, Mary and Patty, who have inherited this property from their father, my grandfather, Larry Pepler. We had to deal with eminent domain with the Rail Runner. First thing they are wanting to know, if they're wanting to run a new line, how they're able to get it past the Indian land. There's no eminent domain power with those guys.

MR. DOMME: We've negotiated rights-of-way with the pueblos on the way up to La Bajada Hill.

MR. ROBERTS: Do you guys have those negotiations finalized?

MR. DOMME: Yes.

MR. ROBERTS: Okay.

PATTY PEPPLER: Patty Pepler, same address.

[Duly sworn, Patty Pepler testified as follows:]

MS. PEPPLER: Concerning the boring that's going under the Rail Runner, are we sure we're going to be into code on that with the Rail Runner and everything that we've just put in lately from Santa Fe County? Are we doing this to specifications for the State or for the federal railroad?

MS. GAVIN: I'm going to have Curtis Winnter answer that question.

MR. WINNTER: Yes, Hearing Officer Virtue and Patty, as we've talked, New Mexico Gas Company, we intend to bore to the DOT. It's going to be under permit from the State of New Mexico. Working with the Rail Runner, we've done geotechnical investigations and it certainly will be a permitted crossing with the DOT as well as the areas that we have identified on your property as the exhibit for the easement. So our intent is to absolutely comply with every regulation and every rule, not only crossing the Rail Runner but all the other areas where we operate.

MS. PEPPLER: The condition number 2, I didn't get to read it but I heard there was an add-on for evidence of right of condemnation. Am I to assume this is a PRC act or is this a State act? Excuse my – are we going to be covered by the State if something like this transacts as the pipeline not being suitable for the site there? It's just a high risk area, this high pressured line. Will it be up to code on everything that we need to do to keep it safe for the public? And if we don't comply, then this condition number 2 will allow you to go in and condemn; is that correct, the way I understand it? This add-on of verbiage for condition number 2?

MS. GAVIN: Yes. So the friendly amendment to condition number 2, basically the evidence of the right of entry pursuant to the New Mexico Condemnation Statute allows New Mexico Gas to pursue condemnation per that statute. So – and I want to address your question about safety of the line, because you brought that up first.

MS. PEPPLER: Yes, I did.

MS. GAVIN: Do you want to address that?

MS. SERRANO DE RIVERA: Sure. So this is a state of the art pipeline. It is the newest materials, newest construction practices. It's newest regulations. We adhere and go above and beyond all requirements of both federal and state requirements.

MS. PEPPLER: I heard the word sloping and you have to understand I dealt with DOT on the Rail Runner and never anticipated those berms that we have out there now. And when we tried to discuss it with DOT it was a design and plan as you go argument that they were talking about. Am I to understand that this will be surface level and there will be no humps, there will be no sloping, there will not be any of that? In your proposal here tonight, for any of the landowners?

MS. GAVIN: That is correct. Our application included fully engineered plans of this underground line. The entire line is underground. So there will be no physical humps or change to the natural topography where this line runs. And that has

been reviewed by Santa Fe County grading department. And so that line is completely underground. Correct. Do you have anything else?

MR. ROBERTS: We're one of the hold-outs, still trying to do some negotiations, but more importantly we have partners involved in quite a bit of this property, and I represent those partners. The PRC doesn't represent the partners in our vested interest and their vested interest in the property. And they've raised serious concerns. Multiple copies of easements that the Gas Company has come up with along with Select ROW and then less than adequate – nothing in regards of hold harmless for any of our clients, nor any protections of issues that are involving the construction, nor addressing any issues that we have as far as the burial depth. More particularly if you have to go underneath the Rail Runner, which is approximately 40 feet in the environment code from top to bottom, plus probably more I would imagine with federal statute. Even raise awareness of continuous ten feet and they keep telling us the maximum they can do is seven feet.

We have raised this concern at many meetings. We've even asked for an engineering plan. I spoke with Curtis probably about 15 minutes ago, before the meeting commenced and he said there was an engineering plan set sent to me, but the only plan that was sent to me was not an engineering plan; it was a conceptual plan that we're all looking at right now. We'd very much like to see that because I know with a gas line of this size there's not just one pipeline that needs to be brought to this high pressure line. In the engineering status, you bring one who's in engineering to book and see that you need to run carbon dioxide gas to cool said line.

We've also asked if this line would potentially go from being intrastate to potentially interstate one day, connecting to the Jonah gas field up in northern Wyoming, eventually to the Borrego pump station down in El Paso, over to Aztec and eventually down into west Texas, which is a very good possibility. We even asked why they couldn't run the existing line with the one that was put before I was even born.

I've spent many an hour down at the County looking at old easements and with the way the old easements are written there shouldn't be any reason why they cannot use the old line that is in place now and run the line that they are proposing to connect to the 599.

Like I said we're continuing negotiations but those are things that we've had and they've not been answered. Pieces of information we've requested we've not been given and we've also requested a piece of information that shows they have eminent domain power and they have not given that to us, but it's easily readable when you go to the website through NM Gas, which is an Emera corporation, out of Canada, and you can read that through multiple federal agencies that show that they have that power but we have not been given that personally.

MS. PEPPLER: I have one more question. Sorry. What is Santa Fe County going to propose as an official safety setback for development from this gas line? And that is also a question that I would like answered. There is over – I think there's 3 ½ sections that we would have to deal with out there as far as development and the future development. I need to know what the setback from the gas line would be. What was Santa Fe County considering what their legal setback would be from that line?

MS. GAVIN: So I'm going to answer your setback question and then –

MS. PEPPLER: I'm not sure if I asked it right.

MS. GAVIN: You did. I'm also trying to make sure that we address a question that was brought up prior, but we'll do that after. So Hearing Officer Virtue, ma'am, there is a 50-foot – the proposed new transmission line will be in a 50-foot easement. So that's 50 feet. And that pipeline will be installed within that 50 feet. So the setback is within that easement. And so no development can occur within that cumulative 50-foot easement. So there's 25 feet that the gas line is set in and there is a 25-foot offset easement, but across the entire width of it it's 50 feet. So no development can occur within that, obviously for the safety of all. Does that answer your question?

MS. PEPPLER: Well, yes. I knew we couldn't plant anything in the right-of-way but my question was what is Santa Fe County going to propose as a safety and legal setback from this power gas line? That's what I'm wanting. Because it has to be considered.

MS. GAVIN: I cannot speak for Santa Fe County so I'll have Jose address that, but it is my understanding from the staff report that we received recommending approval is that they're in agreement with our required 50-foot easement to house that gas line. But I will have the County answer that question directly.

HEARING OFFICER VIRTUE: Would staff like to address the question?

MS. LUCERO: Hearing Officer Virtue, the code doesn't regulate any additional setbacks so we felt that with the pipeline within that 50-foot easement that that was sufficient. So people wouldn't be able to build into the easement and therefore not close to the gas line.

HEARING OFFICER VIRTUE: Okay. Thank you.

MR. DOMME: Mr. Hearing Examiner, if I might address some of Sam's points, and we will continue negotiations with him as we go forward. There was a lot in there. I think the best way to deal with all that is really just deal with that in negotiations as we go forward. So as far as where the line is going, CO₂ lines and so forth, that has little to do with the approval of this CUP but we will continue to negotiate with you and answer your questions the best we can. We are trying to be forthcoming and will continue to be forthcoming and so we will answer your questions as they come up.

HEARING OFFICER VIRTUE: Yes, and Mr. Roberts, just to respond to you, if this is approved, if the conditional use permit is approved that does not affect your direct negotiations with the gas company on the issues you raised and others, just to clarify that.

MR. ROBERTS: Understood. Thank you, sir.

HEARING OFFICER VIRTUE: Anyone else present that would like to testify in opposition to the application?

CHRIS MILLER: Chris Miller, 37 Taylor Loop. I'm affected on the boundary there.

[Duly sworn, Chris Miller testified as follows:]

MS. MILLER: I'm concerned – at the last meeting we went to, one person said you were going to keep the old pipeline in use and have it run as long as it's good. Another person had claimed that the pipeline was going to be shut down and emptied out and just left there and not be used. I'm concerned about which way that's going to go and also what's going to – what are the safety precautions you're going to use on that old pipeline. We see all the time on the news these houses are blown up from old pipelines and problems with that. So I want to know what you're doing. Are you going to keep

using the old one or how you're going to cap those or what you're going to do with the old line.

MS. GAVIN: I'd be happy to answer that question. Hearing Officer Virtue, Ms. Miller, this exhibit here that's in the booklet identifies the area of the old DOT mainline here, which is currently operational. In our neighborhood meeting we mentioned that that line may be abandoned and left in place. So that was the reference to a line being abandoned. The line that you mention that is still operational and will continue to be operational is the existing 12-inch Santa Fe line. And that 12-inch Santa Fe line runs parallel – actually it might be easier for me to show you here.

So the existing 12-inch Santa Fe line is in yellow here, okay? It currently runs parallel to our proposed alignment at the bottom of La Bajada and then it actually crosses I-25 and is on the north side of I-25 here and runs through – and you can see it runs all the way to the regulator station at 599. It's near number 11. That line will continue to be operational. It will remain in place, so that will remain as a distribution line. This will become the new transmission line. So that will remain in place and this will be the new transmission line.

And again, as our presentation mentioned, the whole point is to basically bring in state of the art technology for this new line. This line was built – and Curtis, remind me –

MR. WINNTER: 1964.

MS. GAVIN: 1964.

MR. WINNTER: Or excuse me. This end was 1965.

MS. GAVIN: 1964 or 1965. So this line was put in place a long time ago. And like with any type of infrastructure or utilities, you want to upgrade as far as current safety standards, technology. That's what this program is all about. But that line will remain in place.

MS. SERRANO DE RIVERA: So I would like to address your concerns about safety. So with this pipeline – so we started out at the lab. So when the pipe is rolled at the mill it goes through lab testing to ensure that the material is the purity that is required. Once it leaves the lab and is out on our right-of-way we have inspectors on the right-of-way that ensure that that pipeline and the project are being done according to all policies, procedures, federal and state requirements. When the pipe is welded together we do what's called non-destructive testing which examines the welds to ensure the integrity of the welds, that there is no leaks. Then we do a hydrostatic test which is a strength test to ensure that there is not going to be any leaks in the material.

Every year we do a leak survey on the pipeline to ensure that we don't pick up any signs of gas, and then every seven years we run what's called an ILI tool, it's an inline inspection tool that goes through our pipeline and it's a device that assesses any wall loss. So if there's any wall loss we mitigate the potential of any risks once we identify there's a potential of anything with our pipeline, we'll dig it up and assess it and continue to monitor it.

So like I said, this is a state of the art pipeline, newest technologies, and newest construction practices.

MS. MILLER: I'm not concerned about the safety of the new one. I'm concerned about what's happening to the old one. Is it going to just rot away or –

MS. SERRANO DE RIVERA: So it's a federal requirement – what's called integrity management. So operators must identify any potential threats in their

system and develop a plan to mitigate those threats. So one of those – part of the plan is to run the ILI tools through our pipeline. So it's a requirement that we run the tool and we assess the pipeline. So we have a third party that does that for us, so they look at it and they say if there's any wall loss or any anomalies that we should be aware of. And then our engineers also look at that analysis. So if we identify that there's a potential for any risk in the pipeline, we'll dig it up, we'll assess it, and we'll continue to monitor any potential threats to our system.

MR. DOMME: And your concerns – we absolutely understand your concerns. We know what you're saying and we've seen what's happened throughout this country. And our company spends most of its time focused on ensuring the pipelines that we have in place today are absolutely and completely safe. And the entire engineering department of New Mexico Gas Company, that's what they focus on. And we have a first-rate, state of the art integrity management program that exceeds in many respects the federal requirements. We're monitored and we're inspected by the federal FIMSA as well as the New Mexico Pipeline Safety Bureau. We interact with them every day to ensure that our pipelines are safe.

This pipeline, the 12 inch Santa Fe mainline right now, if it remains in place, and it probably will, because what it does is it serves people along it already. There are people that take gas off that line. So we probably have to leave it in. I'm sorry that there was some confusion about one of the answers that you got about whether it was going to be abandoned or left in. It's always been our intent to leave it in because it serves the pueblos and the people along the way. It pretty much has to stay in. But that does not mean – and the fact that it was built in 1964 does not mean that it's an old pipeline. These pipelines last 100 years or more. So these are substantial pipelines. And we do everything we can to make sure that pipeline is safe. We don't want anything to happen to any of our customers along these lines. That is certainly – we have as much interest in that as you do. And Angela and her department, that's what they focus on.

So your concerns are valid, and understand that we think about those concerns every day when we go to work.

MS. SERRANO DE RIVERA: So we actually have a team right now of five engineers that that's their job – integrity management. That's all they do is ensure the safety of our pipelines. I'm actually hiring two more engineers, so we'll have seven engineers that that is their focus.

MS. MILLER: Okay. The other thing – I guess I'm probably not affected, because you talked about there was 15 people that you're in whatever with. I mean from the map I look real close, but evidently you would have notified me if I were being affected by any of that stuff. I'm just concerned because it looks like it's ten feet away from my property but evidently it's not. Because at the last meeting I thought you said there's a 25-foot easement; now you said it's 50. Maybe I misunderstood before – 25 on each side. I'm not sure.

MR. DOMME: Twenty-five on each side. Yes, ma'am.

MS. MILLER: Yes. I might have misunderstood that from the last meeting. So I guess it's going in, whether we like it or not.

MR. DOMME: Ma'am, I will give you my card and you can call me directly and we will chat on this.

MS. MILLER: That's all right. I just want my feelings known, that's all.

HEARING OFFICER VIRTUE: Is that it?

MS. MILLER: Yes.

HEARING OFFICER VIRTUE: Anyone else from the public who would like to testify? Yes, sir.

VINCENT MARCHI: My name is Vincent Marchi.

[Duly sworn, Vincent Marchi testified as follows:]

MR. MARCHI: I'm not in opposition to this. Just I'd like a little more clarification. I have property in Section 11 over here. It's right off the corner of Erica Road and the Frontage Road. And I apologize. I can't see it. I know you're going to go through right across the highway and then right along the Frontage Road between my property and there's a right-of-way right there.

MS. GAVIN: Correct.

MR. MARCHI: And I just need some more clarification on that. I know that there is because I have a permit – we're in the process of building a storage facility on that property, right there on Erica Road. Right now it's a –

MR. DOMME: Can you give us one second to find –

MR. MARCHI: Sure. Sure.

MR. DOMME: Why don't you tell us where you are. Let us find your property and we'll look at it.

MR. MARCHI: It's right on the corner, right where it crosses the highway, and then it's the blank property right here, just before the bend. It's 4 Erica. It's approximately right here. And one of my concerns, or I don't know if it's a concern. I'm sure you'll work around it. Right there where you're running this I know that there's a – is it a 23-inch high pressure water line, running right in that area. So I don't know – I'm sure you'll run above it or below it. And that's a 50-foot easement between my property and the edge of the frontage road. So I just need some clarification.

MS. GAVIN: Of course.

MR. MARCHI: Of what's going to happen in that area.

MS. GAVIN: Yes, so Mr. Marchi and Hearing Officer Virtue, so part of our application is we had to submit fully engineered utility plans. And so what I did is I pulled up the sheet here. This is just an 11 X 17 but we have full-sized sheets and I'd be happy to go over this with you. But the lines being proposed is within the Department of Transportation right-of-way so it is not – on the other side of I-25 it is in the DOT right-of-way. It is not in any private land.

MR. MARCHI: right.

MS. GAVIN: It's within their right-of-way and we have documentation of all the other utilities in that area. So that is something that the County wanted to make sure we had thoroughly looked at, and so yes, the placement is obviously within the requirements for separation between utilities and we do have it documented here. So I'd be happy to get you this sheet, maybe at a larger scale so you can really see it, and we'd be happy to talk to you about that. But it is not coming onto your property.

MR. MARCHI: I'm just being noseey.

MS. GAVIN: That's okay.

MR. MARCHI: I know it's not coming onto my property. I just would like to know what's – how close or if it's going to –

MS. GAVIN: Yes, and after the meeting, if you would like I'd be happy to show you this and we can also get you a larger-scale map.

MR. MARCHI: Thank you.

HEARING OFFICER VIRTUE: Are there any other members of the public who wish to testify? Okay, seeing none, I would ask Ms. Gavin if your intention was to introduce this bound booklet as a separate exhibit in the record?

MS. GAVIN: Yes. It's a bit redundant to our application but I think it's a little clearer in the graphics.

HEARING OFFICER VIRTUE: It appears it contains the same information but it's all the different formats. I would propose to just go ahead and admit that as Hearing Exhibit #[B]-3.

MS. GAVIN: So we are in agreement. Yes.

HEARING OFFICER VIRTUE: If there's no objection I will do that. Okay. With that I will close the hearing and will make a written recommendation within 15 business days. Thank you very much.

MS. GAVIN: Great. Thank you very much.

III. C. Case # 19-5210 Henry H. Carey Revocable Trust. Henry H. Carey Revocable Trust, Applicant, Oralynn Guerrerortiz, Agent, requests a variance of Chapter 7, Section 7.17.4.3, (Disturbance of 30% Slope) to allow an existing foot trail to be improved creating a disturbance of approximately 3,500 square feet of slopes in excess of 30%. The site is within the Tesuque Community District Overlay within the Residential Community Zoning District. The site is located at 72B Bauer Road, within Township 17 North, Range 10 East, Section 5 (Commission District 1), SDA-2

HEARING OFFICER VIRTUE: Are we all ready to go on the record for the next case?

NATHAN MANZANARES (Case Manager): Thank you. The property consists of 9.3 acres and is in the Residential Community zoning district within the Tesuque Community District Overlay. The Applicant request to improve an approximately 350-foot-long private dirt foot trail from 3 feet to 6 feet in width. The current conditions of the trail are steep, with a raw dirt surface on a heavily forested slope. The proposed improvements also include removing dead brush and trees bordering the existing trail in order to reduce fire risk and danger to the area. The amount of disturbance to slopes in excess of 30 percent is 3,475 square feet. The Sustainable Land Development Code allows disturbance of slopes in excess of 30 percent for driveways; therefore, the Applicant is requesting a variance of Chapter 7, Section 7.17.4.3 of the SLDC.

Upon review of the Applicant's proposal and visiting the site staff has concluded that the Applicant's proposal is unable to be developed under strict adherence to the terrain management regulations set forth by the Sustainable Land Development Code. Therefore staff recommends approval of the Applicant's request subject to the conditions as state in the report. Officer Virtue, may I enter the conditions into the record as stated in the staff report?

HEARING OFFICER VIRTUE: You may. They will be entered.

[The conditions are as follows:]

1. Construction shall be in accordance with Engineered plans provided.
2. Applicant shall use ATV and wood chipper as stated in variance request, no heavy machinery will be permitted during trail improvement construction.
3. The development must comply with Fire Prevention requirements and conditions.
4. The development must obtain development permits from the County before any construction can take place on the property.

MR. MANZANARES: Thank you. 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 December 19, 2019. Hearing Officer Virtue, I stand for any questions.

HEARING OFFICER VIRTUE: Okay. Thank you very much for that. At this time I would ask those persons who will speak on behalf of the applicant to please identify yourself for the record by name and address, and then raise your hand and be sworn.

[Those wishing to speak were placed under oath.]

ORALYNN GUERRERORTIZ: My name is Oralynn Guerrerortiz and my mailing address is P.O. Box 2758, Santa Fe, New Mexico, 87504.

HENRY CAREY: I'm the applicant, 72-B Bauer Road, Santa Fe.

THOMAS CIROLIA: And I'm here as property manager to Henry's neighbor, and so I'm speaking on her behalf. She's not able to – she doesn't live in town.

HEARING OFFICER VIRTUE: Okay, we'll have you proceed after the applicant's representatives present and then we'll have you be sworn in and testify in support.

MR. CIROLIA: In support. You bet.

HEARING OFFICER VIRTUE: Thank you. You may proceed.

MS. GUERRERORITZ: So Mr. Carey is at the end of Bauer Road and there is an existing foot trail from his property going down to Tesuque Creek and there's quite a bit of dead trees. If you don't know Mr. Carey, he's the executive director of the Forest Trust. He cares about forest health. He recognizes he's got a fire hazard and he wants to widen the trail. This is below the land he owns. This part he still currently owns, across the Tesuque River he's already put in the Forest Trust name.

The trail is impossible to see but it actually kind of winds down here – so we got it surveyed in and identified all the significant trees so that we could protect them, and we're not working in a flood zone along the Tesuque Creek, but the intention is just widening it. And just to be clear, there is a condition of approval that no heavy equipment be used. There's not the intention of using heavy equipment, but we will use a bobcat to widen that road and there might be a bucket on that bobcat to help remove tree stumps and things like that. There's certainly going to be on the pathway that are not significant will be taken out and pulled out, probably with an ATV.

And I think that's it. We agree to all conditions as presented. I just wanted you to know that Ms. Lynn Pickard was going to be here today but I told her I didn't think it was really necessary. You guys were running a little long. But Ms. Lynn Pickard had written a

letter of support previously. They're from the local Tesuque community, and I think it's some kind of Tesuque Community Planning Board of some sort. I'm not quite sure. But we met with them and got their support. Everybody seems to be happy about it because it's actually helping to reduce the fire danger. So I'll stand for any questions you might have.

HEARING OFFICER VIRTUE: I have none at this point. Mr. Carey would you like to speak?

MR. CAREY: I think Orallynn very much summed everything up for me.

HEARING OFFICER VIRTUE: With that I will now ask for members of the public that wish to speak in support of the application. Yes, sir.

MR. CIROLIA: So you want my name?

HEARING OFFICER VIRTUE: Your name and who you speaking on behalf of, and your address.

MR. CIROLIA: My name is Thomas Cirolia. I'm speaking on behalf of Livinia Currier whose boundaries match Mr. Carey's. She is at 72-A Bauer Road. My address is in town. I'm not sure if it's that significant.

HEARING OFFICER VIRTUE: That's sufficient. Thank you.

MR. CIROLIA: And she is in favor of whatever Mr. Carey feels he needs to do on the property. She's feels he's a good steward of the land and she has no concerns whatsoever.

HEARING OFFICER VIRTUE: Okay. Thank you. Is there anyone else who wishes to speak in favor of the application? Seeing none, is there anyone who wishes to speak in opposition to the application? Seeing none, I will close the hearing and I will have a written recommendation distributed in 15 working days.

MS. GUERRERORITZ: Thank you.

III. D. Case # 18-5180 Gregorio and Elizabeth Lopez Variance. Gregorio and Elizabeth Lopez, Applicants, Rick Chatroop, Agent, request a variance of setback requirements of Chapter 9, Section 9.11.2.1 (Tres Arroyos del Poniente Community District Overlay, Setback from NM 599) of the Sustainable Land Development Code (SLDC), requiring a 250-foot setback from NM 599. The property is located off of NM 599 north frontage road at 572 NM 599 Frontage Road within the Tres Arroyos del Poniente Community Overlay District and is zoned Residential Estate, within Section 1, Township 16 North, Range 8 East and Section 36, Township 17 North, Range 8 East (SDA-2). (Commission District 2)

HEARING OFFICER VIRTUE: Good afternoon. If you're ready I will introduce the case and then you can proceed.

MR. MANZANARES: The property consists of two legal lots of record, one of which is located with the City of Santa Fe's jurisdiction and the other located in Santa Fe County's jurisdiction which Mr. and Mrs. Lopez intend to develop. Both lots combine for a total of 6.27 acres. The lot located within Santa Fe County's jurisdiction is where the proposed residence will be located. The lot is within the Residential Estate zoning district within the Tres Arroyos Del Poniente Community District Overlay. The

Applicants request to build a single-family residence within the required 250 foot setback from NM 599 per Chapter 9, Section 9.11.2.1 of the SLDC. The Applicants state that there is poor drainage on the property that does not allow development in the northern rear portion of the property and therefore request a variance to build a residence within approximately 98 feet from NM599. The Applicants also state that this request is also based off development setbacks imposed on adjoining properties within the area.

Upon review of the Applicants' proposal and visiting the site, Staff has concluded that the Applicants' proposed variance is justifiable and to develop under strict adherence to the NM 599 setback set forth by the Sustainable Land Development Code, could cause the potential risk for future flooding by building within a drainage area. In addition, multiple precedents have been set by adjoining neighbors building within the required NM 599 highway setback, therefore, staff recommends approval of the Applicants' requested variance subject to the conditions listed in the report. Hearing Officer Virtue, may I enter the conditions to the record as stated in the staff report?

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

[The conditions are as follows:]

1. Construction shall be in accordance with Topographic Plan done by Mr. Rick Chatroop, Applicants shall not build within hatched area designated as a drainage by Mr. Chatroop.
2. Applicants shall provide an Engineered Grading & Drainage plan with submittal for a Single Family Residence Permit.
3. The development must comply with Fire Prevention requirements and conditions.
4. The development must obtain development permits from the County before any construction can take place on property.

MR. MANZANARES: 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 December 19, 2019. Hearing Officer Virtue, I stand for any questions.

HEARING OFFICER VIRTUE: Thank you. Now we will proceed.

[Those wishing to speak were placed under oath.]

RICHARD CHATROOP: I'm Richard Chatroop. I'm at 110 Wagon Trail Road, Cerrillos, New Mexico.

GREG LOPEZ: My name is Greg Lopez. My present address is 1234 West Cochiti in Hobbs, New Mexico. Hopefully at the end of the year I'll be here.

ELIZABETH LOPEZ: Elizabeth, and my address is the same, 1234.

MR. LOPEZ: And I'll speak for my daughter, she cannot talk. Nicole Lopez. She's 39 and she's same address.

MR. CHATROOP: Well, it was pretty well summed up in the opening statement there. It's just all about a drainage issue. To force them to put their home at the required setback would force them into a drainage area which could potentially increase the flow to the neighboring lots and cause more of a problem for the neighbors, plus having to build up to be able to build in a drainage position And after doing – I've lost count of how many plats I've recorded in Santa Fe County but every plat pretty much has a "Do not build in the natural drainage. Maintain the natural historic flow of drainage."

So we'd be disturbing the natural historic flow. We'd be increasing the cost of their construction, and potentially increasing the flow onto the neighboring properties, channeling it more and causing more damage to the neighboring properties. So that's the whole basis of this request is to move it forward on a much flatter, much more suitable building site. It's a large lot and it's just somewhat absurd to push it all the way to the back. And the neighboring parcels on either side have homes that are much closer to the right-of-way. They were grandfathered in, but they're much closer, so it doesn't create an unusual aspect to this home sticking out in comparison to the neighboring areas.

HEARING OFFICER VIRTUE: Thank you.

MR. CHATROOP: And also, I'll add, I did get one call today from a Don Sena, who is one of the people I sent a letter to regarding this meeting, and he was fully supportive because he lives in back of them on the Horizon Lane side. He attests there have been drainage and runoff problems there traditionally. Any time there's a really large storm that area gets flooded. So he backed it up and said he hopes that these people get what they want because he thought they were deserving and that it was going to be a problem if they had to build in the drainage area.

I have exhibits if you need to see.

HEARING OFFICER VIRTUE: Well, I believe we have exhibits that have already been submitted as part of the staff report, unless you have anything in addition to that.

MR. CHATROOP. No. I provided them I'm sure.

HEARING OFFICER VIRTUE: Thank you. Mr. Lopez.

MR. LOPEZ: The only thing I would like to say is the lot that is directly north of us, you can see where there was a trailer there at one time and as we were going and we purchased the land and we were looking around to see where we wanted to set the house there was a big storm that came through. And he had built a beautiful deck, enclosed deck and everything, and that whole storm and everything went to him and just totally engulfed the trailer and everything. He had it up high so it didn't hurt the trailer. He since then has moved the trailer and he left that porch and people just came and stole all the lumber because it was brand new lumber, piece by piece. And they just took it and there's nothing there now.

And I've got a small video if you wanted to see what one storm did and it comes down Don Fidel and then you could see where it just cuts across and goes straight through my property to get to that one lot eventually. And it was a big, big, small little lake there.

HEARING OFFICER VIRTUE: Okay. Thank you for that. Mrs. Lopez, did you want to say anything?

MRS. LOPEZ: No. Other than I just want to come back home. I've been away for a long time.

MR. LOPEZ: I was born and raised in Agua Fria Village and Lopez Lane is named after my family, so we're from that area and we're just going to be a little bit north. And you can't miss the property because of the big, mammoth fence I put up.

HEARING OFFICER VIRTUE: I think I saw that in the photos. Okay. Do we have any members of the public that wish to speak in support? Seeing none, are there any members of the public that wish to speak in opposition? Seeing none, I will close the

public hearing and I'll have a written recommendation distributed within 15 working days of today.

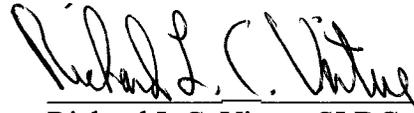
MR. CHATROOP: Thank you for your consideration.

HEARING OFFICER VIRTUE: With that we are concluded.

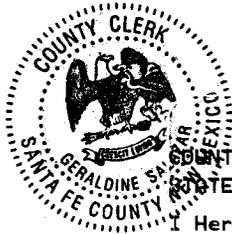
IV. Adjournment

Hearing Officer Virtue adjourned the hearing at 4:35 p.m.

Approved by:



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



SLDC HEARING OFFICER M
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COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

I Hereby Certify That This Instrument Was Filed for
Record On The 13TH Day Of December, 2019 at 09:22:19 AM
And Was Duly Recorded as Instrument # 1904280
Of The Records Of Santa Fe County

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