

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

Case #2016-90

730 Canada Ancha Escarpment Variance

Owner's Name- Pottery House LLC

Agent's Name – Ruben Loya

THIS MATTER came before the Planning Commission (Commission) for hearing on October 6, 2016, upon the application (Application) of Ruben Loya as agent for Pottery House LLC (Applicant).

The Applicant seek a variance from the requirements of Santa Fe City Code (SFCC) §14-5.6(D) to allow a portion of a trellis to be constructed within the Ridgetop Subdistrict (Ridgetop) of the Escarpment Overlay District (Escarpment). The property is on 6.25 acres of land at 730 Canada Ancha (Property) and is zoned R-1 (Residential- 1 unit per acre).

As SFCC §14-5.6(D) prohibits development in the Ridgetop on lots subdivided or resubdivided after February 26, 1992, the 2005 subdivision necessitates the need for a Variance to allow development within the Ridgetop on the subject property.

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

FINDINGS OF FACT

1. The Commission heard reports from staff and received testimony and evidence from the Applicant and there were no members of the public that offered public comment.
2. SFCC §14-2.3(C)(5)(a) authorizes the Commission to review and grant or deny requests for variances from the SFCC §14-5.6 in compliance with SFCC §14-3.16.
3. SFCC §14-5.6(K) authorizes the Commission to vary the requirements of the Ordinance so that substantial justice may be done and the public interest secured where the Commission finds that strict compliance with those requirements may result in extraordinary hardship.
4. Pursuant to SFCC §14-3.1(F)(2)(a)(vii) an Early Neighborhood Notification meeting is not required for variances requesting construction of an individual single-family dwelling and appurtenant accessory structures.
5. SFCC §14-3.16(B) authorizes the Commission to approve, approve with conditions or deny the variance based on the Application, input received at the public hearing and the approval criteria set forth in SFCC §14-3.16(C).
6. City Land Use Department staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable SFCC requirements and provided the Commission with a written report of its findings (Staff Report) and Conditions together with a recommendation that the Commission approve the variance.

7. 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 a variance from the requirements of SFCC §14-5.6(D) that pursuant to §14-3.16(C):
  - (a) special circumstances exist as unique physical characteristics do exist that distinguish the land from others in the vicinity that are subject to the escarpment overlay district.
    - a. The residence was built with large windows facing west, as a result, the heat gain from the west facing windows limits use of the living room during summer afternoons.
    - b. The trellis will resolve the heat gain issue.
  - (b) the special circumstances make it infeasible to develop the Property in compliance with the Ordinance since:
    - a. The angle of the sun during late afternoon dictates the location of the proposed trellis and that location that is partly within the Ridgetop.
  - (c) the intensity of development will not exceed that which is allowed on other properties in the vicinity that are subject to the Ordinance as:
    - a. Many of the residences in the neighborhood have trellises, portals or other shade structure on the south and/or west sides.
    - b. The granting of this variance to construct a trellis will not increase the intensity of the development.
  - (d) the variance is the minimum variance:
    - a. The proposed trellis minimizes the amount of construction, as opposed to the alternative, which would be to build a roof over the patio.
    - b. A roof over the patio alternative would have resulted in building entirely in the Ridgetop.
  - (e) the variance is not contrary to the public interest, in that the proposed addition will be sited in a manner to meet the purpose and intent of the Escarpment regulations by minimizing visual impact.
8. The information contained in the Staff Report and the testimony and evidence presented at the hearing is sufficient to establish with respect to the Applicants' request for a variance from the requirements of SFCC §14-5.6(D) that extraordinary hardship will result from compliance with such requirements, in that without the variance the Property could not be developed to an intensity similar to adjacent properties.

#### CONCLUSIONS OF LAW

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

1. The Commission has the power and authority under the Code to review and approve the Applicant's request for a variance.
2. The Applicant has met the criteria for a variance set forth in SFCC §14-3.16(C) and §14-5.6(K).

**WHEREFORE, IT IS ORDERED ON THE \_\_\_\_\_ OF NOVEMBER 2016 BY THE PLANNING COMMISSION OF THE CITY OF SANTA FE:**

That the variance is approved as applied for.

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

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

FILED:

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

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

APPROVED AS TO FORM:

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

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