

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

Case #2023-7662

Bungalows on Cerrillos Variance (Setback)

Applicant's Name – Advanced Acquisitions, LLC

Agent's Name – Orion-West LLC.

THIS MATTER came before the Planning Commission (Commission) for hearing on April 14, 2024, and on July 11, 2024, upon the Application (Application) of Orion-West LLC., agent for Advanced Acquisitions, LLC (Applicant).

The Applicant seeks the Commission's approval of a variance from SFCC 14-5.5 (B)(4)(iii) Cerrillos Road Highway Protection District (CRHC) of building setbacks in CRHC Zone 4 from 45 feet to no more than 34 feet (Project). The project is a 19.26-acre lot zoned C-2 (General Commercial) within the Suburban Archaeological Review District and the Cerrillos Road Highway Corridor Protection District (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 Applicant requested a variance from SFCC 14-5.5 (B)(4)(iii) Cerrillos Road Highway Protection District (CRHC) of building setbacks in CRHC Zone 4 from 45 feet to no more than 34 feet, pursuant to the Santa Fe City Code (SFCC) 1987 Section 14-3.16(C) "Variance".
2. SFCC 1987 Section 14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) a pre-application conference [SFCC 1987 § 14-3.1(E)]; (b) an Early Neighborhood Notification (ENN) meeting [SFCC 1987 § 14-3.1(F)(2)(a)(iv)]; and (c) compliance with notice and public hearing requirements [SFCC 1987 § 14-3.1(H)-(I)].
3. The Applicant attended pre-application conference with City land use department staff (Staff) held on June 23, 2022, in accordance with SFCC 1987 Section 14-3.1(E).
4. The Applicant conducted two virtual ENN meetings one on May 03, 2023, and the second on September 14, 2023. Both ENN meetings were attended by staff, the Applicant's agent and members of the public.
5. Pursuant to the SFCC Section 14-3.16(A), "[l]and use boards may approve variances to the provisions of Chapter 14 ... regulating the size, location and appearance of structures."
6. 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).
7. City staff reviewed the Applications 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), which evaluates the factors relevant to the Application.
8. Staff recommended that the Commission deny the variances requested in the Application.
9. SFCC Section 14-3.16(B) sets out procedures for variance applications and requires the Commission to hold a public hearing and approve, approve with conditions, or deny the variance application.

10. At the Hearing, the Commission received reports from staff, testimony and evidence from the Applicant, and testimony offered by any interested members of the public prior to making a decision.
11. SFCC Section 14-3.16(C) sets out approval criteria and requires the Commission to make complete findings of fact sufficient to show that these criteria have been met before granting a variance.
12. No unusual physical characteristic exists that distinguish the land from others in the vicinity and alternative designs for the site could eliminate the need for a variance. The parcel is not legal non-conforming; there is no inherent conflict in applicable regulations that cannot be resolved by the applicant with the design of this vacant property.
13. It is feasible to develop the property without a variance and there are no special circumstances that have been identified that would prevent the property from being developed in compliance with Chapter 14.
14. The extent of development does not exceed that which is allowed on other properties within the area.

CONCLUSIONS OF LAW

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

1. The Commission has the authority under Chapter 14 of the SFCC to review and deny the Applicant's proposed variance request.
- 2.
3. Pursuant to SFCC Sections 14-2.3(C)(3) and 14-3.16(A), the Commission has the authority to review and approve or disapprove variances. The Applicant complied with the requirement to attend a preapplication conference with Staff under SFCC 1987, Section 14-3.1(E).
4. Pursuant to SFCC 1987 Section 14-3.1(H), notice of the ENN meeting was properly given.
5. Pursuant to SFCC 14-3.6(C)(1)(a-d), the Applicant has not satisfied the variance criterion required by Subsection 14-3.6(C)(1). No unusual physical characteristic exists that distinguish the land from others in the vicinity and alternative designs for the site could eliminate the need for a variance. The parcel is not legal non-conforming; there is no inherent conflict in applicable regulations that cannot be resolved by the applicant with the design of this vacant property.
6. Pursuant to SFCC 14-3.6(C)(2), the Applicant has not satisfied this variance criterion required by 14-3.6(C)(2) because it is feasible to develop the property without a variance and there are no special circumstances that have been identified that would prevent the property from being developed in compliance with Chapter 14.
7. The variance criterion required by 14-3.6(C)(3) has been addressed, and the extent of development does not exceed that which is allowed on other properties within the area.
8. Pursuant to 14-3.6(C)(4), the Applicant's conditions for the requested variance are not supported by all factors within Subsection 14-3.16(C) "Approval Criteria."
9. Pursuant to 14-3.6(C)(5), the requested variance is a request to construct within the setback requirement of the CRHC Protection District which is prohibited per Santa Fe City Code Chapter SFCC 14-5.5 (B)(4)(iii). This variance request does not establish the requirements necessary to

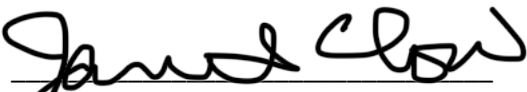
grant a variance required by Subsection 14-3.6(C). The granting of this variance is not in conjunction with the public interest.

10. Pursuant to 14-3.6(C)(4), the Applicant's conditions for the requested variance are not supported by all factors within Subsection 14-3.16(C) "Approval Criteria."
11. Pursuant to 14-3.6(C)(5), the requested variance is a request to construct within the setback requirement of the CRHC Protection District which is prohibited per Santa Fe City Code Chapter SFCC 14-5.5 (B)(4)(iii). This variance request does not establish the requirements necessary to grant a variance required by Subsection 14-3.6(C). The granting of this variance is not in conjunction with the public interest.

The variance to SFCC Section SFCC 14-5.5 (B)(4)(iii) Cerrillos Road Highway Protection District (CRHC) of building setbacks in CRHC Zone 4 from 45 feet to no more than 34 feet should not be granted because the Applicant has failed to meet the approval criteria for the variance.

WHEREFORE, IT IS ORDERED ON THE 5th DAY OF SEPTEMBER, 2024, BY THE PLANNING COMMISSION OF THE CITY OF SANTA FE:

Considering the foregoing findings and conclusions, the Commission denies the variance to SFCC Section SFCC 14-5.5 (B)(4)(iii), as requested in Case #2023-7662. The variance request for the Project is denied.



Janet Clow
Chairwoman

12/5/24

Date

FILED:


Andrea Salazar
Andrea Salazar (Dec 5, 2024 17:08 MST)

Andréa Salazar *XIV*
City Clerk

Dec 5, 2024

Date:

APPROVED AS TO FORM:



Rebecca A Mnuk-Herrmann
Assistant City Attorney

12/5/2024

Date:







24-0676 Advanced Aquisitions Case #2023-7662

Final Audit Report

2024-12-06

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