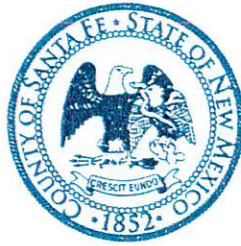


Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

Case # VAR 17-5190 Glorieta 2.0, Variances

ORDER

THIS MATTER came before the Santa Fe County Planning Commission (Commission) for hearing on March 15, 2018, on the Application of Glorieta 2.0 for variances of the following sections of Ordinance No. 2016-9 the Sustainable Land Development Code (SLDC): Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) regarding width and grade of roads; Section 7.17.9.2.3 (No structure may be constructed on a natural slope of 30% or greater); Section 7.17.10.4.1 (Roads and driveways shall not be designed or constructed on slopes over 25%); Section 7.17.10.3.1 (Disturbed area on any lot shall not exceed 12,000 square feet); Section 7.17.9.2.7 (No significant tree may be removed from slopes greater than 30%); Table 8-17, Dimensional Standards-Public/Institutional (PI) regarding the flyline zip line structure exceeding the maximum allowable height of 48 ft.; and Section 7.17.9.3.1 (Height for Structures on slopes of 15% or greater). The 2,227.44 ± acre site is zoned as Public Institutional (650 ± acres)/Rural (1,500 ± acres)/Rural Fringe (78 ± acres) and is located at 11 State Road 50, within T16N, R11E, Section 22, SDA-2 (Commission District 4).

The Commission, having reviewed the Application, staff reports, the Hearing Officer's Recommended Determination, and having conducted a public hearing on the Application, finds that the application shall be approved in part and denied in part, and makes the following findings of fact and conclusions of law:

I. Background

1. The 2,227.44 ± acre Glorieta site has historically been known as the Glorieta Baptist Center. The site was established pre 1981 (1960's) and as per Santa Fe County Ordinance 1996-10, the Santa Fe County Land Development Code, this site, inclusive of structures and uses (to the extent not modified after 1980 and to the extent utilized in a manner consistent with maintaining legal non-conforming status), is considered as non-conforming or pre-code. The site consists of approximately 18 lodges/dorm facilities, approximately 100 small lots with most lots having dwellings on them, a dining hall, an auditorium, meeting rooms, and other structures which were utilized by the Conference Center. The site was utilized as a religious facility, retreat, lodging for attendees of camps and retreats, and other activities associated with the facility.
2. On February 15, 2017, Santa Fe County Growth Management Staff and the Santa Fe County Fire Marshal conducted a site visit at 11 State Road 50 and 101 Oak on the facility known as Glorieta 2.0 Inc., in accordance with the Santa Fe County Sustainable Land Development Code, Ordinance No. 2016-9 (SLDC), Section 14.1. Staff observed various incidents of unpermitted development including, but not limited to: multiple new structures utilized for zip lines, a structure which includes lake slides and diving boards, multiple decks, a remodeled building utilized as a Coffee Shop/General Store, the construction of trails (grading) for extreme biking, tree houses, and a skeet shooting range. Staff also documented a large area of land that was being utilized to dispose of solid waste material, which is a Public Nuisance and may

contain Hazardous Materials. Glorieta 2.0 was issued a Notice of Violation/Stop Work Order for non-compliance of Section 4.8 (unpermitted development) of the SLDC and Ordinance 1993-11 (Anti-Litter).

3. On August 7, 2017, the Applicant submitted a request for seven variances of the SLDC which include the following: Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3), Section 7.17.9.2.3 (No structure may be constructed on a natural slope of thirty percent (30%) or greater), Section 7.17.10 Development at or over 7,400 feet/Section 7.17.10.4.1 (Roads and driveways shall not be designed or constructed on slopes over twenty-five percent 25%)/ Section 7.17.10.3.1 (Disturbed area on any lot shall not exceed 12,000 square feet), Section 7.17.9.2.7 (No significant tree may be removed from slopes greater than thirty (30) percent), Table 8-17, Dimensional Standards-Public/Institutional (PI), and Section 7.17.9.3.1 (Steep Slopes, Ridgetops, Ridgelines and Shoulders. Height for Structures on slopes of 15% or greater).
4. The 2,227.44 ± acre site is zoned as Public Institutional (650 ± acres)/Rural (1,500 ± acres)/Rural Fringe (78 ± acres) and is located at 11 State Road 50, within T16N, R11E, Section 22, SDA-2 (Commission District 4).
5. The Applicant is the owner of the property 11 State Road 50, as indicated by the Correction Special Warranty Deed recorded in the records of the Santa Fe County Clerk on March 24, 2014.

6. The Applicant authorized JenkinsGavin. Inc. to act as an agent for the application as evidenced by a letter dated April 20, 2017 from Anthony Scott, Executive Director of Glorieta 2.0.
7. On November 15, 2017, a Facilitated Public Meeting was conducted at the Pecos Independent School District Boardroom. Facilitation was recommended by the Administrator as per Section 4.4.8.3. (Types of Cases Referred) which states, "in general, any application which presents controversy, in which residents have questions or concerns, or that the applicant feels is appropriate for facilitation, may be referred to facilitation." The November 15, 2017, facilitation addressed changes made to the facility and concerns of neighbors.

II. Applicable Provisions of the SLDC

8. Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) illustrates that Local roads shall maintain two (2) ten (10) driving lanes, with a minimum R-O-W of fifty (50) feet, and shall not exceed a maximum grade of nine (9) percent.
9. Chapter 7, Section 7.17.9.2.3. No structure may be constructed on a natural slope of thirty percent (30%) or greater.
10. Chapter 7, Section 7.17.10.4.1. Roads and driveways shall not be designed or constructed on slopes over twenty-five percent 25%.
11. Chapter 7, Section 7.17.10.3.1. The disturbed area on any lot shall not exceed twelve thousand (12,000) square feet, disturbance for the required primary driveway shall not be included in the disturbed area square footage. The

location and calculation of the disturbed area on the lot shall be identified on the site development plan.

12. Chapter 7, Section 7.17.9.2.7. No significant tree may be removed from slopes greater than thirty (30) percent.
13. Chapter 8, Table 8-17, illustrates that the maximum height of a structure, within the Public/Institutional Zoning District, shall not exceed forty eight (48) ft.
14. Chapter 7, Section 7.17.9.3.1. The height of any structure located on land that has a natural slope of fifteen percent (15%) or greater shall not exceed eighteen feet (18'). The distance between the highest point of the structure and the lowest point at the natural grade or finished cut shall not exceed thirty (30) feet, unless the portion of the slope over fifteen percent (15%) is incidental to the entire site.
15. Chapter 4, Section 4.9.7.1, Variances, Purpose, states:

The purpose of this Section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements and standards of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

16. Chapter 4, Section 4.9.7.4, Variance Review criteria states:

A variance may be granted by only a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) based upon the following criteria:

1. where the request is not contrary to public interest;

2. where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

17. Chapter 4, Section 4.9.7.5 Conditions of approval.

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of property owners and area residents.
2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.
3. All approved variances automatically expire within one year of the date of approval, unless the applicant files a plat implementing the variance or substantial construction of the building or structure authorized by the variance occurs within that time.

III. The Public Hearing Process

18. On January 4, 2018, this request was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer memorialized findings of fact and conclusions of law in a written order on this request. The Hearing Officer, based on the evidence presented recommended approval of the seven requested variances.

19. Prior to the hearing before the Commission, notice requirements of the SLDC were met pursuant to Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing. In advance of the hearing on the application, the Applicant provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the application was made for fifteen days on the Property, beginning on January 31, 2018. Additionally, notice of the

hearing was published in the legal notice section of the Santa Fe New Mexican on January 31, 2018, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject Property and a list of persons sent a mailing in contained in the record.

20. At the public hearing before the Commission, staff recommended that the Commission deny the Applicant's variance requests.

IV. Compliance with the SLDC

21. The Applicant testified at the public hearing that Glorieta 2.0 is primarily a youth service organization that provides services to various groups, including youth groups, veteran's groups, civic groups, government groups, men's groups, and church groups.
22. The Commission recognizes the value of the camp and the joy that it brings to the kids that have gone there. The Commission finds that it is in public interest to have the facility for the kids.
23. The Applicant requested a variance to Table 7-13 to allow Hagen Creek Road and Zip Tour Road to be improved in portions to a 15' width with a maximum grade of 15%, or improved in portions to a 20' width with a maximum grade of 18%.
24. The Applicant stated that the Hagen Creek Road was built by the US Forest Service in the 1930s for access to the Santa Fe National Forest, which is directly adjacent to the subject property. The Applicant proposes to use Hagen Creek road to provide access to recreational amenities.

25. The Applicant, based upon the recommendation of the Santa Fe County Fire Marshall, proposes to improve the Zip Tour Road and Hagan Creek Road to a 15' width with a maximum grade of 15% on some portions, and to a 20' width with a maximum grade of 18% on other portions. The 20' width will allow for a passing lane on portions of the road.
26. The Applicant stated that the terrain of Zip Tour Road and Hagen Creek Road is very mountainous and improvement of both roads to the standards of the SLDC Table 7-13 would require significant disturbance to the natural grades, vegetation, and wildlife with potential construction of a longer, wider road with numerous switchbacks scarring the mountain side.
27. The Commission finds that the mountainous terrain creates practical difficulties for improving Hagen Creek Road and Zip Tour Road to allow for two 10' passing roads and that improving the roads would result in significant disturbance to the terrain.
28. The Commission finds that the Fire Marshall's recommendations for road improvements will balance the practical difficulties of improving the road and disturbance to the terrain with the need for emergency access and public safety.
29. The Applicant stated that the Zip Tour Road is used for daily inspections and maintenance of the zip lines and roads. Maintenance of the zip line will require truck and heavy equipment traffic daily during approximately eight months of the year. The roads will require maintenance approximately two times per year.

30. The Commission finds that regular maintenance of the road is required to ensure that fire truck and other emergency vehicles have access and that neighbors can access their properties through Hagen Creek Road.
31. The Commission finds that it is necessary to allow access to Zip Tour Road for the daily inspection and maintenance of the zip lines.
32. The Commission finds that limiting the Applicant's use of Hagen Creek Road will minimize the impact that the proposed development will have on neighboring properties that also use Hagen Creek Road.
33. The Commission further finds that improvements to Zip Tour Road and Hagen Creek Road will only bring the roads up to minimum standards necessary for emergency access and not up to standards for general access. Accordingly, the Commission finds that it is necessary to limit the Applicant's use of these roads.
34. The Applicant proposes to allow disturbance on a natural slope of 30% or greater for the following uses or structures: #27 Zip Tour Road, #34 Challenge Treehouse, # 35 Overnight Treehouse, #37 Mudpit Platform, # 38 Green Trail Bridge 1, # 39 Green Trail Bridge 2, #51 Reclamation Area, #56 Zip Tour Platform, #65 Oklahoma Parking/Bike, #67 Trails, #69 Hagen Creek Road, and #71 Bike Terrain Park.
35. The property is over 7,400 feet in elevation and has extreme slopes and mountainous terrain.
36. The Commission finds that the elevation and topography of the property creates a practical difficulty for the Applicant.

37. The Commission finds that redesigning Hagen Creek Road and the Zip Tour Road to avoid disturbance of natural slopes 30% or greater would create a substantial impact to the terrain.
38. The Commission further finds that redesigning Hagen Creek Road and the Zip Tour Road to avoid disturbance of slopes over 25% would create a substantial impact to the terrain.
39. The #34 Challenge Tree House and #35 Overnight Treehouse are located along trails in a wooded area.
40. The Commission finds that there is no fire or emergency access to the treehouses and accordingly, their continued use is unsafe.
41. The Applicant stated that the Mudpit disturbed 694 square feet of terrain at 30% slope and that the disturbed slopes have been stabilized.
42. The Environmental Impact Report (EIR) submitted by the Applicant stated that the disturbance to 30% slope caused by the Mudpit had stabilized. However, the EIR also indicated that the Mudpit may cause sediment deposition into the Glorieta Creek and suggested mitigation measures.
43. The Commission finds that the disturbance of 694 square feet by the Mudpit is minimal and that the terrain is stable to the extent that slope disturbance was evaluated by the EIR. However, the location and impact of the Mudpit and conditions imposing mitigation measures should be further evaluated through the process of obtaining a site development permit.
44. The Applicant stated that the Green Trail Foot Bridge 1 and Green Trail Foot Bridge 2 disturb 224 square feet and 249 square feet, respectively, and provide

access to the existing trail network that connects to the Santa Fe National Forest. The foot bridges are located across drainage ways.

45. The Commission finds that the disturbance of 30% slope by the Green Trail Foot Bridge 1 and Green Trail Foot Bridge 2 are minimal. The Commission further finds that it is in the public interest to provide access to the existing trail network in lieu of construction of new trails and that it would be a practical difficulty for the Applicant to locate either Foot Bridge in an area with less than 30% slope due to the location of existing trails and drainage ways.
46. The Applicant stated that the #51 Reclamation area has been reclaimed and stabilized with seeding and that the disturbance of 30% slopes are the result of the reclamation process. Staff confirms that site has been cleared of solid waste and re-vegetated.
47. The #51 Reclamation area disturbed a total of 166 square feet of 30% slope.
48. The Commission finds that the disturbance caused by the #51 Reclamation area is minimal and that the reclamation of the area is in the public's interest. The Commission further finds that reclamation cannot be relocated.
49. The Applicant stated that the #56 Zip Tour platforms were strategically located on areas of flatter terrain to allow for safe access and maintenance. In order to provide for the retreat's recreational activities, the structures were required to be placed within the mountain terrain. The #56 Zip Tour platforms are not publically visible.

50. The Commission finds that it would be a practical difficulty to locate zip lines on flatter terrain due to the nature of the activity and that the location provides safe access for maintenance. The Commission further finds that the #56 Zip Tour platforms do not negatively impact the view shed.
51. The Applicant stated the new trail connects to an extensive network of existing trails and that abandonment of the trail and the clearing, grading and cutting of new trails would create more disturbance for the natural terrain and potential for erosion. The trails disturb 16,632 square feet of 30% slope over 10.5 miles of trail.
52. The Commission finds that disturbance caused by the trails is not minimal. However, relocation of the trails will cause more harm to terrain and it is in the interest of the public to mitigate further impact.
53. The Commission further finds that the relocation of trails on slopes less than 30% that connect to existing trails would be difficult and an undue hardship due to the topography and location of pre-existing trails.
54. The Applicant stated that the #71 Bike Terrain Park disturbed 1,891 square feet of 30% slope terrain. The #71 Bike Terrain Park is adjacent to the extensive network of existing biking and hiking trails and abandoning the terrain park and relocating it to another area would create more disturbance.
55. The Commission finds that relocating the terrain park would cause further harm.
56. The total disturbed area of all structures and uses on the subjection property is 195,191 square feet, which exceeds the allowable 12,000 square feet of

disturbance per lot at 7,400 feet. The subject property consists of over 2,200 acres. The majority of the disturbance is the #27 Zip Tour Road and #69 Hagen Creek Road (172,352 square feet).

57. As the Commission found above, the majority of the property is above 7,400 feet. The Commission further finds that the large size of the property at 7,400 ft. is an exceptional circumstance and it would cause an undue hardship to limit development on such a large parcel to 12,000 square feet.
58. The Commission finds that the structures and use above 7,400 feet do not negatively impact the view shed.
59. With the construction of #56 Zip Tour facilities, 101 significant trees were removed from 30% slopes where trees were in conflict with the zip line required clearances.
60. The Commission finds that the number of significant trees removed was not minimal and that the breadth of destruction of these trees was not in the public interest.
61. The Commission finds that these significant trees should not have been removed.
62. The Applicant requested a variance for the #30 Holcomb Flylines to allow a height of 75 feet, which is in excess of the allowed 48 feet maximum height.
63. The Applicant stated that the zip line sits on top of the Holcomb building, which is the grand chapel that you can see from I-25. The Applicant provided the Commission with images of the profile of the #30 Holcomb Flyline structure and a closer shot of the structure.

64. Based on the images provided by the Applicant and the visibility of the Holcomb Flyline structure from the public right of way, the Commission finds that the structure negatively impacts the view shed of the public.
65. The Applicant requested variances to allow the height of the following structures to exceed 18 ft. on slopes of 15% or greater: #34 Challenge Treehouse (35'), #35 Overnight Treehouse (26'-2"), #36 Tree Rappel Structure (50'), and #56 Zip Tour Platforms (Platform 3 28'-11", Platform 4 29'-11", and Platform 5 29'-11").
66. The Applicant stated that the structures were constructed in concert with the existing densely wooded area, allowing the structures to blend with the natural surroundings for recreational use. In addition, the activities associated with the structures require steep terrain and elevation changes.
67. The Commission finds that the structures do not negatively impact the view shed. The Commission further finds that the activities require steep terrain and building them below 18' is a practical difficulty.
68. The Commission finds that mitigation of erosion and drainage control, where necessary, is important to reducing the impact of disturbance and construction of structures on the steep terrain of the subject property.

VI. Public Comment

69. The record contains letters and testimony in support of the Application. Board of Santa Fe Conservation Trust, Andrew Thien, Sarah Thien, Josh Nelson, Gloria Romero, Joshua Baker, Sally Hudgins, Brian Romero, Jon Malvig, Scott Chapman, Chris Sheehan, Bill Roth, Mike Chapman, Meredith Nelson, Student

Life Organization, FUGE Camps, Joshua Rogers, Doug Sweet, Eddie Duran, Henry Lammon, Frank Herdman, Bicycle Technologies International, the Village of Pecos, and Anthony Scott provided letters or testimony in favor of the Application.

70. The basis for the support for the Application from members of the public can generally be characterized as follows:

- a. The Applicant provides a resources for hiking, biking, and outdoor adventure;
- b. The public benefits from the activities offered at the site;
- c. The bike trails, zip lines and other outdoor amenities are integral to the programs offered by the Applicant; and
- d. The Applicant contributes to economic development in the region.

71. The Commission finds that the letters and testimony in support from the public establish that the activities and resources associated with the structures and uses that are the subject of the application generally benefit the public.

72. The record contains testimony against the Application. Mike Adney, Jeffery Hanus, Anita Nugent, Robin Williamson, Laurie Ellers, Robert Dean Williamson, Karen Rose, Kristy Hanus, Trisha Keefe, Annie McCarthy, Timothy Nero, Glen Strock, Douglas Booth, Gary Storm, Jerry O'Shea, James Gongdon, and Ginny James all provided testimony in opposition to the Application.

73. The basis for the opposition to the project presented from members of the public can generally be characterized as follows:

- a. Concern that the Applicant installed structures and instituted new uses without first going through the County's development review process and without public input;
- b. The damage done to the environment by the construction of the structures;
- c. Concern about the clear cutting of old growth trees; and
- d. Concerns about the lack of safety oversight in the construction of the structures.

74. With regard to concerns that the Applicant installed structures without development approvals, the Commission finds that the Applicant's actions were inappropriate and recommends that the County take appropriate enforcement action. However, the Commission also finds that these actions are not relevant to the consideration of variance criteria in this instance.

75. With regard to the damage done to the environment by construction and installation of the structures, the Commission finds that while the structures may have negatively impacted the terrain, relocation of the structures may lead to further negative impacts on the terrain.

76. The Commission further finds that the public concern for clear cutting of old growth trees supports denial of the Applicant's request for a variance from the Code provision prohibiting the removal of significant trees from slopes greater than 30%.

77. Additional concerns raised by opponents, including, but not limited to, water consumption and uses for which a variance was not requested, are not

appropriately addressed through this Application. Such concerns may be more appropriately addressed in future development permit applications by the Applicant.

V. Conclusions of Law

78. Any finding or conclusion of law set forth above that may be construed to constitute a conclusion of law is hereby incorporated as such to the same extent as if it was expressly denominated as a conclusion of law.

79. As to the request for a variance from SLDC Table 7-13 - Rural Road Classification and Design standards (SDA-2 and SDA-3) to allow for Hagen Creek Road and Zip Tour Road to be improved to a 15' width with a maximum grade of 15%, or improved to a 20' width with a maximum grade of 18%, the Commission finds that:

- a. The variance is not contrary to the public interest and the spirit of the SLDC is observed and substantial justice is done if the variance is granted because the road widths proposed by the Applicant, in accordance with the requests of the Fire Marshall, will bring the roads up to minimum standards for emergency access, the Applicant will mitigate erosion and control drainage, and limiting the Applicant's use of the roads will mitigate the public safety concerns and impact on neighboring properties associated with the Applicant's use of substandard roads.
- b. There would be peculiar and exception practical difficulties in not allowing the variance because the mountainous terrain is an

exceptional circumstance of the land and improving the roads as required by Table 7-13 would result in excessive disturbance of the land.

- c. Accordingly, the variance criteria set forth in Chapter 4, Section 4.9.7.4 of the SLDC are met.

80. As to the request for a variance from SLDC Section 7.17.9.2.3 to allow disturbance of 30% by the #27 Zip Tour Road, #34 Challenge Treehouse, # 35 Overnight Treehouse, #37 Mudpit Platform, # 38 Green Trail Bridge 1, # 39 Green Trail Bridge 2, #51 Reclamation Area, #56 Zip Tour Platform, #65 Oklahoma Parking/Bike, #67 Trails, #69 Hagen Creek Road, and #71 Bike Terrain Park, the Commission finds:

- a. With regard to the request for a variance to allow disturbance of 30% slope by the #34 Challenge Treehouse and #35 Overnight Treehouse, the variance is contrary to the public interest and the spirit of the SLDC is not observed because there is no fire or emergency access to the treehouses and their continued use is unsafe for the public.
- b. Accordingly, the variance criteria set forth in Chapter 4, Section 4.9.7.4 of the SLDC are not met for the #34 Challenge Treehouse and #35 Overnight Treehouse.
- c. With regard to the request for variance to allow disturbance of 30% slope by the #27 Zip Tour Road, #37 Mudpit Platform, # 38 Green Trail Bridge 1, #39 Green Trail Bridge 2, #51 Reclamation Area, #56

Zip Tour Platform, #65 Oklahoma Parking/Bike, #67 Trails, #69 Hagen Creek Road, and #71 Bike Terrain park:

- i. The variance is not contrary to the public interest and the spirit of the SLDC is observed and substantial justice is done because relocating the structures and uses may cause additional disturbance of the natural terrain and exacerbate the potential for erosion on the property and the Applicant will mitigate erosion and control drainage as necessary on all trails.
- ii. There would be peculiar and exception practical difficulties in not allowing the variance because the elevation and terrain of the subject property and the existing structures and uses associated with structures for which the variances are requested are exceptional conditions of the land that create practical difficulties for the Applicant.
- iii. Accordingly, the variance criteria set forth in Chapter 4, Section 4.9.7.4 of the SLDC are met.

81. As to the request for a variance from Section 7.17.19.4.1 to allow Hagen Creek Road and Zip Tour Road to be designed or constructed on slopes over 25%, the Commission finds:

- a. The variance is not contrary to the public interest and the spirit of the SLDC is observed and substantial justice is done because relocating the roads may cause additional disturbance of the natural terrain and

exacerbate the potential for erosion and the Applicant will mitigate erosion as control drainage as necessary.

- b. There would be peculiar and exceptional practical difficulties in not allowing the variance because the elevation and terrain of the subject property and the roads are exceptional conditions of the land that create practical difficulties for the Applicant.
- c. Accordingly, the variance criteria set forth in Chapter 4, Section 4.9.7.4 of the SLDC are met.

82. As to the request for a variance from SLDC section 7.17.10.3.1 to allow disturbance on slopes of over 25% which totals 195,191 square feet and exceeds the allowed 12,000 square feet, the Commission finds:

- a. The variance is not contrary to the public interest and the spirit of the SLDC is observed and substantial justice is done because disturbance of 195,191 square feet is a small percentage of the 2,200 square foot parcel and the structures and uses above 7,400 feet do not negatively impact the view shed.
- b. There would be peculiar and exceptional practical difficulties in not allowing the variance because the large size of the property is an exceptional circumstance and it would cause undue hardship to limit development on such a large parcel to 12,000 square feet.
- c. Accordingly, the variance criteria set forth in Chapter 4, Section 4.9.7.4 of the SLDC are met.

83. As to the request for a variance from Section 7.17.9.2.7 to allow 101 significant trees may be removed from slopes greater than 30%, the Commission finds:

- a. The variance is contrary to the public interest and the spirit of the SLDC is not observed because of the breadth of tree removal, the fact the removal was done without input from the public, and the public distress over the tree removal.
- b. Accordingly, the variance criteria set forth in Chapter 4, Section 4.9.7.4 of the SLDC are not met.

84. As to the variance from SLDC Table 8-17, Dimensional Standards to allow for a height of 75 feet for the #30 Holcomb Flylines, the Commission finds:

- a. The variance is contrary to the public interest and the spirit of the SLDC is not observed because the flylines are visible from to the public from I-25 and negatively impact the view shed.
- b. Accordingly, the variance criteria set forth in Chapter 4, Section 4.9.7.4 of the SLDC are not met.

85. As to the variance from SLDC Section 7.17.9.3.1 to allow for the #34 Challenge Treehouse (35'), #35 Overnight Treehouse (26'-2"), #36 Tree Rappel Structure (50'), and #56 Zip Tour Platforms (Platform 3 28'-11", Platform 4 29'-11", and Platform 5 29'-11") to exceed 18 feet on slopes of less than 15%, the Commission finds:

- a. The variance is not contrary to the public interest and the spirit of the SLDC is observed because the structures were constructed in concert

with the existing densely wooded area, allowing the structures to blend with the natural surroundings for recreational use, and the structures do not negatively impact the view shed.

- b. There would be peculiar and exceptional practical difficulties in not allowing the variance because the activities associated with the structures require steep terrain and height and thus constructing them below 18' or on terrain less with less than 15% slope is a practical difficulty.
- a. Accordingly, the variance criteria set forth in Chapter 4, Section 4.9.7.4 of the SLDC are met.

WHEREFORE the Commission finds the following:

1. A portion of the Application is not well taken and the Commission hereby denies the requested variance from Section 7.17.9.2.3 (No structure may be constructed on a natural slope of 30% or greater) to allow disturbance of 30% by the #34 Challenge Treehouse and #35 Overnight Treehouse; Section 7.17.9.2.7 (No significant tree may be removed from slopes greater than 30%) to allow the removal of 101 significant trees; and Table 8-17, Dimensional Standards-Public/Institutional (PI) to allow the #30 Holcomb Flylines to exceed the maximum allowable height of 48 ft. Remediation and enforcement of SLDC provisions that were the subject of these denied requests is at the discretion of the Land Use Administrator.

2. A portion of the Application is well taken and the Commission hereby approves the requested variance from Table 7-13; Rural Road Classification and Design

Standards (SDA-2 and SDA-3) to allow for Hagen Creek Road and Zip Tour Road to be improved to a 15' width with a maximum grade of 15%, or improved to a 20' width with a maximum grade of 18% ; Section 7.17.9.2.3 (No structure may be constructed on a natural slope of 30% or greater) to allow the #27 Zip Tour Road, #37 Mudpit Platform, #38 Green Trail Bridge 1, #39 Green Trail Bridge 2, # 51 Reclamation Area, #56 Zip Tour Platform, #65 Oklahoma Parking/Bike, #67 Trails, and #69 Hagen Creek Road;; Section 7.17.10.4.1 (Roads and driveways shall not be designed or constructed on slopes over 25%) to allow #27 Zip Tour Road and #69 Hagen Creek Road; Section 7.17.10.3.1 (Disturbed area on any lot shall not exceed 12,000 square feet) to allow a total of 195,191 square feet of disturbance by the #27 Zip Tour Road, #69 Hagen Creek Road, #27 Zip Tour Road, #34 Challenge Treehouse, #35 Overnight Treehouse, #38 Green Trail Foot Bridge 1, #39 Green Trail Foot Bridge 2, #56 Zip Tour Platform, #65 Oklahoma Parking and Terrain Park, and #69 Hagen Creek Road, and #71 Bike Terrain Area; and Section 7.17.9.3.1 (Height for Structures on slopes of 15% or greater) to allow #34 Challenge Treehouse (35'0"), #35 Overnight Treehouse (26'-2"), #36 Tree Rappel Structure (50'-0"), #56 Zip Tour Platforms (Platform 3 (28'-11"), Platform 4 (29'-11"), Platform 5 (29'-11") to exceed 18 feet. The granted variances are subject to the following conditions:

- a. The Applicant will use Hagen Creek Road and the Zip Tour Road only for emergency purposes and public safety vehicles; that work done on the roads can only bring them to the necessary standard for that emergency use; work to mitigate any erosion problems that the current situation or that the improvements would cause; daily inspection and maintenance of the zip lines; and twice yearly maintenance of the road.

- b. That development permits for the grading of roads that are the subject of the various applications shall be submitted to the Building & Development Services for approval. Prior to submitting a development permit the applicant shall consult with the County Fire Marshal and design the roads to meet the Fire Marshal's requirement. The design of these roads shall also include a plan and profile illustrating how the applicant will mitigate drainage and erosion control.
- c. The development permit for grading of the trails, biking and hiking, that are subject to the variance application shall be submitted to the Building & Development Services for approval. Prior to submitting a development permit the applicant shall consult with the County Fire Marshal. The design of these trails shall also include a plan and profile illustrating how the applicant will mitigate drainage and erosion.
- d. The development permit for grading of the trails, biking and hiking, that are subject to the variance application shall be submitted to the Building & Development Services for approval. Prior to submitting a development permit the applicant shall consult with the County Fire Marshal. The design of these trails shall also include a plan and profile illustrating how the applicant will mitigate drainage and erosion.
- e. The applicant shall not utilize any of the unpermitted structures, developments or improvements, roads and trails listed in the site development plan until such time as the development permits are approved by the Building & Development Services and structural

permits are granted by the New Mexico Construction Industries
Division.

Pursuant Chapter 4, Section 4.9.7.5 , all approved variances automatically expire within
one year of the date of approval, unless the applicant files a plat implementing the variance or
substantial construction of the building or structure authorized by the variance occurs within that
time.

IT IS SO ORDERED.

This Order was adopted by the Commission on this ___ day of _____, 2018.

THE SANTA FE COUNTY PLANNING COMMISSION

Charlie Gonzales, Chairperson

ATTEST:

Geraldine Salazar, County Clerk

APPROVED AS TO FORM:



R. Bruce Frederick, County Attorney