

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

Case #2016-96

2051 Cerros Altos Escarpment Variance

Owner's Name- Julie Silverstein Trust & Kim M. Colweck 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 Julie Silverstein Trust & Kim M. Colweck Trust (Applicant).

The Applicant seek a variance from the requirements of Santa Fe City Code (SFCC) §14-5.6(D) to allow construction of a single-family residence within the Ridgetop Subdistrict (Ridgetop) of the Escarpment Overlay District (Escarpment). The property is on 4.337 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 2004 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 lot's developable area is an awkward configuration and access would require extensive grading, impacting slopes greater than 30% to accommodate the proposed building design and would make fire access more difficult and cause more vegetation to be disturbed.
 - (b) the special circumstances make it infeasible to develop the Property in compliance with the Ordinance since:
 - a. No location on the site can accommodate the proposed structure without a variance to either the terrain management regulations or the Escarpment Overlay zone regulations.
 - b. On March 3, 2016, the Planning Commission voted to grant Applicant's request for a terrain management variance.
 - c. Upon further examination, the Applicants are now seeking an Escarpment Variance.
 - (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 proposed house would be one of the larger homes in the subdivision and immediate neighborhood, but would represent the smallest percent of footprint compared to the size of the site.
 - b. The footprints of houses on other lots in the same subdivision range from 4,660 to 6,800 square feet and in the neighborhood immediately to the west range from 2,700 to 6,470 square feet.
 - c. The proposed footprint is 6,318 square feet, but its ratio of footprint to lot size is 3%, while the ratio for the same subdivision or the immediate neighborhood ranges from 5% to 26% ratio.
 - (d) the variance is the minimum variance:
 - a. Location on other possible building sites would require a variance from the terrain management regulations.
 - (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.

This variance supersedes Variance #2016-06 (terrain management variance approved in March 2016) which is hereby declared to be null and void upon approval of the Escarpment Variance.

Vince Kadlubek
Chair

Date:

FILED:

Yolanda Y. Vigil
City Clerk

Date:

APPROVED AS TO FORM:

Zachary Shandler
Assistant City Attorney

Date: