

City of Santa Fe  
Board of Adjustment  
Findings of Fact and Conclusions of Law

Case # 2016-19—Juniper Terrace Condominium Special Use Permit  
Owner/Applicant's Name—John Sumerlin  
Agent's Name—JenkinsGavins Inc.

THIS MATTER came before the Board of Adjustment (Board) for hearing on April 5, 2016 (Hearing) upon the application (Application) of JenkinsGavins Inc., agent for John Sumerlin (Applicant). The Applicant seeks a special use permit for to construct a third dwelling unit at 505 Juniper Drive, with a density greater than ten dwelling units per acre. The property is a 0.171 acre lot located at the northeast corner of Juniper Drive and Rio Grande Avenue 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 Board hereby FINDS, as follows:

FINDINGS OF FACT

1. The Board heard reports from staff and received testimony and evidence from the Applicant. No members of the public interested in the matter spoke at the hearing.
2. Pursuant to Code §14-2.4(C)(2) the Board has the authority to hear and decide applications for special use permits as provided in Code §§14-3.6 (Special Use Permits) and 14-6 (Permitted Uses).
3. Pursuant to Code §14-3.6(B) the Board has the authority to hear and decide applications for special use permits in accordance with applicable provisions of Chapter 14; to decide questions that are involved in determining whether special use permits should be granted; and to grant special use permits with such conditions and safeguards as appropriate under Chapter 14; or to deny special use permits when not in harmony with the intent and purpose of Code Chapter 14.
4. Pursuant to Code Table 14-7.2-1, an applicant requesting a density of ten units or more in R-21 must request a development plan or special use permit.
5. Pursuant to Code §14-7.2(F)(1) an increase in maximum density in a R-21 district “may be approved provided that the proposed density is part of a development plan or special use permit requiring approval by a land use board.”
6. Pursuant to Code §14-3.8(B)(6), a development plan is not required for single-family dwellings.
7. Therefore, a special use permit is required for the project.
8. Code Section 14-3.6(C) sets out the procedures to be followed prior to the grant by the Board of a special use permit, including:
  - (a) Approval of a site plan and other site development drawings necessary to demonstrate that the Project can be accomplished in conformance with applicable Code standards [Section 14-3.6(C)(1)];

- (b) Submittal of an application indicating the Code section under which the special use permit is sought and stating the grounds on which it is requested [Section 14-3.6(C)(2)]; and
  - (c) That a special use permit is limited to the specific use and intensity granted, requiring a new or amended special use permit if the use is changed or intensified [Section 14-3.6(C)(3)].
9. Code Section 14-3.6(D)(1) sets out certain findings that the Board must make to grant a special use permit, including:
- (a) That the Board has the authority to grant a special use permit for the Project [Section 14-3.6(D)(1)(a)]; *Section 14-2.4(C) grants the Board the authority under the section of Chapter 14 described to grant a special use permit.*
  - (b) That granting a special use permit for the Project does not adversely affect the public interest [Section 14-3.6(D)(1)(b)];
    - i. *The development of Unit 3 in the condominium will be in keeping with the fabric of the surrounding neighborhood.*
    - ii. *It will improve the neighborhood by providing an opportunity for appropriate infill on a property that is current underused and in need of improvement.*
  - (c) That the Project is compatible with and adaptable to adjacent properties and other properties in the vicinity of the Project [Section 14-3.6(D)(1)(c)].
    - i. *Much of the surrounding neighborhood is developed at R-21 density, including several nearby condominium developments.*
    - ii. *Developing the subject lot will afford completion of the condominium project and will be an asset to the neighborhood, removing the hazards associated with open lots in the midst of residential development.*
    - iii. *An infill project is consistent with the existing residential density, architectural style and building scale.*
10. 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 Future Land Use designation shown on the General Plan is Moderate Density Residential (7-9 dwelling units per acre), however, the neighborhood is already developed to a higher density, which is supported by its R-21 zoning.*
  - (b) The need for the increased density, however, financial gain or loss shall not be the sole determining factor. *The Applicant purchased the property in 2006 with the intention of creating a 3-unit condominium in conformance with the property's R-21 and the construction of Unit 3 as planned will complete the condominium.*
  - (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. *The condominiums are not part of the City's Affordable Housing program.*
  - (d) Densities of existing developments in the vicinity. *The surrounding neighborhood is already densely developed, including several condominium complexes on Rio Grande Avenue and the proposed third condominium unit will be in conformance with the existing density of the neighborhood.*

- (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 construction of one additional condominium in a neighborhood containing several condominium complexes will have little impact on the community. The construction of Unit 3 is consistent with the City's General Plan, which calls for infill development.*
11. Code Section 14-3.6(D)(2) authorizes the Board to specify conditions of approval for a special use permit to accomplish the proper development of the area and to implement the policies of the general plan.
  12. Code Section 14-3.1(F)(2)(a)(viii) requires an ENN for special use permits and Code Section 14-3.1(F)(4)-(6) establishes procedures for the ENN, including:
    - (a) Compliance with the notice requirements of Code Section 14-3.1(H) [Section 14-3.1(F)(4)];
    - (b) Timing for the ENN meeting and the principles underlying its conduct [Section 14-3.1(F)(5)]; and
    - (c) Guidelines for the conduct of the ENN meeting [Section 14-3.1(F)(6)].
  13. Notice was properly given in accordance with the notice requirements of Code Section 14-3.1(H)(1)(a)-(d).
  14. An ENN meeting was held on February 8, 2016 at the First Presbyterian Church at 208 Grant Avenue.
  15. The ENN meeting was attended by the Applicant, City staff, and approximately thirteen other interested parties, and the discussion followed the guidelines set out in Code Section 14-3.1(F)(6).
  16. The Applicant submitted a site plan and an application indicating the Code section under which the special use permit was being sought and stating the grounds for the request.
  17. Board staff provided the Board with a report dated March 30, 2016 (Staff Report) evaluating the factors relevant to the proposed special use permit and recommending approval by the Board of such special use permit, subject to the conditions set out in the Staff Report (the Conditions).

### CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the Hearing, the Board CONCLUDES as follows:

1. The Board has the power and authority under Code §§14-2.4(C)(2) and 14-3.6(B) and Code §14-7.2(F) to grant the special use permit applied for in this request.
2. The special use permit was properly and sufficiently noticed via mail, publication, and posting of signs in accordance with Code requirements.
3. The ENN meeting complied with the requirements established under the Code.
4. The granting of the special use permit will not adversely affect the public interest.
5. The Project is compatible with and adaptable to adjacent properties and to other properties in the vicinity of the Project.
6. The special use permit granted herewith is granted for the specific use of the Property and intensity applied for and no change of use or more intense use shall be allowed unless

approved by the Board under a new or amended special use permit or as otherwise permitted by applicable Code.

**WHEREFORE, IT IS ORDERED ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016 BY THE BOARD OF ADJUSTMENT OF THE CITY OF SANTA FE:**

1. That the special use permit is approved as applied for, subject to the Conditions presented in Staff's report.
2. The special use permit granted herewith shall expire if (a) it is not exercised within three (3) years of the date these Findings of Fact and Conclusions of Law are adopted by vote of the Board, subject to any right of the Applicant under applicable Code to request an extension of such time or (b) it ceases for any reason for a period of three hundred and sixty five (365) days.

\_\_\_\_\_  
Gary Friedman  
Chair

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

**FILED WITH THE CITY CLERK:**

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

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

**APPROVED AS TO FORM:**

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

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