

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

Case #2016-97

165 Brownell-Howland Escarpment Variance

Owner's Name- John R. Camp Trust and Michelle Cook 2011 Revocable Trust

Agent's Name – Sommer, Karnes and Associates, LLP

THIS MATTER came before the Planning Commission (Commission) for hearing on October 6, 2016, upon the application (Application) of Sommer, Karnes and Associates, LLP as agent for John R. Camp Trust and Michelle Cook 2011 Revocable Trust (Applicant).

The Applicant seek a variance from the requirements of Santa Fe City Code (SFCC) §14-5.6(D) to modify an existing dwelling unit in a net increase of 27 square feet and to replace an existing fence with a fix hoot high wall within the Ridgetop Subdistrict (Ridgetop) of the Escarpment Overlay District (Escarpment). The property is on 2.01 acres of land at 165 Brownell-Howland (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 2016 lot split 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 existing residence and coyote fence were constructed when structures were allowed within the Ridgetop.
    - b. The Ridgetop occupies the developable land.
    - c. There is a ribbon of Foothill subdistrict along the edge of the road but it is within the required building setback and is not developable.
    - d. Land to the north is not within the Escarpment but falls away steeply at the edge of the Ridgetop and is not developable.
  - (b) the special circumstances make it infeasible to develop the Property in compliance with the Ordinance since:
    - a. There is no buildable area that can be accessed that is not with the Ridgetop.
    - b. The application requests a small increase in development over that which exists on the site currently and replacement of an existing coyote fence with a solid yard wall and a driveway gate.
    - c. The new wall would be longer than the coyote fence to create an area outside of the fence at the end of the driveway to allow for greater sight distance for vehicles exiting the driveway.
  - (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. The amount of development on the site, including the house, and would continue to be, one of the smallest in the surrounding neighborhood.
    - b. The footprints of the development on other lots around the subject lot range from 1,527 to 9,290 square feet.
    - c. The proposed footprint would be 4,683 square feet.
    - d. This data was taken by analyzing nine homes located adjacent to, or within 2 lots, of the subject property and most are either partially or completely within the Ridgetop Subdistrict.
    - e. The proposed 4,683 square foot footprint would be less than the median footprint size of 5,070 square feet.
  - (d) the variance is the minimum variance:
    - a. The proposed use of the property is slightly less than the median intensity and most properties in the area have walls or fences at the street frontage.
    - b. The size of the structure is consistent with adjacent structures and is consistent with the intent and purpose of the Escarpment Overlay Zoning District because the proposed additions would not be seen from any public areas or rights-of-way and the all would only be visible from Brownell-Howland Road immediately adjacent to the site.
  - (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: