

City of Santa Fe  
Planning Commission  
Findings of Fact and Conclusions of Law

Case #2015-124

Pacheco Courtyard Development Plan and Variance

Owner's Name – Santa Fe Civic Housing Authority

Applicant's Name – Thomas Gifford Architect LLA

THIS MATTER came before the Planning Commission (Commission) for hearing on February 4, 2016 upon the application of Thomas Gifford Architect LLA as agent for Wagon Road Investment, LLC (Applicant).

The Applicant requests approval of a development plan for three existing and six new dwelling units with a density of 18 units per acre. The application includes a request for a variance to allow access via a private road that does not meet the standards of Subsection 14-9.2(C)(8). The property is located at 1343 ½ Pacheco Court and is zoned R-21 (Residential, 21 dwelling units per acre).

After conducting a public hearing and having heard from staff and all interested persons, the Commission hereby FINDS, as follows:

FINDINGS OF FACT

General

1. The Commission heard testimony and took evidence from staff, the Applicant, and members of the public interested in the matter.
2. The Commission has the authority under Code §14-2.3(C)(1) to review and decide applications for development plan approval.
3. Code §14-3.8(B)(1) requires Early Neighborhood Notification (ENN), notice and a public hearing on development plans in accordance with the provisions of Code §§14-3.1(F), (H) and (I).
4. Code §14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) an ENN meeting [§14-3.1(F)(2)(a)(iv)] and (b) compliance with Code Section 14-3.1(H) notice and public hearing requirements [Code §14-3.1(H)(1)(a)-(d)].
5. Code §14-3.1(F) establishes procedures for the ENN meeting, including (a) scheduling and notice requirements [Code §14-3.1(F)(4) and (5)]; (b) regulating the timing and conduct of the meeting [Code §14-3.1(F)(5)]; and (c) setting out guidelines to be followed at the ENN meeting [§14-3.1(F)(6)].
6. An ENN meeting was held on the Application on December 10, 2015 at City Council Chambers at 200 Lincoln Avenue.
7. Notice of the ENN meeting was properly given.

8. The ENN meeting was attended by representatives of the Applicant, City staff and approximately 30 interested others and the discussion followed the guidelines set out in Code Section 14-5.3.1(F)(6).
9. Commission staff provided the Commission with a report (Staff Report) evaluating the factors relevant to the development plan and recommending approval by the Commission.
10. Pursuant to Code §14-3.8(B)(8), approval of a development plan by the Commission is not required for a new development with a gross floor area of ten thousand square feet or less for a multi-family housing project, except the Commission may review the development plan concurrently under Code §14-3.8(C)(2)(b) when the Commission is also reviewing a variance request.
11. Code §14-3.8(C)(1) requires applicants for development plan approval to submit certain plans and other documentation that show compliance with applicable provisions of Code (the Submittal Requirements).
12. The Applicant has complied with the Submittal Requirements.
13. Code §14-3.8(D)(1) sets out certain findings that must be made by the Commission to approve a development plan, including:
  - a. That it is empowered to approve the development plan for the Project [§14-3.8(D)(1)]. *The Commission has the authority under the section of Code Chapter 14 cited in the Application to approve the development plan.*
  - b. That approving the development plan for the Project does not adversely affect the public interest [§14-3.8]. *The Project will not adversely affect the public interest because the development plan is in compliance with the height, parking and open spaces standards required by the Land Development Code.*
  - c. That the use and any associated buildings are compatible with and adaptable to buildings, structures and uses of the abutting property and other properties in the vicinity of the Project [§14-3.8(D)(1)]. *The use is compatible as there is room for additional units on the property and the current proposal is for one-story buildings.*
14. Code §14-7.2(F)(2) sets out certain factors that must be considered for having a density up to twenty-one dwelling units in R-21 districts.
  - a. If the future use designation shown on the general plan is high density residential. *The general plan designation shown on the General Plan is high density residential and Institutional uses.*
  - b. The need for the increased density, however, financial gain or loss shall not be the sole determining factor. *The Housing Authority states it would not be feasible to develop at a lower density.*
  - c. If the increased density is needed to make the proposed development more affordable, what level of affordability will be provided and how that affordability will be guaranteed long term. *Per the Santa Fe Homes Program (SFHP), the project will provide 15% percent affordable rental units or because the project is under 10 total units the Owner may elect to pay a fee in lieu to the SFHP providing the units.*
  - d. Densities of existing developments in the vicinity. *Similar high density residential has occurred on the adjacent parcels to the north and south of the project site, and on other nearby parcels.*

- e. Impacts of the increase density upon the neighborhood and the community so that the increased density does not significantly interfere with the enjoyment of other land in the vicinity and is consistent with the spirit of Chapter 14 and in the general public's interest. *The proposed project will not interfere with the enjoyment of other land in the vicinity, which is developed with high-density residential and non-residential uses. The availability of additional rental housing units can be considered a positive impact on the community.*
15. Under Code Section 14-2.3(C)(3) a variance request that is part of a development plan requires submittal of the variance request for review and approval by the Planning Commission.
16. The Applicant has applied for development plan and variance requests.
17. Pursuant to Code Section 14-3.1(F)(2)(a)(vii) a separate Early Neighborhood Notification meeting is not required for variances.
18. Code Section 14-3.16(B) authorizes the Commission to approve, approve with conditions or deny the variances based on the Application, input received at the public hearing and the approval criteria set forth in Section 14-3.16(C).
19. City Land Use Department staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable Code requirements and provided the Commission with a written report of its findings (Staff Report).
20. Under Subsection 14-9.2(C)(8), access to a lot via driveway or private road that is required to provide emergency vehicle access pursuant to Chapter XII SFCC (Fire Prevention and Protection) must meet the standards of that chapter.
21. The information contained in the Staff Report and the testimony and evidence presented at the hearing is sufficient to establish with respect to the Applicant's request for variances from the requirements are met in that (a) unusual physical characteristics exist that distinguish the private road (a/k/a Rincon del Sol) from others in the vicinity that are subject to the same regulations, in that it has unusual existing characteristics in its design and configuration, including its fifteen foot width and existing permitted and approved buildings, wall and utilities on the east and west side; (b) special circumstances exist as the surrounding properties share the private road and it is the only access to the property; (c) the intensity of development will not exceed that which is allowed on other properties in the vicinity that are subject to the same regulations; (d) the variance is the minimum variance that will make possible the reasonable use of the structure, in that the Fire Marshal has provided several conditions of approval; (e) the variance is not contrary to the public interest, in that the Fire Marshal has provided several conditions of approval.

#### CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Commission CONCLUDES as follows:

##### General

1. The proposed development plan was properly and sufficiently noticed via mail, publication, and posting of signs in accordance with Code requirements.
2. The ENN meeting complied with the requirements established under the Code.

3. The Commission has the power and authority under the Code to review and approve the Applicant's development plan.
4. The Commission has the authority to review and approve the variance requests.
5. The Applicant has complied with all applicable requirements of the Code with respect to the development plan and variance, including the Submittal Requirements.
6. The Applicant has met the criteria for a variance set forth in SFCC §14-3.16(C).

**WHEREFORE, IT IS ORDERED ON THE 3rd OF MARCH 2016 BY THE PLANNING COMMISSION OF THE CITY OF SANTA FE:**

That for the reasons set forth in the foregoing Findings of Fact and Conclusions of Law, the Commission approves the development plan and variance subject to the Staff Conditions.

\_\_\_\_\_  
Vince Kadlubek  
Chair

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Date:

FILED:

\_\_\_\_\_  
Yolanda Y. Vigil  
City Clerk

\_\_\_\_\_  
Date:

APPROVED AS TO FORM:

\_\_\_\_\_  
Zachary Shandler  
Assistant City Attorney

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Date: