

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

Case #2016-06

1503 Cerros Altos Terrain Management Variance

Applicant's Name – Julie Silverstein Trust and Kim M. Colweck Trust

THIS MATTER came before the Planning Commission (Commission) for hearing on March 3, 2016 upon the application (Application) of Julie Silverstein Trust and Kim M. Colweck Trust (Applicant). The Applicant seeks the Commission's approval for a variance from City of Santa Fe (City) Land Development Code (Code) Section 14-8.2(D)(3)(b) having more than one half of the building footprint on slopes exceeding 20% percent. The property contains both Foothills and Ridgetop Subdistricts of the Escarpment Overlay. The property is 4.337 acres and is zoned R-1 (Residential- One Dwelling Unit 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

1. The Commission heard reports from staff and received testimony and evidence from the Applicant and written comments from two members of the public interested in the matter.
2. SFCC §14-2.3(C)(5)(a) authorizes the Commission to review and grant or deny requests for variances from the Ordinance in compliance with SFCC §14-3.16.
3. 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).
4. Pursuant to SFCC §14-3.1(F)(2)(a)(vii) an Early Neighborhood Notification (ENN) meeting is not required for variances requesting construction of an individual single-family dwelling and appurtenant accessory structures.
5. 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) together with a recommendation that the Commission approve the variances, subject to certain conditions (the Conditions) set out in such report.
6. 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 §14-3.16(C) that:
  - a. Pursuant to Section 14-3.16(C)(1), there are unusual physical characteristics with the land as the property is within both the Foothills and Ridgetop Subdistricts of the Escarpment Overlay District. The property is generally a steep site, which means the locations where slopes flatten correspond, all or in part, with the

- Ridgetop Subdistrict. The building site, in order to be sited only in the Foothills Subdistrict, must be placed in an area that has some terrain of 20% in slope.
- b. Pursuant to Section 14-3.16(C) (2), special circumstances make it infeasible to develop the Property in compliance with the Ordinance and Section 14-8.2 based on terrain constraints; the proposed location for construction is the most optimal site for their development and cause the least disturbance to the property and natural terrain;
  - c. Pursuant to Section 14-3.16(C) (3), the intensity of development will not exceed that which is allowed on other properties in the vicinity that are subject to the Ordinance; the proposed house would be one of the large homes in the subdivision and the immediate neighborhood, but it would represent the smallest percentage of footprint compared to the size of the site in comparison to the neighboring residences;
  - d. Pursuant to Section 14-3.16(C) (4), the variance is the minimum variance possible for the reasonable use of the Property as approval of either the requested variance or a variance to the prohibition on development within the Ridgetop Subdistrict would be necessary for development of the property for its approved use as a single family dwelling and;
  - e. Pursuant to Section 14-3.16(C) (5), the variance is not contrary to the public interest because the development will include several measures which mitigate potential impact from building on steep slopes and if the home was to be built on either of the other potential sites identified then it would have greater visual impacts on the Ridgetop Subdistrict.
7. 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) together with a recommendation that the variance be approved, subject to certain conditions (the Conditions) set out in such report.
  8. Based upon the analysis contained in the Staff Report and the evidence presented at the public hearing, approving the Application will not adversely affect the public interest as it will permit the development of the Property for the residential use for which it was created and minimize visual impact and disturbance of slopes in having more than one half of the building footprint on slopes exceeding 20% percent in accordance with the stated purposes and intent of the Ordinance and §14-8.2.
  9. SFCC §14-3.8(D)(2) provides that the Commission may specify conditions of approval that are necessary to accomplish the proper development of the area and to implement the policies of the general plan.

### 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 at law and under the SFCC to review and approve with conditions the Applicant's request for the variances.

2. The Applicant has met the criteria for a variance to SFCC §14-8.2(D)(3)(b) set forth in SFCC §14-3.16(C).

**WHEREFORE, IT IS ORDERED ON THE 7th OF APRIL 2016 BY THE PLANNING COMMISSION OF THE CITY OF SANTA FE:**

That the variance to SFCC §14-8.2 (D)(3)(b) is approved as applied for, subject to the Conditions.

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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: