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CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Planning Department

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

April 21, 2024

TO: Dan Lewis, President, City Council

FROM: Alan Varela, Planning Director 
Alan Varela (Apr 24, 2024 15:41 MDT)

SUBJECT: AC-24-9, PR-2023-009649, VA-2023-00365: Yolanda Montoya, agent for Joe R. Romero, appeals the Zoning Hearing Examiner’s decision to Deny a Variance of 9 feet 11 ½ inches to the required 45-foot Major Public Open Space landscape buffer for Lots 8-A-1 & 8-A-2, Block 2, Volcano Cliffs Unit 19, located at 7805 Aguila St. NW, zoned R-1D [IDO §14-16-5-2(J)(2)(a)(1)]

OVERVIEW

On the January 16, 2024, Maia Martin, agent for property owner Joe Romero appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 9 ft 11 ½ inches to the required 45-foot open space landscape buffer for property located at 7805 Aguila St. NW.

The ZHE denied the Applicant’s request in a written decision dated January 31, 2024.

The Appellant timely filed an appeal of the ZHE’s decision prior to the appeal deadline of February 15, 2024. While the appeal application incorrectly cites standing for appeals of Declaratory Rulings and Adoption of the Comprehensive Plan [§14-16-6-4(V)(2)(a)3], the Appellant has standing to appeal this Variance decision as the original applicant and owner of the property listed in the application [§14-16-6-4(V)(2)(a)1].

BASIS FOR APPEAL

IDO §14-16-6-4(V)(4) outlines the applicable criteria for the appeal in determining whether the ZHE erred in its decision:

6-4(V)(4) Criteria for Decision

The criteria for review of an appeal shall be whether the decision-making body or the prior appeal body made 1 of the following mistakes:

6-4(V)(4)(a) The decision-making body or the prior appeal body acted fraudulently, arbitrarily, or capriciously.

6-4(V)(4)(b) The decision being appealed is not supported by substantial evidence.

6-4(V)(4)(c) The decision-making body or the prior appeal body erred in applying the requirements of this IDO (or a plan, policy, or regulation referenced in the review and decision-making criteria for the type of decision being appealed).

STAFF RESPONSE

The reasons for the appeal, excerpted from Appellant’s letter, are listed in quotes below, with bulleted, italicized responses from the Planner for the ZHE.

“6-4(V)(4)(b) The decision being appealed is not supported by substantial evidence.

The adoption of the 45’ landscape buffer was never explained or revealed to the owner at time of purchase of the lot. The owner was presented with a plat of the property which at the time of purchase was an extra-large lot. In the plat it doesn’t show any reference to the 45’ landscaping buffer. When the lot was looked up in the city Address Report showed lot as R1-D which show the required set back as 20’ front, 10’ side and 15’ rear. The lot was purchased in 2021 by Joe Romero. Based off if what I can see in the city IDO it was last revised in 2018.”

- *The subject site is zoned R-1D, adjacent to Major Public Open Space, and subject to the requirements in IDO §14-16-5-2(J)(2).*
- *Finding #11: Based on evidence in the record, it appears that there are no special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(O)(3)(a)(1). Applicant asserts that there are special circumstances because of past platting actions taken by the owner of the Subject Property and the neighboring property at 7809 Aguila. It would appear that these platting actions are self-imposed. Also, Applicant does not demonstrate the assertion stated in Applicant’s justification letter that “all lots that surround this area do not have a 45’ landscape buffer” because of plats approved before 2019. It would appear that a mere plat approval (without further action to vest development rights) before a change to the setbacks by zone amendment would control in spite of that zone amendment.*
- *Finding #14: Because all prongs of the variance test must be satisfied and, as stated above, the Application failed to satisfy the above-stated prongs of the test, the Application must be denied.*

/ Lorena Patten-Quintana /
Lorena Patten-Quintana, ZHE Planner
Office of the Zoning Hearing Examiner
City of Albuquerque Planning Department



CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Joe Romero (Agent, Maia Martin)
requests a variance of 9 ft 11 ½ inches to
the required 45 ft open space landscape
buffer for Lots 8-A-1 & 8-A-2, Block 2,
Volcano Cliffs Unit 19, located at 7805
Aguila ST NW, zoned R-1D [Section 14-
16-5-2(J)(2)(a)(1)]

Special Exception No: **VA-2023-00365**
Project No: **Project#2023-009649**
Hearing Date: 1-16-24
Closing of Public Record: 1-16-24
Date of Decision: 01-31-24

On the 16th day of January, 2024, Maia Martin, agent for property owner Joe Romero (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 9 ft 11 ½ inches to the required 45 ft open space landscape buffer (“Application”) upon the real property located at 7805 Aguila ST NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 9 ft 11 ½ inches to the required 45 ft open space landscape buffer.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(O)(3)(a) (Variance-Review and Decision Criteria) reads: “... *an application for a Variance-ZHE shall be approved if it meets all of the following criteria:*
 - (1) *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*
 - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*
 - (3) *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
 - (4) *The Variance will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone.*
 - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.*”
3. Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).

4. Applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. Agent appeared at the ZHE hearing on this matter and gave evidence in support of the Application.
6. Applicant established that the proper "Notice of Hearing" signage was posted for the required time period.
7. Applicant established that all property owners and neighborhood association entitled to notice were notified of the Application.
8. Applicant established that proper notice was provided pursuant to IDO requirements.
9. Applicant has authority to pursue this Application.
10. The subject property is currently zoned R-1D.
11. Based on evidence in the record, it appears that there are no special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(O)(3)(a)(1). Applicant asserts that there are special circumstances because of past platting actions taken by the owner of the Subject Property and the neighboring property at 7809 Aguila. It would appear that these platting actions are self-imposed. Also, Applicant does not demonstrate the assertion stated in Applicant's justification letter that "all lots that surround this area do not have a 45' landscape buffer" because of plats approved before 2019. It would appear that a mere plat approval (without further action to vest development rights) before a change to the setbacks by zone amendment would control in spite of that zone amendment.
12. Further, even if there were a special circumstance, the evidence does not demonstrate how such a circumstance would create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards. Agent stated that Applicant would have to pay in the realm of \$10,000 to redesign house plans to build in accordance with the IDO. Given the overall development budget of the proposed construction, this amount does not appear to rise to the level of an extraordinary hardship.
13. Similarly, the evidence does not establish that the proposed variance is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(O)(3)(a)(5). At the January 17, 2024 hearing, the ZHE inquired whether the home could be constructed closer to the front property line, given that the site plans showed a good deal of unused space between the proposed location of the home and the front yard setback. The ZHE inquired whether massing the home square footage toward the front yard setback would yield more space in the back sufficient to comply with the 45' setback requirement. Agent responded that such a change would require an architectural redesign costing in the realm of \$10,000 to redesign house plans, as cited, above. It is therefore uncertain why a same sized house could not be constructed closer to the front yard, or why a smaller house could not be constructed, in either case requiring a smaller, or no, variance.
14. Because all prongs of the variance test must be satisfied and, as stated above, the Application failed to satisfy the above-stated prongs of the test, the Application must be denied.
15. Out of considerations of administrative and quasi-judicial economy, the ZHE will not summarize any analysis of the remaining prongs of the test in this Notification of Decision.

DECISION:

DENIAL of a variance of 9 ft 11 ½ inches to the required 45 ft open space landscape buffer.

APPEAL:

If you wish to appeal this decision, you must do so by February 15, 2024 pursuant to Section 14-16-6-4(V), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Jane Beckley, Santa Fe Village Neighborhood Association



Please check the appropriate box and refer to supplemental forms for submittal requirements. All fees must be paid at the time of application.

Administrative Decisions	Decisions Requiring a Public Meeting or Hearing	Policy Decisions
<input type="checkbox"/> Archaeological Certificate (Form P3)	<input type="checkbox"/> Site Plan – EPC including any Variances – EPC (Form P1)	<input type="checkbox"/> Adoption or Amendment of Comprehensive Plan or Facility Plan (Form Z)
<input type="checkbox"/> Historic Certificate of Appropriateness – Minor (Form L)	<input type="checkbox"/> Master Development Plan (Form P1)	<input type="checkbox"/> Adoption or Amendment of Historic Designation (Form L)
<input type="checkbox"/> Alternative Signage Plan (Form P3)	<input type="checkbox"/> Historic Certificate of Appropriateness – Major (Form L)	<input type="checkbox"/> Amendment of IDO Text (Form Z)
<input type="checkbox"/> Alternative Landscape Plan (Form P3)	<input type="checkbox"/> Demolition Outside of HPO (Form L)	<input type="checkbox"/> Annexation of Land (Form Z)
<input type="checkbox"/> Minor Amendment to Site Plan (Form P3)	<input type="checkbox"/> Historic Design Standards and Guidelines (Form L)	<input type="checkbox"/> Amendment to Zoning Map – EPC (Form Z)
<input type="checkbox"/> WTF Approval (Form W1)	<input type="checkbox"/> Wireless Telecommunications Facility Waiver (Form W2)	<input type="checkbox"/> Amendment to Zoning Map – Council (Form Z)
		Appeals
		<input checked="" type="checkbox"/> Decision by EPC, LC, ZHE, or City Staff (Form A)

APPLICATION INFORMATION

Applicant: <u>Joe R. Romero</u>		Phone: <u>505 730 6527</u>
Address: <u>12412 Conejo Rd NE</u>		Email: <u>albuquerqueprize@gmail.com</u>
City: <u>Albuquerque</u>	State: <u>NM</u>	Zip: <u>87123</u>
Professional/Agent (if any): <u>Yolanda Montoya</u>		Phone: <u>505 264 2610</u>
Address: <u>8724 Alameda Park NE suite G</u>		Email: <u>londie.mo4@gmail.com</u>
City: <u>Albuquerque</u>	State: <u>NM</u>	Zip: <u>87112 87113</u>
Proprietary Interest in Site: <u>7805/7809 Aguila Street NW</u>		List all owners: <u>Joe R. Romero</u>

BRIEF DESCRIPTION OF REQUEST

Appeal for VA-2023-00365, VA-2023-00366

SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)

Lot or Tract No.: <u>8-A-1, 8-A-2</u>	Block: <u>2</u>	Unit: <u>19</u>
Subdivision/Addition: <u>Volcano Cliffs</u>	MRGCD Map No.:	UPC Code: <u>101006330014140929</u>
Zone Atlas Page(s): <u>D-10</u>	Existing Zoning: <u>R-1D</u>	Proposed Zoning: <u>R-1D</u>
# of Existing Lots: <u>2</u>	# of Proposed Lots: <u>2</u>	Total Area of Site (acres): <u>0.71</u>

LOCATION OF PROPERTY BY STREETS

Site Address/Street: 7805/7809 Aguila St Between: Aguila Street and: Camino Del Oeste St NW

CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)

VA2023-00365 / VA2023-00366

Signature:	Date: <u>2/2/2024</u>
Printed Name: <u>Yolanda Montoya</u>	<input type="checkbox"/> Applicant or <input checked="" type="checkbox"/> Agent

FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees	Case Numbers	Action	Fees

Meeting/Hearing Date:	Fee Total:
Staff Signature:	Date:
	Project #

FORM A: Appeals

Complete applications for appeals will only be accepted within 15 consecutive days, excluding holidays, after the decision being appealed was made.

- APPEAL OF A DECISION OF CITY PLANNING STAFF (HISTORIC PRESERVATION PLANNER) ON A HISTORIC CERTIFICATE OF APPROPRIATENESS – MINOR TO THE LANDMARKS COMMISSION (LC)
- APPEAL OF A DECISION OF CITY PLANNING STAFF ON AN IMPACT FEE ASSESSMENT TO THE ENVIRONMENTAL PLANNING COMMISSION (EPC)
- APPEAL TO CITY COUNCIL THROUGH THE LAND USE HEARING OFFICER (LUHO)

___ Interpreter Needed for Hearing? ___ if yes, indicate language: _____

___ A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD. PDF *shall be organized* with the Development Review Application and this Form A at the front followed by the remaining documents *in the order provided on this form*.

___ Project number of the case being appealed, if applicable: PR# 2023-009650, PR# 2023-009649

___ Application number of the case being appealed, if applicable: VA-202300366, VA-2023-00365


___ Type of decision being appealed: Variance Request/Denial

___ Letter of authorization from the appellant if appeal is submitted by an agent

___ Appellant's basis of standing in accordance with IDO Section 14-16-6-4(V)(2)

___ Reason for the appeal identifying the section of the IDO, other City regulation, or condition attached to a decision that has not been interpreted or applied correctly, and further addressing the criteria in IDO Section 14-16-6-4(V)(4)

___ Copy of the Official Notice of Decision regarding the matter being appealed

<p><i>I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting or hearing, if required, or otherwise processed until it is complete.</i></p>	
<p>Signature: <u><i>Yolanda Montoya</i></u></p>	<p>Date: <u>2/2/24</u></p>
<p>Printed Name: <u>Yolanda Montoya</u></p>	<p><input type="checkbox"/> Applicant or <input checked="" type="checkbox"/> Agent</p>
<p>FOR OFFICIAL USE ONLY</p>	
<p>Case Numbers: _____</p>	<p>Project Number: _____</p>
<p>Staff Signature: _____</p>	
<p>Date: _____</p>	

Project Numbers of Case being appealed

RP# 2023-009650

RP# 2023-009649

Application numbers of the case
being appealed

VA-2023-00365

VA 2023-00366

Type of decision being appealed:

Denial of Variance Request
To a 45' Landscape Buffer

To Whom it May Concern,

Please allow Yolanda Montoya of
8724 Alameda Park NE Suite G,
Albuquerque, NM 87113 to act
on my ^{be} half, as my agent for
the appeal of VA-2023-00365/VA-2023-00366.
If you have any questions, please
feel free to reach out to me at
8057306527.

Thank You,



Joe Romero,
Property Owner

Basis of standing in accordance with IDO Section 14-16-6-4(v)(2)

Any party appealing either of the following decisions: a. Declaratory Ruling. b. Adoption or Amendment of Albuquerque/Bernalillo County Comprehensive Plan.

Reason for Appeal:

6-4(V)(4)(b) The decision being appealed is not supported by substantial evidence.

The adoption of the 45' landscape buffer was never explained or revealed to the owner at time of purchase of the lot. The owner was presented with a plat of the property which at the time of purchase was an extra-large lot. In the plat it doesn't show any reference to the 45' landscaping buffer. When the lot was looked up in the city Address Report showed lot as R1-D which show the required set back as 20' front, 10' side and 15' rear. The lot was purchased in 2021 by Joe Romero. Based off if what I can see in the city IDO it was last revised in 2018.



CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Joe Romero (Agent, Maia Martin)
requests a variance of 9 ft 11 ½ inches to
the required 45 ft open space landscape
buffer for Lots 8-A-1 & 8-A-2, Block 2,
Volcano Cliffs Unit 19, located at 7805
Aguila ST NW, zoned R-1D [Section 14-
16-5-2(J)(2)(a)(1)]

Special Exception No: **VA-2023-00365**
Project No: **Project#2023-009649**
Hearing Date: 1-16-24
Closing of Public Record: 1-16-24
Date of Decision: 01-31-24

On the 16th day of January, 2024, Maia Martin, agent for property owner Joe Romero (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 9 ft 11 ½ inches to the required 45 ft open space landscape buffer (“Application”) upon the real property located at 7805 Aguila ST NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 9 ft 11 ½ inches to the required 45 ft open space landscape buffer.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(O)(3)(a) (Variance-Review and Decision Criteria) reads: “... *an application for a Variance-ZHE shall be approved if it meets all of the following criteria:*
 - (1) *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*
 - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*
 - (3) *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
 - (4) *The Variance will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone.*
 - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.*”
3. Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).

4. Applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. Agent appeared at the ZHE hearing on this matter and gave evidence in support of the Application.
6. Applicant established that the proper "Notice of Hearing" signage was posted for the required time period.
7. Applicant established that all property owners and neighborhood association entitled to notice were notified of the Application.
8. Applicant established that proper notice was provided pursuant to IDO requirements.
9. Applicant has authority to pursue this Application.
10. The subject property is currently zoned R-1D.
11. Based on evidence in the record, it appears that there are no special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(O)(3)(a)(1). Applicant asserts that there are special circumstances because of past platting actions taken by the owner of the Subject Property and the neighboring property at 7809 Aguila. It would appear that these platting actions are self-imposed. Also, Applicant does not demonstrate the assertion stated in Applicant's justification letter that "all lots that surround this area do not have a 45' landscape buffer" because of plats approved before 2019. It would appear that a mere plat approval (without further action to vest development rights) before a change to the setbacks by zone amendment would control in spite of that zone amendment.
12. Further, even if there were a special circumstance, the evidence does not demonstrate how such a circumstance would create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards. Agent stated that Applicant would have to pay in the realm of \$10,000 to redesign house plans to build in accordance with the IDO. Given the overall development budget of the proposed construction, this amount does not appear to rise to the level of an extraordinary hardship.
13. Similarly, the evidence does not establish that the proposed variance is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(O)(3)(a)(5). At the January 17, 2024 hearing, the ZHE inquired whether the home could be constructed closer to the front property line, given that the site plans showed a good deal of unused space between the proposed location of the home and the front yard setback. The ZHE inquired whether massing the home square footage toward the front yard setback would yield more space in the back sufficient to comply with the 45' setback requirement. Agent responded that such a change would require an architectural redesign costing in the realm of \$10,000 to redesign house plans, as cited, above. It is therefore uncertain why a same sized house could not be constructed closer to the front yard, or why a smaller house could not be constructed, in either case requiring a smaller, or no, variance.
14. Because all prongs of the variance test must be satisfied and, as stated above, the Application failed to satisfy the above-stated prongs of the test, the Application must be denied.
15. Out of considerations of administrative and quasi-judicial economy, the ZHE will not summarize any analysis of the remaining prongs of the test in this Notification of Decision.

DECISION:

DENIAL of a variance of 9 ft 11 ½ inches to the required 45 ft open space landscape buffer.

APPEAL:

If you wish to appeal this decision, you must do so by February 15, 2024 pursuant to Section 14-16-6-4(V), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Jane Beckley, Santa Fe Village Neighborhood Association



CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Joe Romero (Agent, Maia Martin) requests a variance of 30 ft to the required 45 ft open space landscape buffer for Lot 8-A-1, Block 2, Volcano Cliffs Unit 19, located at 7809 Aguila ST NW, zoned R-1D [Section 14-16-5-2(J)(2)(a)(1)]

Special Exception No: **VA-2023-00366**
Project No:..... **Project#2023-009650**
Hearing Date:..... 1-16-24
Closing of Public Record:..... 1-16-24
Date of Decision:..... 01-31-24

On the 16th day of January, 2024, Maia Martin, agent for property owner Joe Romero (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 30 ft to the required 45 ft open space landscape buffer (“Application”) upon the real property located at 7809 Aguila ST NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 30 ft to the required 45 ft open space landscape buffer.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(O)(3)(a) (Variance-Review and Decision Criteria) reads: “... *an application for a Variance-ZHE shall be approved if it meets all of the following criteria:*
 - (1) *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*
 - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*
 - (3) *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
 - (4) *The Variance will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone.*
 - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.*”
3. Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. Applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).

5. Agent appeared at the ZHE hearing on this matter and gave evidence in support of the Application.
6. Applicant established that the proper "Notice of Hearing" signage was posted for the required time period.
7. Applicant established that all property owners and neighborhood association entitled to notice were notified of the Application.
8. Applicant established that proper notice was provided pursuant to IDO requirements.
9. Applicant has authority to pursue this Application.
10. The subject property is currently zoned R-1D.
11. Based on evidence in the record, it appears that there are no special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(O)(3)(a)(1). Applicant asserts that there are special circumstances because of past platting actions taken by the owner of the Subject Property and the neighboring property at 7805 Aguila. It would appear that these platting actions are self-imposed. Also, Applicant does not demonstrate the assertion stated in Applicant's justification letter that "all lots that surround this area do not have a 45' landscape buffer" because of plats approved before 2019. It would appear that a mere plat approval (without further action to vest development rights) before a change to the setbacks by zone amendment would control in spite of that zone amendment.
12. Further, even if there were a special circumstance, the evidence does not demonstrate how such a circumstance would create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards. Agent stated that Applicant would have to pay in the realm of \$10,000 to redesign house plans to build in accordance with the IDO. Given the overall development budget of the proposed construction, this amount does not appear to rise to the level of an extraordinary hardship.
13. Similarly, the evidence does not establish that the proposed variance is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(O)(3)(a)(5). At the January 17, 2024 hearing, the ZHE inquired whether the home could be constructed closer to the front property line, given that the site plans showed a good deal of unused space between the proposed location of the home and the front yard setback. The ZHE inquired whether massing the home square footage toward the front yard setback would yield more space in the back sufficient to comply with the 45' setback requirement. Agent responded that such a change would require an architectural redesign costing in the realm of \$10,000 to redesign house plans, as cited, above. It is therefore uncertain why a same sized house could not be constructed closer to the front yard, or why a smaller house could not be constructed, in either case requiring a smaller, or no, variance.
14. Because all prongs of the variance test must be satisfied and, as stated above, the Application failed to satisfy the above-stated prongs of the test, the Application must be denied.
15. Out of considerations of administrative and quasi-judicial economy, the ZHE will not summarize any analysis of the remaining prongs of the test in this Notification of Decision.

DECISION:

DENIAL of a variance of 30 ft to the required 45 ft open space landscape buffer.

APPEAL:

If you wish to appeal this decision, you must do so by February 15, 2024 pursuant to Section 14-16-6-4(V), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Jane Beckley, Santa Fe Village Neighborhood Association

Plan and as acceptable to the Open Space Division of the City Parks and Recreation Department.

5-2(J)(1)(c)

Landscaping, Buffering, and Screening

Development shall:

1. Use native and/or naturalized vegetation for landscaping materials.
2. Screen mechanical equipment pursuant to Subsection 14-16-5-6(G) (Screening of Mechanical Equipment and Support Areas).

5-2(J)(1)(d)

Outdoor Lighting

Development shall design lighting pursuant to Section 14-16-5-8 (Outdoor and Site Lighting).

5-2(J)(1)(e)

Color

1. Development shall limit the colors of exterior surfaces of structures, including but not limited to mechanical devices, roof vents, and screening materials, to those with light reflective value (LRV) rating between 20 percent and 50 percent.
2. Colors shall blend with the surrounding natural environment and generally include yellow ochres, browns, dull reds, and grey greens.
3. Trim materials on façades constituting less than 20 percent of the façade's opaque surface may be any color.

5-2(J)(1)(f)

Signs

1. Electronic signs are prohibited pursuant to Subsection 14-16-5-12(H)(2)(e).
2. Signage shall be located to minimize visibility from Major Public Open Space and designed pursuant to Subsection 14-16-5-12(E)(5) (Illumination and Motion).

5-2(J)(2)**Lots Adjacent to Major Public Open Space**

In addition to the standards that apply within 330 feet in any direction of Major Public Open Space in Subsection 14-16-5-2(J)(1) above, the following standards apply to development on lots adjacent to Major Public Open Space, except when the subject property and Major Public Open Space are separated by a principal arterial or freeway, in which case only the provisions of Subsection 14-16-5-2(J)(1) apply.

5-2(J)(2)(a)

Lots of Any Size

Development on lots of any size adjacent to Major Public Open Space shall:

1. Be platted and/or designed to incorporate a single-loaded street between the Major Public Open Space and development, with access generally prohibited unless approved by the Open Space Division of the City Parks and Recreation Department. Where a single-loaded street is not

desired by the Open Space Division of the City Parks and Recreation Department, a landscape buffer with a minimum width of 45 feet may be substituted as approved by the Open Space Superintendent. Existing vegetation on the Official Albuquerque Plant Palette may count toward satisfying the requirements of Subsection 14-16-5-6(C)(2) (Minimum Landscape Area) with approval from the Open Space Superintendent. Plant selection and location is subject to approval by the Open Space Superintendent.

2. For cluster development and multi-family dwellings, locate at least 25 percent of common open space or ground-level usable open space to be contiguous with Major Public Open Space. These areas shall be made accessible from the remaining land via trails or sidewalks. Access to Major Public Open Space is only allowed if approved by the Open Space Division of the City Parks and Recreation Department.
3. Locate lower densities and less intense uses abutting the Major Public Open Space in any Mixed-use zone district.
4. Include a landscaped strip between off-street parking and the Major Public Open Space with a minimum width of 6 feet that varies in width to avoid the appearance of a hard, straight line. Plant selection shall include sufficient shrubs or trees to provide a visual barrier.
5. Limit height of site lighting luminaires to 20 feet.
6. Incorporate Crime Prevention through Environmental Design (CPTED) principles to deter crime and to facilitate security measures.
7. Manage stormwater per Subsection 14-16-5-4(H).
8. Design grading per Subsection 14-16-5-4(J).
9. Locate and design vehicle access, circulation, and parking per Subsection 14-16-5-5(F) (Parking Location and Design) and Subsection 14-16-5-6(F) (Parking Lot Landscaping).
10. Locate and design all walls, fences, retaining walls, and combinations of those site features facing the Major Public Open Space in compliance with all applicable standards in Section 14-16-5-7(E)(4) (Walls Adjacent to Major Arroyos or Major Public Open Space).
11. Prevent and mitigate construction impact per the DPM.

5-2(J)(2)(b) **Lots 5 Acres or Greater**

Development on lots 5 acres or greater adjacent to Major Public Open Space shall:

1. Comply with the requirements of Subsection (a) above.
2. Not be located within 50 feet of the portions of Major Public Open Space with a steep slope, escarpment, wetland, and/or riparian area, except for any single-loaded street or

landscaped buffer required pursuant to Subsection 14-16-5-2(J)(2)(a)1.

3. Not create any material negative environmental impacts on the visual, recreational, or habitat values of the Major Public Open Space.
4. Locate and design vehicle access, circulation, and parking to minimize impact to Major Public Open Space.
5. Design grading and manage stormwater to minimize impact to Major Public Open Space.
6. Locate, design, and orient site lighting to be compatible with Major Public Open Space, including consideration of periphery lighting and lighting of any pedestrian access to Major Public Open Space that is acceptable to the Open Space Division of the City Parks and Recreation Department.
7. Design walls to balance the following needs as appropriate on a case-by-case basis:
 - a. Aesthetics that blend with the natural environment.
 - b. Safety and surveillance.
 - c. Screening and privacy.
8. Locate, design, and orient signage to minimize impact to the Major Public Open Space.
9. Be reviewed by the Environmental Planning Commission (EPC), pursuant to Subsection 14-16-6-6(J).
10. Have an approved Site Plan – EPC that meets conditions deemed necessary by the EPC to further compliance with the above standards to minimize impact on the Major Public Open Space and maximize compatibility of the proposed development prior to the submittal of any request for platting on the property.

5-2(J)(2)(c)

Lots Adjacent to the Petroglyph National Monument

Development on lots of any size adjacent to the Petroglyph National Monument shall:

1. Comply with the requirements of Subsections 14-16-5-2(J)(1) (Lots within 330 feet of Major Public Open Space) and 14-16-5-2(J)(2) (Lots Adjacent to Major Public Open Space) above regardless of the applicability of those provisions related to the location or size of the premises.
2. Comply with the applicable standards in Section 14-16-3-6(E) (Northwest Mesa Escarpment – VPO-2).
3. Comply with the WTF concealment requirements in Section 14-16-4-3(E)(12)(a).
4. Comply with the applicable wall design and materials standards in Section 14-16-5-7(E)(4) (Walls Adjacent to Major Arroyos or Major Public Open Space).

5. Comply with the applicable sign restrictions in Sections 14-16-5-12(G)(1)(e).

5-2(K) PREVENTING AND MITIGATING CONSTRUCTION IMPACT

See the DPM for standards.



Letter of Authorization

To: Zoning Hearing Examiner

Date: 12-7-2023

Description of Request: Request for Varaince of 7805 Aguila street for single family home to encroach 10' into 45' landscape buffer. Request of varianfe for 7808 Aguila Street for single family jome to encroa

I, Joe R. Romero hereby authorize Maia Martin to act on my behalf in all matters relating to this application for Special Exception filed for my property located at 7805 Aguila Street NE, Albuquerque, NM 87120/7809 Aguila Street NE, ABQ, N. M 87120

Property Owner(s)* Printed Name(s) Joe R Romero

Property Owner(s)* Signature(s) [Handwritten Signature]

Mailing Address 12412 Conejo Ct, Albuquerque, NM 87123

* Where a property has more than one owner, all owners must consent in writing to the filing of the application or show proof of legal authority to act on behalf of the other owners. When the ownership status of some parties is unclear (as shown on a title abstract or title insurance commitment), the owner shall attest in writing that all of the property owners shown on a title abstract or title insurance commitment have been notified of the application in writing at their last known address as shown on the property tax records of Bernalillo County.

Sanchez, Suzanna A.

From: Sanchez, Suzanna A.
Sent: Tuesday, December 5, 2023 10:39 AM
To: maia@candelariahomes.com
Subject: ZHE Information for 7805 Aguila St NW
Attachments: 1. Letter to Neighborhood Association.pdf; VARIANCE JUSTIFICATION APRIL 2021.pdf
Importance: High

Good morning,

Thank you for your ZHE Special Exception Request. Please request the neighborhood association representatives from the Office of Neighborhood Coordination using the following link, <https://www.cabq.gov/office-of-neighborhood-coordination/neighborhood-meeting-inquiry-sheet>.

Fill in and forward the attached Letter to Neighborhood Association to the list of neighborhood association contacts. It is recommended that the neighborhood associations be notified 45 days prior to application submittal. Per Section 14-16-6-4(C)(3) of the Integrated Development Ordinance, a meeting request must be sent to the 2 representatives of all applicable Neighborhood Associations via Certified Mail, return receipt requested, or via email. **(Please include project information such as renderings, a site plan and/or a photo in the notice).**

Please forward me the items below at your earliest convenience.

- Proof of email to the Neighborhood Association
- Justification Letter
- Photo of Property

If you have questions, please contact me.

Thank you,

Suzie



SUZIE FLORES

zhe administrative assistant

o 505.924.3894

e suzannasanchez@cabq.gov

cabq.gov/planning

Sanchez, Suzanna A.

From: Maia Martin <maia@candelariahomes.com>
Sent: Wednesday, December 6, 2023 6:17 AM
To: Sanchez, Suzanna A.
Subject: Fwd: 7805 Aguila NW_Neighborhood Meeting Inquiry Sheet Submission

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

-Maia Martin

----- Forwarded message -----

From: Office of Neighborhood Coordination <onc@cabq.gov>
Date: Tue, Dec 5, 2023 at 3:42 PM
Subject: 7805 Aguila NW_Neighborhood Meeting Inquiry Sheet Submission
To: Maia Martin <maia@candelariahomes.com>

Dear Applicant:

As of Tuesday, December 5, 2023, there are **NO** neighborhood associations to notify. You will need to attach a copy of this e-mail from the Office of Neighborhood Coordination (ONC) to your application when you submit it to the Planning Department.

Please note that the ONC does not have any jurisdiction over any other aspect of your application beyond this neighborhood contact information. We can't answer questions about sign postings, pre-construction meetings, permit status, site plans, buffers, or project plans, so we encourage you to contact the Planning Department at: 505-924-3857 Option #1, e-mail: devhelp@cabq.gov, or visit: <https://www.cabq.gov/planning/online-planning-permitting-applications> with those types of questions.

Thank you.



Vanessa Baca

Manager

Office of Neighborhood Coordination (ONC) | City Council Department | City of Albuquerque

(505) 768-3331 Office

E-mail: vanessabaca@cabq.gov

Website: www.cabq.gov/neighborhoods



From: Maia Martin <maia@candelariahomes.com>

Sent: Tuesday, December 5, 2023 3:31 PM

To: Office of Neighborhood Coordination <onc@cabq.gov>

Subject: Re: Neighborhood Meeting Inquiry Sheet Submission 7805 Aguila

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

7805. I just used the same some atlas page since they're next to each other.

-Maia Martin

On Tue, Dec 5, 2023 at 3:30 PM Office of Neighborhood Coordination <onc@cabq.gov> wrote:

The address listed is 7805 but your map attachment says 7809. Which is the correct address?



Vanessa Baca

Manager

Office of Neighborhood Coordination (ONC) | City Council Department | City of Albuquerque

(505) 768-3331 Office

E-mail: vanessabaca@cabq.gov

Website: www.cabq.gov/neighborhoods



From: Maia Martin <maia@candelariahomes.com>

Sent: Tuesday, December 5, 2023 3:20 PM

To: Office of Neighborhood Coordination <onc@cabq.gov>

Subject: Fwd: Neighborhood Meeting Inquiry Sheet Submission 7805 Aguila

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

-Maia Martin

----- Forwarded message -----

From: <webmaster@cabq.gov>
Date: Tue, Dec 5, 2023 at 12:32 PM
Subject: Neighborhood Meeting Inquiry Sheet Submission
To: Office of Neighborhood Coordination <maia@candelariahomes.com>
CC: <onc@cabq.gov>

Neighborhood Meeting Inquiry For:

Zoning Hearing Examiner

If you selected "Other" in the question above, please describe what you are seeking a Neighborhood Meeting Inquiry for below:

Contact Name

maia martin

Telephone Number

5059167474

Email Address

maia@candelariahomes.com

Company Name

Company Address

[601 menaul blvd ne unit 1303](#)

City

albuquerque

State

NM

ZIP

87107

Legal description of the subject site for this project:

Lot 8-A-2 , unit 19 , block 2 of volcano cliffs

Physical address of subject site:

[7805 Aguila St NW](#)

Subject site cross streets:

Vista Del Prado/Aguila Street

Other subject site identifiers:

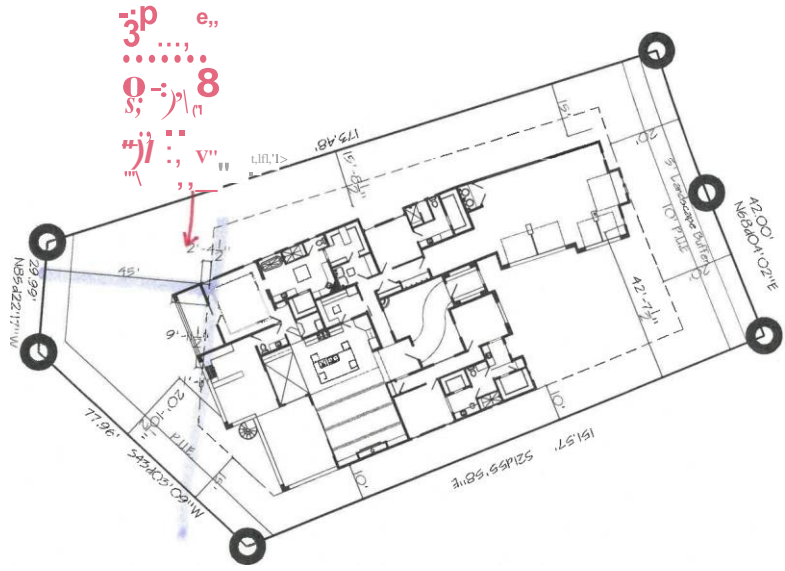
This site is located on the following zone atlas page:

D-10-Z

Captcha

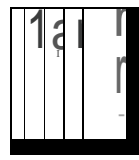
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Site Plan

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(170!?) 62'5-6474 Cell.(170!?) 62'56777

VARIANCE JUSTIFICATION LETTER - GENERAL

Zoning Hearing Examiner
City of Albuquerque
600 2nd Street NW, 3rd Floor
Albuquerque, NM 87102

RE: Request for Variance of Encroachment of 10' into 45' Landscape Buffer. 35' feet from back property line/back setbacks

at 7805 Aguila Street NW, Albuquerque, NM 87120 (address of the subject property).

1) There are special circumstances applicable to a single lot that are not self-imposed and that do not apply generally to other property in the same zone district and vicinity, including but not limited to size, shape, topography, location, surroundings, physical characteristics, natural forces, or by government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic return on the property, or practical difficulties result from strict compliance with the minimum standards. **PLEASE EXPLAIN:**
Back in 2016 this lot was part of a consolidation plat which combined this lot with the lot next to it. In 2019, the IDO enforced a rule that all major open spaces must have 45' of landscape buffer to back of property. With this being said when I re-platted the land recently (Summer of 2023) and the 45' landscape buffer was made as part of the requirements for re-platted. I believe that since before 2016 they were individual lots with no landscape buffer, we should be able to go back to original plats from 2016 to avoid Landscape buffer to have a bigger

2) The Variance will not be materially contrary to the public safety, health, or welfare **BECAUSE:**
All Lots that surround this area do not have a 45' landscape buffer due to plats being from before 2019 before new ordinance was passed. Variance will not be contrary to public safety, health, or welfare.

3) The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity **BECAUSE:**
As stated, prior to Re plat happened over the summer, this property did not have a landscape buffer

4) The Variance will not materially undermine the intent and purpose of this IDO or the applicable zone district **BECAUSE:**
This is zoned as R-1D so a single family dwelling will be built. 45' landscape buffer was not required for lots before Subdivision or prior to consolidation plat in 2016

5) The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties **BECAUSE:**
If Variance will provide hardship due to the fact that the 45' of landscape buffer at the back of property will make the buildable area very small and hard to fit a mid sized single family home.

Signature: Maia Martin

Date: 12/05/2023



CITY OF ALBUQUERQUE INVOICE

MAIA MARTIN

6611 CUERVO PLACE

Reference NO: VA-2023-00365

Customer NO: CU-177412006

Date	Description	Amount
12/07/23	2% Technology Fee	\$4.20
12/07/23	Application Fee	\$100.00
12/07/23	Facilitated Meeting Fee	\$50.00
12/07/23	Posted Sign Fee	\$10.00
12/07/23	Published Notice Fee	\$50.00

Due Date: **12/07/23**

Total due for this invoice:

\$214.20

Options to pay your Invoice:

1. Online with a credit card: <https://posse.cabq.gov/posse/pub/lms/Default.aspx>
2. In person: Plaza Del Sol, 600 2nd St. NW, Albuquerque, NM 87102

PLEASE RETURN THE BOTTOM PORTION OF THIS INVOICE NOTICE WITH PAYMENT



City of Albuquerque
PO Box 1293
Albuquerque, NM 87103

Date: 12/07/23
Amount Due: **\$214.20**
Reference NO: VA-2023-00365
Payment Code: 130
Customer NO: CU-177412006

MAIA MARTIN
6611 CUERVO PLACE
ALBUQUERQUE, NM 87120



130 0000VA20230036500102546719416064600000000000002142CU177412006

REQUEST FOR SPECIAL EXCEPTION

Variance Conditional Use Other

Interpreter: Yes No

VA# VA-2023-00366

PR# 2023-

PR-2023-009650

Date: 11-27-23		Received By: Hope Wimer	
Address of Request: 7809 Aguila St NW			
City: Albuquerque	State: NM	Zip: 87120	
Lot: 8-A-1 Block: 2	Zone: R-1D	Map pg. D10	
Subdivision: VOLCANO CLIFFS UNIT 19		UPC# 101006330014140929	
Property Owner(s): Joe R. Romero			
Mailing Address: 12412 Conejo Rd NE			
City: Albuquerque	State: NM	Zip: 87123	
Phone: 5057306527	Email: albuquerqueprize@gmail.com		
Agent: Maia Martin			
Mailing Address: 601 Menaul Blvd Unit 1303			
City: Albuquerque	State: NM	Zip: 87107	
Phone: 5059167474	Email: maia@candelariahomes.com		
		Fee Total: \$214.20	

Completed Application Requirements:

- Copy of relevant IDO section
- Letter of authorization (if agent representation)
- Proof that neighborhood meeting requirements were met
- Proof that public notice requirements were met
- Photos (site and existing structures)
- Sketch plan
- Justification letter
- Sign posting
- Payment of fees

Approved for acceptance by: SF

Date: 12/4/23

Hearing Date: 1/16/24

ZONING OFFICIAL USE ONLY			
Request for exception to IDO Section: 14-16-5-2(J)(2)(a)(1)			
Description of request: A variance of 30 ft to the required 45 ft open space landscape buffer.			
Δ Ownership verified on AGIS		Δ Proof of ownership included	Δ Letter of authorization included
Case history number(s) from AGIS:			
APO:	CPO# CPO-13	HPO#	VPO# VPO-2
Wall variances not allowed in low-density residential development in these 2 areas per 5-7(D)(3)(e):			
1) CPO 3 and 2) Monte Vista / College View Historic Dist. - Mapped Area			
2) CPO-8 states walls no more than 3 feet high, but may request a variance		2 nd check Initials CMT	

Plan and as acceptable to the Open Space Division of the City Parks and Recreation Department.

5-2(J)(1)(c)

Landscaping, Buffering, and Screening

Development shall:

1. Use native and/or naturalized vegetation for landscaping materials.
2. Screen mechanical equipment pursuant to Subsection 14-16-5-6(G) (Screening of Mechanical Equipment and Support Areas).

5-2(J)(1)(d)

Outdoor Lighting

Development shall design lighting pursuant to Section 14-16-5-8 (Outdoor and Site Lighting).

5-2(J)(1)(e)

Color

1. Development shall limit the colors of exterior surfaces of structures, including but not limited to mechanical devices, roof vents, and screening materials, to those with light reflective value (LRV) rating between 20 percent and 50 percent.
2. Colors shall blend with the surrounding natural environment and generally include yellow ochres, browns, dull reds, and grey greens.
3. Trim materials on façades constituting less than 20 percent of the façade's opaque surface may be any color.

5-2(J)(1)(f)

Signs

1. Electronic signs are prohibited pursuant to Subsection 14-16-5-12(H)(2)(e).
2. Signage shall be located to minimize visibility from Major Public Open Space and designed pursuant to Subsection 14-16-5-12(E)(5) (Illumination and Motion).

5-2(J)(2)**Lots Adjacent to Major Public Open Space**

In addition to the standards that apply within 330 feet in any direction of Major Public Open Space in Subsection 14-16-5-2(J)(1) above, the following standards apply to development on lots adjacent to Major Public Open Space, except when the subject property and Major Public Open Space are separated by a principal arterial or freeway, in which case only the provisions of Subsection 14-16-5-2(J)(1) apply.

5-2(J)(2)(a)

Lots of Any Size

Development on lots of any size adjacent to Major Public Open Space shall:

1. Be platted and/or designed to incorporate a single-loaded street between the Major Public Open Space and development, with access generally prohibited unless approved by the Open Space Division of the City Parks and Recreation Department. Where a single-loaded street is not

desired by the Open Space Division of the City Parks and Recreation Department, a landscape buffer with a minimum width of 45 feet may be substituted as approved by the Open Space Superintendent. Existing vegetation on the Official Albuquerque Plant Palette may count toward satisfying the requirements of Subsection 14-16-5-6(C)(2) (Minimum Landscape Area) with approval from the Open Space Superintendent. Plant selection and location is subject to approval by the Open Space Superintendent.

2. For cluster development and multi-family dwellings, locate at least 25 percent of common open space or ground-level usable open space to be contiguous with Major Public Open Space. These areas shall be made accessible from the remaining land via trails or sidewalks. Access to Major Public Open Space is only allowed if approved by the Open Space Division of the City Parks and Recreation Department.
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4. Include a landscaped strip between off-street parking and the Major Public Open Space with a minimum width of 6 feet that varies in width to avoid the appearance of a hard, straight line. Plant selection shall include sufficient shrubs or trees to provide a visual barrier.
5. Limit height of site lighting luminaires to 20 feet.
6. Incorporate Crime Prevention through Environmental Design (CPTED) principles to deter crime and to facilitate security measures.
7. Manage stormwater per Subsection 14-16-5-4(H).
8. Design grading per Subsection 14-16-5-4(J).
9. Locate and design vehicle access, circulation, and parking per Subsection 14-16-5-5(F) (Parking Location and Design) and Subsection 14-16-5-6(F) (Parking Lot Landscaping).
10. Locate and design all walls, fences, retaining walls, and combinations of those site features facing the Major Public Open Space in compliance with all applicable standards in Section 14-16-5-7(E)(4) (Walls Adjacent to Major Arroyos or Major Public Open Space).
11. Prevent and mitigate construction impact per the DPM.

5-2(J)(2)(b)

Lots 5 Acres or Greater

Development on lots 5 acres or greater adjacent to Major Public Open Space shall:

1. Comply with the requirements of Subsection (a) above.
2. Not be located within 50 feet of the portions of Major Public Open Space with a steep slope, escarpment, wetland, and/or riparian area, except for any single-loaded street or

landscaped buffer required pursuant to Subsection 14-16-5-2(J)(2)(a)1.

3. Not create any material negative environmental impacts on the visual, recreational, or habitat values of the Major Public Open Space.
4. Locate and design vehicle access, circulation, and parking to minimize impact to Major Public Open Space.
5. Design grading and manage stormwater to minimize impact to Major Public Open Space.
6. Locate, design, and orient site lighting to be compatible with Major Public Open Space, including consideration of periphery lighting and lighting of any pedestrian access to Major Public Open Space that is acceptable to the Open Space Division of the City Parks and Recreation Department.
7. Design walls to balance the following needs as appropriate on a case-by-case basis:
 - a. Aesthetics that blend with the natural environment.
 - b. Safety and surveillance.
 - c. Screening and privacy.
8. Locate, design, and orient signage to minimize impact to the Major Public Open Space.
9. Be reviewed by the Environmental Planning Commission (EPC), pursuant to Subsection 14-16-6-6(J).
10. Have an approved Site Plan – EPC that meets conditions deemed necessary by the EPC to further compliance with the above standards to minimize impact on the Major Public Open Space and maximize compatibility of the proposed development prior to the submittal of any request for platting on the property.

5-2(J)(2)(c)

Lots Adjacent to the Petroglyph National Monument

Development on lots of any size adjacent to the Petroglyph National Monument shall:

1. Comply with the requirements of Subsections 14-16-5-2(J)(1) (Lots within 330 feet of Major Public Open Space) and 14-16-5-2(J)(2) (Lots Adjacent to Major Public Open Space) above regardless of the applicability of those provisions related to the location or size of the premises.
2. Comply with the applicable standards in Section 14-16-3-6(E) (Northwest Mesa Escarpment – VPO-2).
3. Comply with the WTF concealment requirements in Section 14-16-4-3(E)(12)(a).
4. Comply with the applicable wall design and materials standards in Section 14-16-5-7(E)(4) (Walls Adjacent to Major Arroyos or Major Public Open Space).

5. Comply with the applicable sign restrictions in Sections 14-16-5-12(G)(1)(e).

5-2(K) PREVENTING AND MITIGATING CONSTRUCTION IMPACT

See the DPM for standards.



Letter of Authorization

To: Zoning Hearing Examiner

Date: 12-7-2023

Description of Request: Request for Varaince of 7805 Aguila street for single family home to encroach 10' into 45' landscape buffer. Request of varianfe for 7808 Aguila Street for single family jome to encroa

I, Joe R. Romero hereby authorize Maia Martin to act on my behalf in all matters relating to this application for Special Exception filed for my property located at 7805 Aguila Street NE, Albuquerque, NM 87120/7809 Aguila Street NE, ABQ, N. M 87120

Property Owner(s)* Printed Name(s) Joe R Romero

Property Owner(s)* Signature(s) [Handwritten Signature]

Mailing Address 12412 Conejo Ct, Albuquerque, NM 87123

* Where a property has more than one owner, all owners must consent in writing to the filing of the application or show proof of legal authority to act on behalf of the other owners. When the ownership status of some parties is unclear (as shown on a title abstract or title insurance commitment), the owner shall attest in writing that all of the property owners shown on a title abstract or title insurance commitment have been notified of the application in writing at their last known address as shown on the property tax records of Bernalillo County.

Sanchez, Suzanna A.

From: Sanchez, Suzanna A.
Sent: Tuesday, December 5, 2023 10:38 AM
To: maia@candelariahomes.com
Subject: ZHE Information for 7809 Aguila St NW
Attachments: 1. Letter to Neighborhood Association.pdf; VARIANCE JUSTIFICATION APRIL 2021.pdf
Importance: High

Good morning,

Thank you for your ZHE Special Exception Request. Please request the neighborhood association representatives from the Office of Neighborhood Coordination using the following link, <https://www.cabq.gov/office-of-neighborhood-coordination/neighborhood-meeting-inquiry-sheet>.

Fill in and forward the attached Letter to Neighborhood Association to the list of neighborhood association contacts. It is recommended that the neighborhood associations be notified 45 days prior to application submittal. Per Section 14-16-6-4(C)(3) of the Integrated Development Ordinance, a meeting request must be sent to the 2 representatives of all applicable Neighborhood Associations via Certified Mail, return receipt requested, or via email. **(Please include project information such as renderings, a site plan and/or a photo in the notice).**

Please forward me the items below at your earliest convenience.

- Proof of email to the Neighborhood Association
- Justification Letter
- Photo of Property

If you have questions, please contact me.

Thank you,

Suzie



SUZIE FLORES

zhe administrative assistant

o 505.924.3894

e suzannasanchez@cabq.gov

cabq.gov/planning

Sanchez, Suzanna A.

From: Office of Neighborhood Coordination
Sent: Tuesday, December 5, 2023 12:41 PM
To: maia@candelariahomes.com
Cc: Sanchez, Suzanna A.
Subject: 7809 Aguila St NW_Neighborhood Meeting Inquiry Sheet Submission

Follow Up Flag: Follow up
Flag Status: Completed

Dear Applicant:

As of Tuesday, December 5, 2023, there are **NO** neighborhood associations to notify. You will need to attach a copy of this e-mail from the Office of Neighborhood Coordination (ONC) to your application when you submit it to the Planning Department.

Please note that the ONC does not have any jurisdiction over any other aspect of your application beyond this neighborhood contact information. We can't answer questions about sign postings, pre-construction meetings, permit status, site plans, buffers, or project plans, so we encourage you to contact the Planning Department at: 505-924-3857 Option #1, e-mail: devhelp@cabq.gov, or visit: <https://www.cabq.gov/planning/online-planning-permitting-applications> with those types of questions.

Thank you.



Vanessa Baca
Manager

Office of Neighborhood Coordination (ONC) | City Council Department | City of Albuquerque
(505) 768-3331 Office
E-mail: vanessabaca@cabq.gov
Website: www.cabq.gov/neighborhoods



From: webmaster@cabq.gov <webmaster@cabq.gov>
Sent: Tuesday, December 5, 2023 12:33 PM
To: Office of Neighborhood Coordination <maia@candelariahomes.com>

Cc: Office of Neighborhood Coordination <onc@cabq.gov>

Subject: Neighborhood Meeting Inquiry Sheet Submission

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Neighborhood Meeting Inquiry For:

Zoning Hearing Examiner

If you selected "Other" in the question above, please describe what you are seeking a Neighborhood Meeting Inquiry for below:

Contact Name

maia martin

Telephone Number

5059167474

Email Address

maia@candelariahomes.com

Company Name

Company Address

601 menaul blvd ne unit 1303

City

albuquerque

State

NM

ZIP

87107

Legal description of the subject site for this project:

Lot 8-A-1 , unit 19 , block 2 of volcano cliffs

Physical address of subject site:

7809 Aguila St NW

Subject site cross streets:

Vista Del Prado/Aguila Street

Other subject site identifiers:

This site is located on the following zone atlas page:

D-10-Z

Captcha

x

VARIANCE JUSTIFICATION LETTER - GENERAL

Zoning Hearing Examiner
City of Albuquerque
600 2nd Street NW, 3rd Floor
Albuquerque, NM 87102

RE: Request for Variance of Encroachment of 30" into 45' Landscape Buffer. 15' feet from back property line/back setbacks

at 7809 Aguila Street NW, Albuquerque, NM 87120 (address of the subject property).

1) There are special circumstances applicable to a single lot that are not self-imposed and that do not apply generally to other property in the same zone district and vicinity, including but not limited to size, shape, topography, location, surroundings, physical characteristics, natural forces, or by government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic return on the property, or practical difficulties result from strict compliance with the minimum standards. **PLEASE EXPLAIN:**
Back in 2016 this lot was part of a consolidation plat which combined this lot with the lot next to it. In 2019, the IDO enforced a rule that all major open spaces must have 45' of landscape buffer to back of property. With this being said when I re-platted the land recently (Summer of 2023) and the 45' landscape buffer was made as part of the requirements for re-platted. I believe that since before 2016 they were individual lots with no landscape buffer, we should be able to go back to original plats from 2016 to avoid Landscape buffer to have a bigger

2) The Variance will not be materially contrary to the public safety, health, or welfare **BECAUSE:**
All Lots that surround this area do not have a 45' landscape buffer due to plats being from before 2019 before new ordinance was passed. Variance will not be contrary to public safety, health, or welfare.

3) The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity **BECAUSE:**
As stated, prior to Re plat happened over the summer, this property did not have a landscape buffer

4) The Variance will not materially undermine the intent and purpose of this IDO or the applicable zone district **BECAUSE:**
This is zoned as R-1D so a single family dwelling will be built. 45' landscape buffer was not required for lots before Subdivision or prior to consolidation plat in 2016

5) The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties **BECAUSE:**
If Variance will provide hardship due to the fact that the 45' of landscape buffer at the back of property will make the buildable area very small and hard to fit a mid sized single family home.

Signature: Maia Martin

Date: 12/05/2023



CITY OF ALBUQUERQUE INVOICE

MAIA MARTIN

6611 CUERVO PLACE

Reference NO: VA-2023-00366

Customer NO: CU-177412006

Date	Description	Amount
12/07/23	2% Technology Fee	\$4.20
12/07/23	Application Fee	\$100.00
12/07/23	Facilitated Meeting Fee	\$50.00
12/07/23	Posted Sign Fee	\$10.00
12/07/23	Published Notice Fee	\$50.00

Due Date: **12/07/23**

Total due for this invoice:

\$214.20

Options to pay your Invoice:

1. Online with a credit card: <https://posse.cabq.gov/posse/pub/lms/Default.aspx>
2. In person: Plaza Del Sol, 600 2nd St. NW, Albuquerque, NM 87102

PLEASE RETURN THE BOTTOM PORTION OF THIS INVOICE NOTICE WITH PAYMENT



City of Albuquerque
PO Box 1293
Albuquerque, NM 87103

Date: 12/07/23
Amount Due: **\$214.20**
Reference NO: VA-2023-00366
Payment Code: 130
Customer NO: CU-177412006

MAIA MARTIN
6611 CUERVO PLACE
ALBUQUERQUE, NM 87120



130 0000VA20230036600102546719416173700000000000002142CU177412006

Aib querque



DEVELOPMENT FACILITATION TEAM (DFT) APPLICATIONS

Effective 12/15/2022

Please check the appropriate box(es) and refer to supplemental forms for submittal requirements. All fees must be paid at the time of application.		
MISCELLANEOUS APPLICATIONS		<input type="checkbox"/> Extension of Infrastructure List or IIA (Form S3)
Site Plan Administrative DFT (Forms P & P2)		PRE-APPLICATIONS
<input type="checkbox"/> Final EPC Sign-off for Master Development/Site Plans - EPC (Form P2)		Sketch Plat Review and Comment (Form S3)
<input type="checkbox"/> Amendment to Infrastructure list (Form S3)		<input type="checkbox"/> Sketch Plan Review and Comment (Form S3)
<input type="checkbox"/> Temporary Deferral of S/W (Form S3)		APPEAL
<input type="checkbox"/> Extension of IIA: Temp. Def. of S/W (Form S3)		<input type="checkbox"/> Administrative Decision (Form A)
BRIEF DESCRIPTION OF REQUEST		
Inquiring about splitting two lots that were combined two years ago for resale. The two lots were platted together 1st year, but due to changes of building would like to be able to get these platted again to sell.		
APPLICATION INFORMATION		
Applicant/Owner:Maia Martin		Phone:5059167474
Address:601 Manual BLVD Unit 1301		Email:maia@candelariahomes.com
City:Albuquerque	State:NM	Zip:87107
Professional Agent (if any):Client Management		Phone:5059167474
Address:6611 Cuervo Place		Email:adan@candelariahomes.com
City:Albuquerque	State:NM	Zip:87120
Proprietary Interest in Site:Residential Build		List of owners:Joe Romero
SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)		
Lot or Tract No.:8-A		Block:2
Subdivision/Addition:Volcano Cliffs Subdivison		Unit:19
MRGCD Map No.:		UPC Code:101006330014140929
Zone Atlas Page(s):d10	Existing Zoning:d10	Proposed Zoning:d10
# of Existing Lots:1	# of Proposed Lots:2	Total Area of Site (Acres):0.71
LOCATION OF PROPERTY BY STREETS		
Site Address/Street:7805 Aguila Street NW		Between: Aquila Street NW and: Camino Del Oeste St NW
CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)		
n/a		
I certify that the information I have included here and sent in the required notice was complete, true, and accurate to the extent of my knowledge.		
Signature:Maia Martin		Date:05/03/2023
Printed Name: Maia Martin		Applicant or <input type="checkbox"/> Agent

FORM S3: ADMINISTRATIVE APPLICATIONS - Development Facilitation Team (DFT) as of 12/25/2022 **AMENDMENT TO INFRASTRUCTURE LIST**

A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided to City Staff using other online resources such as Dropbox or FTP. *The PDF shall be organized in the number order below.*

- ___ 1) OFT Application form completed, signed, and dated
- ___ 2) Form S3 with all the submittal items checked/marked
- ___ 3) Zone Atlas map with the entire site clearly outlined and labeled
- ___ 4) Letter of authorization from the property owner if application is submitted by an agent
- ___ 5) Proposed Amended Infrastructure List
- ___ 6) Original Infrastructure List

 TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION

A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided to City Staff using other online resources such as Dropbox or FTP. *The PDF shall be organized in the number order below.*

- ___ 1) OFT Application form completed, signed, and dated
- ___ 2) Form 53 with all the submittal items checked/marked
- ___ 3) Zone Atlas map with the entire site clearly outlined and labeled
- ___ 4) Letter of authorization from the property owner if application is submitted by an agent
- ___ 5) A scale drawing showing the location of the deferred sidewalk with appropriate dimensions

 EXTENSION OF THE IIA FOR TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION

A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided to City Staff using other online resources such as Dropbox or FTP. *The PDF shall be organized in the number order below.*

- ___ 1) DFT Application form completed, signed, and dated
- ___ 2) Form S3 with all the submittal items checked/marked
- ___ 3) Zone Atlas map with the entire site clearly outlined and labeled

- ___ 4) Letter of authorization from the property owner if application is submitted by an agent
- ___ 5) Letter describing, explaining, and justifying the deferral or extension
- ___ 6) Drawing showing the sidewalks subject to the proposed deferral or extension

INFRASTRUCTURE LIST EXTENSION OR AN INFRASTRUCTURE IMPROVEMENTS AGREEMENT (IIA) EXTENSION

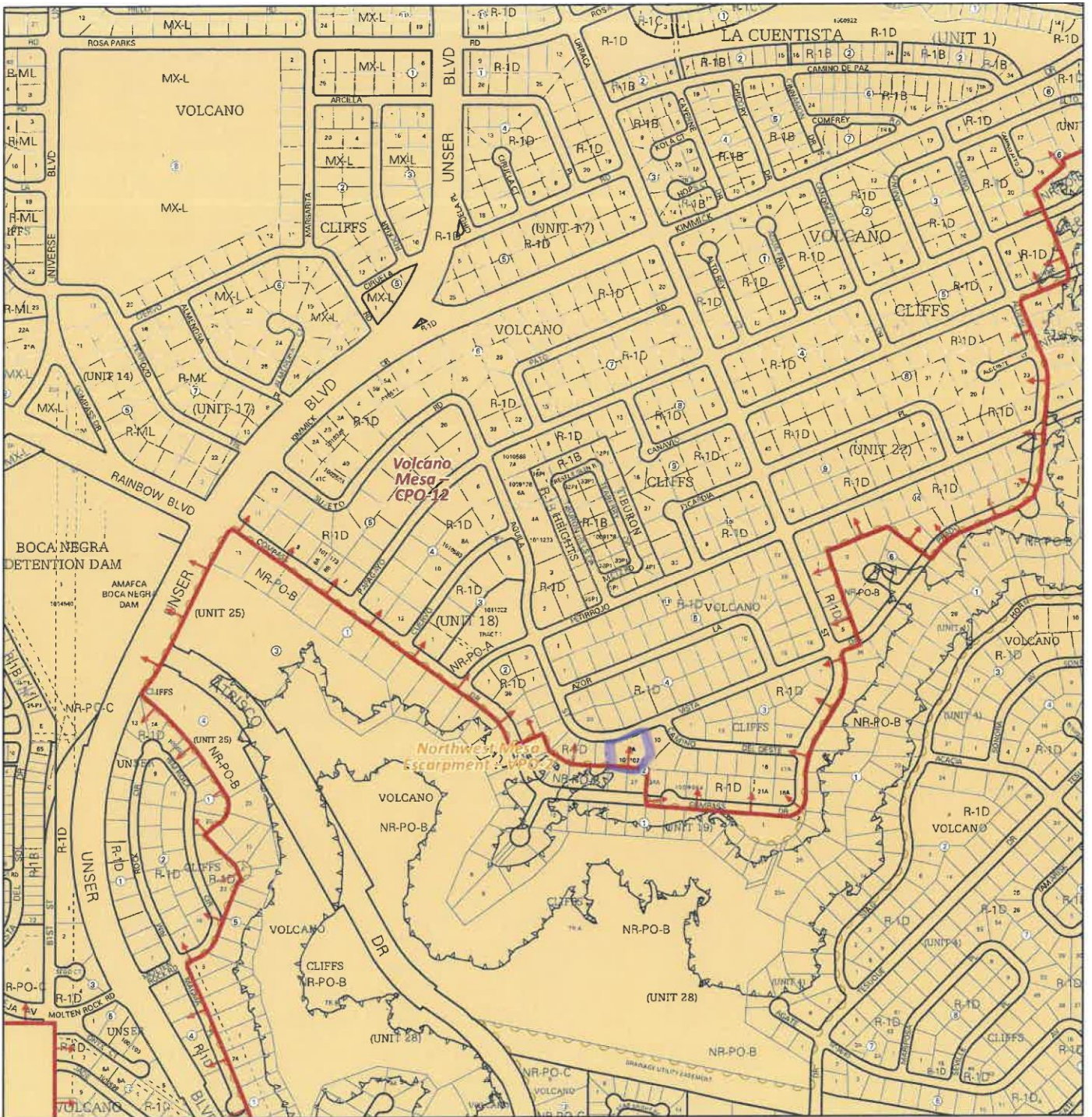
A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided to City Staff using other online resources such as Dropbox or FTP. The PDF shall be organized in the number order below.

- ___ 1) OFT Application form completed, signed, and dated
- ___ 2) Form S3 with all the submittal items checked/marked
- ___ 3) Zone Atlas map with the entire site clearly outlined and labeled
- ___ 4) Letter of authorization from the property owner if application is submitted by an agent
- ___ 5) Letter describing, explaining, and justifying the request per IDO Section 14-16-6-4(X)(4)
- ___ 6) Preliminary Plat or Site Plan
- ___ 7) Copy of ORB approved Infrastructure List
- ___ 8) Copy of recorded IIA

SKETCH PLAT OR SKETCH PLAN REVIEW AND COMMENT

A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided to City Staff using other online resources such as Dropbox or FTP. The PDF shall be organized in the number order below.

- 1) OFT Application form completed, signed, and dated
- 2) Form S3 with all the submittal items checked/marked
- 3) Zone Atlas map with the entire site clearly outlined and labeled
- 5) Letter describing, explaining, and justifying the request
- 6) Scale drawing of the proposed subdivision plat or Site Plan
- 7) Site sketch with measurements showing structures, parking, building setbacks, adjacent rights-of-way, and street improvements, if there is any existing land use

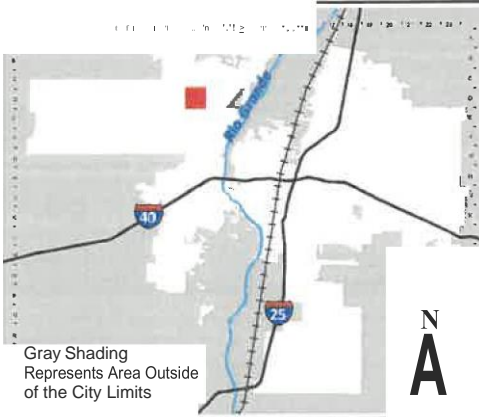


For more details about the Integrated Development Ordinance visit: <http://www.cabq.gov/planning/codes-policies-regulations/integrated-development-ordinance>

IDO Zone Atlas May 2018



IDO Zoning information as of May 17, 2018
The Zone Districts and Overlay Zones
are established by the
Integrated Development Ordinance (IDO).



Zone Atlas Page:

D-10-Z

W Escarpment

..... Easement

C v v) Petroglyph National Monument

!!! Areas Outside of City Limits

□ Airport Protection Overlay (APO) Zone

Character Protection Overlay (CPO) Zone

D Historic Protection Overlay (HPO) Zone

View Protection Overlay (VPO) Zone

0 250 500 1,000 Feet

Good Afternoon,

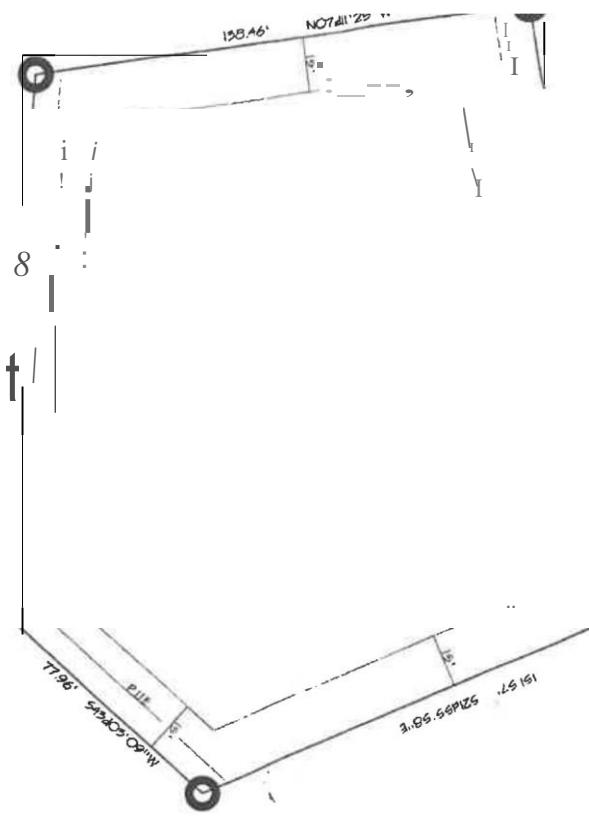
I am writing behalf of my client Joe Romero, who had his lots on Aguila conjoined last year when he was planning to build his house on it. Since then there has been a change in plans and my client would like to divide the lots again as they were before. These lots will be resold and new houses will be built on them. The lots are untouched, still in the same condition as before. The existing conditions of this lots are just dirt, rock, and weeds. Please let me know if you have any questions.

Thank you,

Maia Martin

505-916-7474

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Legal Description	
Map	
Scale	
Author	
Client	

Project Name	Aquila Street
Client Name	R. Alvarez
Sheet	2

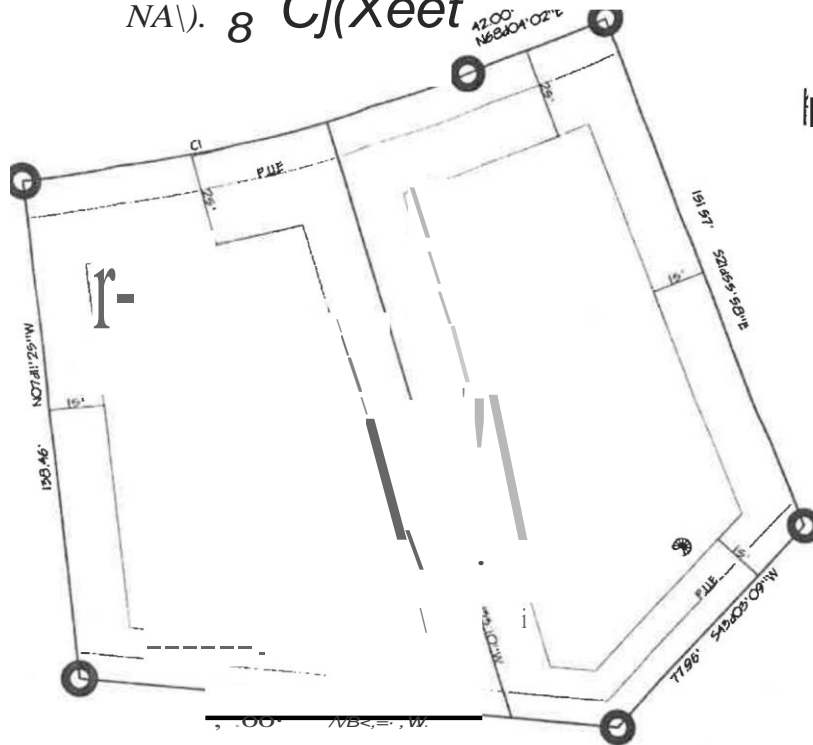
Aquila Street
 Albuquerque New Mexico

April 27, 2023
 54e Plan

RM Design Incorporated
 Residential Design and Drafting Services Fax 823-6487
 8724 Alameda Park Drive N.E. Suite G Albuquerque
 (505) 823-6474 Cell. (505) 823-6777

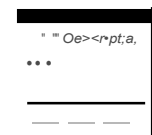
Minimum 10' between buildings

NA\). 8 Cj(Xeet



Proposed 5ub t?ivide L-ots

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Curb Cut Required? LPY [gi&J
 Na Curb Cut Required *Rolled Curb*

Site Plan

Scale 1/16" = 1'

Foster, William

From: Jane Baechle <jane.baechle@gmail.com>
Sent: Tuesday, January 9, 2024 9:39 AM
To: Foster, William
Subject: Comments for ZHE Meeting of 1/16/2024
Attachments: ZHE 1162024.pdf; IMG_3782Jpeg; IMG_3788Jpeg; IMG_3786.jpeg

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Please find attached written comments on Agenda items #17 and #18 on the current agenda for the ZHE meeting on 1/16/2024.

I have also attached some photos to illustrate my comments.

The first photo is of the only signage I could locate on 1/6/2024.

The second photo is a view of and from the south facing section of the property(ies) and shows the view of the property line and PETR boundary with the perimeter of the escarpment in the background.

The third photo shows the property line and boundary looking west with the trail in the left of the photo.

Thank you for your assistance in providing these to Mr. Lucero.

Jane Baechle







Foster, William

From: Jane Baechle <jane.baechle@gmail.com>
Sent: Tuesday, January 9, 2024 9:42 AM
To: Foster, William
Subject: Comments for ZHE Meeting of 1/16/2024
Attachments: ZHE 1162024.pdf

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Please find attached written comments on Agenda items #17 and #18 on the current agenda for the ZHE meeting on 1/16/2024.

I will send photos in a second message.

Thank you for your assistance in providing these to Mr. Lucero.

Jane Baechle

Jane Baechle
7021 Lamar Avenue NW
Albuquerque, NM 87120
Jane.Baechle@gmail.com

Date: January 9, 2024

To: Robert Lucero, Esq.
Zoning Hearing Examiner
City of Albuquerque

From: Jane Baechle
Member, SFVNA

Re: VA-2023-00365
Project# PR-2023- 009649

VA-2023-00366
Project# PR-2023- 009650

Although I am currently writing as an individual, my position is consistent with Santa Fe Village Neighborhood Association (SFVNA) opposition to all previous requests for a variance of the 45' landscaped buffer on property abutting the Petroglyph National Monument (PETR). I am writing to *oppose* the two requests cited above. In the first, Joe Romero (Agent, Maia Martin) requests a variance of 9 ft 11 ½ inches to the required 45 ft open space landscape buffer for Lots 8-A-1 & 8-A-2, Block 2, Volcano Cliffs Unit 19, located at 7805 Aguila ST NW, zoned R-ID [Section 14-16-5-2(J)(2)(a)(I)]. In the second, Mr. Romero requests a variance of 30 ft to the required 45 ft open space landscape buffer for Lot 8-A-1, Block 2, Volcano Cliffs Unit 19, located at 7809 Aguila ST NW, zoned R-ID [Section 14-16-5- 2(J)(2)(a)(I)].

Before citing the substance of my opposition, I will describe my experience attempting to visit these properties. Both were difficult to locate; I resorted to using Google maps while in the area. There was no signage visible from the street. After parking, I found one of the required signs providing notice lying flat on the street. It referenced the request for the 9 ft 11 1/2 inches variance for 7805 Aguila. No other sign was visible to me and none referenced a variance of 30 ft.

Both of these requests represent significantly harmful impacts to the Petroglyph National Monument (PETR). The rear lot line of this property abuts the boundary of the Petroglyph National Monument. The immediate area contains two rock outcroppings and open vegetation. A

designated monument walking trail winds through that area adjacent and along the edge of Boca Negra Canyon, the most visited area of PETR. The open mesa area to the south is narrow and closely approximates the escarpment itself. To be clear, however, the Petroglyph National Monument is not limited to the escarpment. It also includes the "surrounding area," everything within the Monument boundaries, even when that appears to be solely vegetation and rock outcroppings. The ABC Comp Plan language makes this clear, calling for policies that "Conserve and protect the Monument and surrounding lands..." and "Encourage appropriate edge treatments, transitions, and buffers through site design and development." It is all a "cultural landscape."

As in previous variance requests, the "adjacent" open space is the Petroglyph National Monument, created by an Act of Congress in 1990 to protect this cultural and natural landscape. Consistent with ABC Comp Plan Goals and Policies which call for the protection of cultural landscapes, the purpose of Section 14-16-5-2 of the IDO is to "minimize the impacts of development on natural and cultural resources,..." The purpose of Section 14-16-5-7 is to ".....ensure visual compatibility with public spaces such as City parks and trails, major arroyos, and Major Public Open Space;...." The intent of the IDO provisions cited and the NW Mesa Escarpment VPO-2 was to protect this cultural landscape, assure development in proximity to the escarpment had minimal negative impact and protect a highly sensitive area. These properties are an example of why these development standards were created and why it is essential that they are followed and respected.

In previous meetings, PETR Superintendent Nancy Hendricks has expressed concern about the granting of variances which then are used to support further requests for and approval of variances, creating a cycle in which the protection of the Monument, the landscape and the rights of the public to enjoy its physical and cultural benefits are further eroded. Property abutting PETR will naturally follow the topography of the area. These variances are materially contrary to the intent of the IDO as outlined above. It is possible to design and develop this site and protect the 45' buffer.

I am including several photos of the area taken on January 6, 2024.

Finally, Santa Fe Village is surrounded by PETR on three sides. My property abuts the Monument boundary. As an association, the SFVNA has repeatedly affirmed its support for enforcement of IDO provisions requiring the 45' buffer for MPOS and PETR. Both are "public land," a "community resource that provides physical, cultural, and economic benefits" for all. It is a profound privilege to live next door to any unit of the National Park Service. I believe that privilege carries the responsibility to protect the area for all to appreciate. I respectfully ask you to deny the requested variances.

Thank you,
Jane Baechle

Foster, William

From: Walter, Chanteil G <Chanteil_Walter@nps.gov>
Sent: Wednesday, January 10, 2024 3:35 PM
To: Foster, William; Sanchez, Suzanna A.
Cc: Hendricks, Nancy E; Perera, Andre R
Subject: NPS Comments for Consideration at January 16, 2024 ZHE Meeting
Attachments: 20240110_PETR letter to ZHE VA-2023-00365 and 00366.pdf

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Good Afternoon,

Please see our attached comments regarding VA-2023-00365; Project #PR2023-009649 and VA-2023-00366; Project #PR2023-009650 to be considered at the January 16, 2024 ZHE meeting. Please verify that you receive them.

Thank you,
Chanteil

Chanteil Walter
Interdisciplinary Resource Program Manager
Petroglyph National Monument
6001 Unser Blvd. NW
Albuquerque, NM 87120
505-377-3375
she/her



United States Department of the Interior

NATIONAL PARK SERVICE
Petroglyph National Monument
6001 Unser Blvd NW
Albuquerque, New Mexico 87120



IN **REPLY** REFER TO:
I.A.I.

January 10, 2024

City of Albuquerque
Robert Lucero, Esq.
Zoning Hearing Examiner
Through: Suzanna Sanchez
Via email at suzannasanchez@cabq.gov

Re: VA-2023-00365; Project #PR2023-009649
VA-2023-00366; Project #PR-2023-009650

Dear Mr. Lucero,

I am writing on behalf of the National Park Service (**NPS**) concerning two requests seeking a variance of the 45' landscape buffer adjacent to Petroglyph National Monument (Monument). The NPS **does not support** the following variance requests:

- Regarding VA-2023-00365; Project #PR2023-00949, Joe Romero (Agent, Maia Martin) requests a variance of 9 ft 11 ½ inches to the required 45 ft open space landscape buffer for Lots 8-A-1 & 8-A-2, Block 2, Volcano Cliffs Unit J9, located at 7805 Aguila ST NW, zoned R-ID [Section 14-16-5-2(J)(2)(a)(1)].
- Regarding VA-2023-00366; Project #PR-2023-009650, Joe Romero (Agent, **Maia** Martin) requests a variance of 30 ft to the required 45 ft open space landscape buffer for Lot 8-A-1, Block 2, Volcano Cliffs Unit 19, located at 7809 Aguila ST NW, zoned R-1O [Section 14-16-5-2(J)(2)(a)(1)].

We found out about this proposal from a neighbor and have not seen any additional materials. In reviewing the January 16, 2024 ZHE Agenda, and referring to the enclosed image (Exhibit A), the property is directly adjacent to Petroglyph National Monument (shown in dark green). A multi-use path (bright green line) travels through this portion of the Monument and is nearby the subject property. Bicyclists, pedestrians, joggers, and dog walkers utilize this trail as it winds in and out of the Monument and adjacent to the neighborhood. The subject property is just above the Boca Negra Canyon area of the Monument, which has over hundreds of petroglyphs carved on the basalt escarpment. As one of the most highly visited areas of the Monument, people visit to view hundreds of petroglyphs and to learn about the history and significance of the area.

The stipulations for the Integrated Development Ordinance (IDO), regarding Major Public Open Space Edges and Lots Adjacent to Major Public Open Space (sections 5-2(J) and specifically S-2(J)(2), subsections (a) and (c) state):

- 5-2(1)(2) Lots Adjacent to Major Public Open Space. In addition to the standards that apply within 330 feet in any direction of Major Public Open Space in Subsection 14-16-5-2(K)(1) above, the following standards apply to development on lots adjacent to Major Public Open Space, except when the subject property and Major Public Open Space are separated by a

principal arterial or freeway, in which case only the provisions of Subsection 14-16-5-2(K)(I) apply.

- o 5-2(J)(2)(a) Lots of Any Size. Development on lots of any size adjacent to Major Public Open Space shall:
 - Be platted and/or designed to incorporate a single-loaded street between the Major Public Open Space and development, with access generally prohibited unless approved by the Open Space Division of the City Parks and Recreation Department. Where a single-loaded street is not desired by the Open Space Division of the City Parks and Recreation Department, a landscape buffer with a minimum width of 45 feet may be substituted as approved by the Open Space Superintendent.
- o S-2(J)(2)(c) Lots Adjacent to the Petroglyph National Monument. Development on lots of any size adjacent to the Petroglyph National Monument shall:
 - Comply with the requirements of Subsections 14-16-S-2(K)(1) (Lots within 330 feet of Major Public Open Space) and 14-16-5-2(K)(2) (Lots Adjacent to Major Public Open Space) above regardless of the applicability of those provisions related to the location or size of the premises.
 - Comply with the applicable standards in Section 14-16-3-6(E) (Northwest Mesa Escarpment - VP0-2).

Petroglyph National Monument is one of the most significant and largest protected areas in Albuquerque and is nationally and globally significant. In 1989, community members, Pueblos and Tribes, the City of Albuquerque, and the New Mexico Congressional delegation pushed for the protection of a portion of the West Mesa to forever protect thousands of petroglyphs and the cultural heritage of the area. Shortly thereafter, on June 27, 1990, Petroglyph National Monument was designated by Congress. The community leaders and elected officials at that time committed to protecting this special place as a unit of the NPS "in light of the national significance of the West Mesa Escarpment and the petroglyphs and the urgent need to protect the cultural and natural resources of the area from urbanization and vandalism" Pub. Law 101-313, § 101 (1990).

The stated purpose of Section 14-16-5-2 of the IDO is to "minimize the impacts of development on natural and cultural resources." Petroglyph National Monument is a cultural landscape, and in particular, the 17-mile-long escarpment, which is nearby the property in question, is listed on the National Register of Historic Places (NRHP) as the Las Imagines Archaeological District. The escarpment acts as a visual reference point for the city, and contains significant and numerous cultural resources, including a large concentration of petroglyphs and numerous archaeological sites. The entire Monument area is considered sacred to all 19 Pueblos and 10 additional Tribes across the Southwest.

We are concerned that granting these requests would result in a visual intrusion on this highly sensitive area and set precedent in other areas adjacent to the Monument that fall under the same requirements, resulting in more structures built closer to the Monument. We urge you to follow the stipulations established by the IDO and deny further variance requests.

Sincerely,



ACTING SUPERINTENDENT

cc: Nancy Hendricks
Superintendent

Enclosure: Exhibit A-Image of the Subject Property (blue outline), proximity to Petroglyph National Monument (dark green), multi-use path (bright green line)

CABQMIP' Adwu,C>td Map y-__a_o

Gotting 1110uod Maps Dou S.V.,... Tosb



0.
CJ

Foster, William

From: Vialpando, Adryana L.
Sent: Wednesday, January 10, 2024 3:58 PM
To: Foster, William
Cc: Lewis, James L.; Langan-McRoberts, Colleen
Subject: Open Space Division Comments- VA-2023-00365 Project#PR-2023-009649 and VA-2023-00366 Project# PR-2023-009650

Good afternoon,
Please see the comments below from COA Open Space Division.

Open Space Comments on Variance VA-2023-00365 and VA-2023-00366

-Regarding

VA-2023-00365: Project# PR-2023- 009649 Joe Romero (Agent, Maia Martin) requests a variance of 9 ft 11 ½ inches to the required 45 ft open space landscape buffer for Lots 8-A-1 & 8-A-2, Block 2, Volcano Cliffs Unit 19, located at 7805 Aguila ST NW, zoned R-10 [Section 14-16-5-2(J)(2)(a)(1)]

VA-2023-00366: Project# PR-2023- 009650 Joe Romero (Agent, Maia Martin) requests a variance of 30 ft to the required 45 ft open space landscape buffer for Lot 8-A-1, Block 2, Volcano Cliffs Unit 19, located at 7809 Aguila ST NW, zoned R-ID [Section 14-16-5- 2(J)(2)(a)(1)]

- The City of Albuquerque's Open Space Division does not support the applicant's request for approval of the two Variance requests above. Mr.Romero's request will only leave six feet and one half inches of buffer out of the 45ft mandatory buffer zone abutting Major Public Open Space, which is also the Federal Congressional Boundary for Petroglyph National Monument. The property in question is on top of the mesa not far from one of the most visited and culturally significant areas of Petroglyph National Monument, which is managed by the Open Space Division. Boca Negra Canyon contains thousands of petroglyphs and allowing a property to be built this close could result in visual impacts and negatively affect the visitors' experience while learning about this sacred land. Therefore, the Open Space Division urges the ZHE to deny these variance requests. Below are the regulations related to Major Public Open Space and the IDO.

5-2(J)(2) Lots Adjacent to Major Public Open Space. In addition to the standards that apply within 330 feet in any direction of Major Public Open Space in Subsection 14-16-5-2(K)(1) above, the following standards apply to development on lots adjacent to Major Public Open Space, except when the subject property and Major Public Open Space are separated by a principal arterial or freeway, in which case only the provisions of Subsection 14- 16-5-2(K)(l) apply.

5-2(J)(2)(a) Lots of Any Size. Development on lots of any size adjacent to Major Public Open Space shall:

1. Be platted and/or designed to incorporate a single-loaded street between the Major Public Open Space and development, with access generally prohibited unless approved by the Open Space Division of the City Parks and Recreation Department. Where a single-loaded street is not desired by the Open Space Division of the City Parks and Recreation Department, a landscape buffer with a minimum width of 45 feet may be substituted as approved by the Open Space Superintendent....

5-2(J)(2)(c) Lots Adjacent to the Petroglyph National Monument. Development on lots of any size adjacent to the Petroglyph National Monument shall:

1. Comply with the requirements of Subsections 14-16-5-2(K)(l) (Lots within 330 feet of Major Public Open Space) and 14-16- 5-2(K)(2) (Lots Adjacent to Major Public Open Space) above regardless of the applicability of those provisions related to the location or size of the

premises.

2. Comply with the applicable standards in Section 14-16-3-6(E) (Northwest Mesa Escarpment -VP0-2)

Respectfully,

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ALBUQUE
RQUE

r.,.,t10..



ADRYANA VIALPANDO

Associate Planner | Open Space Division

o 505.768.4203

c 505.932.8653

cabq.gov/parksandrecreation/openspace



CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Joe Romero (Agent, Maia Martin) requests a variance of 9 ft 11 ½ inches to the required 45 ft open space landscape buffer for Lots 8-A-1 & 8-A-2, Block 2, Volcano Cliffs Unit 19, located at 7805 Aguila ST NW, zoned R-1D [Section 14-16-5-2(J)(2)(a)(1)]

Special Exception No:A-2023-00365
Project No:.....Project#2023-009649
Hearing Date:..... 1-16-24
Closing of Public Record:..... 1-16-24
Date of Decision:..... 01-31-24

On the 16th day of January, 2024, Maia Martin, agent for property owner Joe Romero ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a variance of 9 ft 11 ½ inches to the required 45 ft open space landscape buffer ("Application") upon the real property located at 7805 Aguila ST NW ("Subject Property"). Below are the ZHE's finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 9 ft 11 ½ inches to the required 45 ft open space landscape buffer.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(O)(3)(a) (Variance-Review and Decision Criteria) reads:"... *an application for a Variance-ZHE shall be approved if it meets all of the following criteria:*
 - (1) *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*
 - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*
 - (3) *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
 - (4) *The Variance will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone.*
 - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties. "*
3. Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).

4. Applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. Agent appeared at the ZHE hearing on this matter and gave evidence in support of the Application.
6. Applicant established that the proper "Notice of Hearing" signage was posted for the required time period.
7. Applicant established that all property owners and neighborhood association entitled to notice were notified of the Application.
8. Applicant established that proper notice was provided pursuant to IDO requirements.
9. Applicant has authority to pursue this Application.
10. The subject property is currently zoned R-ID.
11. Based on evidence in the record, it appears that there are no special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(O)(3)(a)(1). Applicant asserts that there are special circumstances because of past platting actions taken by the owner of the Subject Property and the neighboring property at 7809 Aguila. It would appear that these platting actions are self-imposed. Also, Applicant does not demonstrate the assertion stated in Applicant's justification letter that "all lots that surround this area do not have a 45' landscape buffer" because of plats approved before 2019. It would appear that a mere plat approval (without further action to vest development rights) before a change to the setbacks by zone amendment would control in spite of that zone amendment.
12. Further, even if there were a special circumstance, the evidence does not demonstrate how such a circumstance would create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards. Agent stated that Applicant would have to pay in the realm of \$10,000 to redesign house plans to build in accordance with the IDO. Given the overall development budget of the proposed construction, this amount does not appear to rise to the level of an extraordinary hardship.
13. Similarly, the evidence does not establish that the proposed variance is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(O)(3)(a)(5). At the January 17, 2024 hearing, the ZHE inquired whether the home could be constructed closer to the front property line, given that the site plans showed a good deal of unused space between the proposed location of the home and the front yard setback. The ZHE inquired whether massing the home square footage toward the front yard setback would yield more space in the back sufficient to comply with the 45' setback requirement. Agent responded that such a change would require an architectural redesign costing in the realm of \$10,000 to redesign house plans, as cited, above. It is therefore uncertain why a same sized house could not be constructed closer to the front yard, or why a smaller house could not be constructed, in either case requiring a smaller, or no, variance.
14. Because all prongs of the variance test must be satisfied and, as stated above, the Application failed to satisfy the above-stated prongs of the test, the Application must be denied.
15. Out of considerations of administrative and quasi-judicial economy, the ZHE will not summarize any analysis of the remaining prongs of the test in this Notification of Decision.

DECISION:

DENIAL of a variance of 9 ft 11 ½ inches to the required 45 ft open space landscape buffer.

APPEAL:

If you wish to appeal this decision, you must do so by February 15, 2024 pursuant to Section 14-16-6-4(V), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Jane Beckley, Santa Fe Village Neighborhood Association



CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Joe Romero (Agent, Maia Martin) requests a variance of 30 ft to the required 45 ft open space landscape buffer for Lot 8-A-1, Block 2, Volcano Cliffs Unit 19, located at 7809 Aguila ST NW, zoned R-1D [Section 14-16-5-2(J)(2)(a)(1)]

Special Exception No:..... **A-2023-00366**
Project No:..... **Project#2023-009650**
Hearing Date:..... 1-16-24
Closing of Public Record: 1-16-24
Date of Decision:..... 01-31-24

On the 16th day of January, 2024, Maia Martin, agent for property owner Joe Romero ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a variance of 30 ft to the required 45 ft open space landscape buffer ("Application") upon the real property located at 7809 Aguila ST NW ("Subject Property"). Below are the ZHE's finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 30 ft to the required 45 ft open space landscape buffer.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(O)(3)(a) (Variance-Review and Decision Criteria) reads: "... *an application for a Variance-ZHE shall be approved if it meets all of the following criteria:*
 - (1) *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*
 - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*
 - (3) *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
 - (4) *The Variance will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone.*
 - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties. "*
3. Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. Applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).

5. Agent appeared at the ZHE hearing on this matter and gave evidence in support of the Application.
6. Applicant established that the proper "Notice of Hearing" signage was posted for the required time period.
7. Applicant established that all property owners and neighborhood association entitled to notice were notified of the Application.
8. Applicant established that proper notice was provided pursuant to IDO requirements.
9. Applicant has authority to pursue this Application.
10. The subject property is currently zoned R-ID.
11. Based on evidence in the record, it appears that there are no special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(0)(3)(a)(1). Applicant asserts that there are special circumstances because of past platting actions taken by the owner of the Subject Property and the neighboring property at 7805 Aguila. It would appear that these platting actions are self-imposed. Also, Applicant does not demonstrate the assertion stated in Applicant's justification letter that "all lots that surround this area do not have a 45' landscape buffer" because of plats approved before 2019. It would appear that a mere plat approval (without further action to vest development rights) before a change to the setbacks by zone amendment would control in spite of that zone amendment.
12. Further, even if there were a special circumstance, the evidence does not demonstrate how such a circumstance would create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards. Agent stated that Applicant would have to pay in the realm of \$10,000 to redesign house plans to build in accordance with the IDO. Given the overall development budget of the proposed construction, this amount does not appear to rise to the level of an extraordinary hardship.
13. Similarly, the evidence does not establish that the proposed variance is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(O)(3)(a)(5). At the January 17, 2024 hearing, the ZHE inquired whether the home could be constructed closer to the front property line, given that the site plans showed a good deal of unused space between the proposed location of the home and the front yard setback. The ZHE inquired whether massing the home square footage toward the front yard setback would yield more space in the back sufficient to comply with the 45' setback requirement. Agent responded that such a change would require an architectural redesign costing in the realm of \$10,000 to redesign house plans, as cited, above. It is therefore uncertain why a same sized house could not be constructed closer to the front yard, or why a smaller house could not be constructed, in either case requiring a smaller, or no, variance.
14. Because all prongs of the variance test must be satisfied and, as stated above, the Application failed to satisfy the above-stated prongs of the test, the Application must be denied.
15. Out of considerations of administrative and quasi-judicial economy, the ZHE will not summarize any analysis of the remaining prongs of the test in this Notification of Decision.

DECISION:

DENIAL of a variance of 30 ft to the required 45 ft open space landscape buffer.

APPEAL:

If you wish to appeal this decision, you must do so by February 15, 2024 pursuant to Section 14-16-6-4(V), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Jane Beckley, Santa Fe Village Neighborhood Association



**Hearing on Special Exceptions
to the Integrated Development Ordinance**

MINUTES

**January 16, 2023
600 2nd St NW, Albuquerque, NM 87102**

CITY STAFF PRESENT:

**Robert Lucero – Zoning Hearing Examiner
Lorena Patten-Quintana – ZHE Planner, Planning Department
William Foster – Hearing Monitor**

ZHE: And so we're going to proceed to agenda item 17, and that is VA 2023-00365, project number PR-2023-009649. Joe Romero through agent Maya Martin requests a variance of nine feet, 11 1/2 inches to the required 45 foot open space landscape buffer for lots 8A1 and 8A2, block two, volcano cliffs, unit 19, located at 7805 Aguilar Street Northwest, zone R1D. Do we have the agent or applicant here?

M. MARTIN: Yes, sir. I'm Maia Martin, the agent representing Mr. Joe Romero.

ZHE: Thank you, Ms. Martin. Please state your mailing address for the record.

M. MARTIN: My mailing address is 601 Menaul Boulevard, Northeast unit 1303, Albuquerque, New Mexico, 87107.

ZHE: Thank you, and please raise your right hand. And do you affirm under penalty of perjury that your testimony today will be true?

M. MARTIN: I do.

ZHE: Thank you. Go ahead, please tell me about this application.

M. MARTIN: Okay, would it be possible to share my screen?

ZHE: Yes, let's see if we can enable that. There we go, I can see it.

M. MARTIN: Okay, so this, my client, Joe Romero, purchased these lots back in 2015 or 2016 with the original plan of building a very large single family home. So he went through a consolidation plat which eliminated this lot line on the original lots. So this past summer, summer of 2023, I went through the DFT staff and applied for a subdivision because he never ended up building. So he wanted to replat the two back to the original and sell the lots individually. So single family homes could be built there. And so I got through my DFT meetings, I got everything approved, but one of the comments that I received was the 45 foot of landscape buffer from the Parks and Rec. And so on this survey, you can see that 45 foot of landscape buffer encroaches on the property quite a bit. So when I was going to pull building permits, I would just wanted to make sure all my bases were checked and zoning let me know that because of the landscape buffer that I would have to request a variance in order for each of the single family homes to encroach on the landscape buffer. So on lot 8A1, I have this single family home-

ZHE: Say, Ms. Martin, before you go any further, I know that there's different project numbers for agenda items 17 and 18, but does it make sense to hear them together?

M. MARTIN: Yeah, it makes a little more sense to hear them together.

ZHE: Okay, why don't we do that? And so let me just announce that. So for everyone in attendance, we commenced this discussion regarding agenda item 17, but we're also going to hear at the same time agenda item 18 and that is VA 2023-00366 project

number PR-2023-009650, Joe Romero through agent Maia Martin requests a variance of 30 feet to the required 45 foot open space landscape buffer for lot 8A1 block two volcano cliffs unit 19 located at 7809 Aguila street Northwest zoned R1D. And Ms. Martin has already been sworn in on this matter. Go ahead Ms. Martin.

M. MARTIN: Okay, so up here you can see this is lot 8A1 and the house that is planned to be built on this house is encroaching on the landscape buffer at 29 feet and 11 and a half inches. So the request would be to encroach with the single family home onto the landscape buffer, the 29 feet and 11 and a half inches in this site plan you can see where the, how much of the house encroaches in that landscape buffer. And then for lot 8A2, this is the single family dwelling that'll be that's planned to be built on this house. And this one doesn't encroach quite as much. This encroaches nine feet and one and a half inches. So it's less of an encroachment than the other single family home. And so my request to encroach on both of those landscape buffers, I've attached some elevation drawings of the house being built just in case any of the neighbors had any questions, I've attached floor plans. I heard from one neighbor and they were kind of just curious about the process because I guess they had bought another lot or they had bought a lot and they were wondering if they were gonna run into the same situation with the landscape buffer. But yeah, that's my reason for the variance request today.

ZHE: Okay. Would you go back to sort of those site plans that show the location of the proposed residences on the lots? Yeah, like in particular that one. I mean, just sort of playing devil's advocate. I mean, what if that whole back portion of the house was pushed up toward the front of the lot? I mean, there's this whole portion on the front of the lot that's undeveloped.

M. MARTIN: Yeah, so unfortunately according to the R1D setback requirements, your front setback is at 25 feet. So here I have my architect's label 25 feet. And so that's kind of my issue there. When I had first went into the city and talked to them about starting this process, they let me know that I might be able to, because it's a public road on that street, that I might be able to use part of that public road as my setback. But after speaking, I believe to transportation, they said that wasn't applicable.

ZHE: Okay. But I'm talking about sort of the area between the garage or sort of, is this oriented so that north is up?

M. MARTIN: Yes.

ZHE: So like south of the 25 foot setback and west of the garage, that area there where your terrorist is, why not put the massing of the house that's south of the buffer, why not put it up there and clear the buffer area out?

M. MARTIN: Before I had started the replats, we had already had these designs drawn for both houses. And so I have engineering and all my trust's engineering and all my stuff ready for building permits. And so that would probably set us back \$10,000 per house, at least by changing the plans. We already have some windows ordered on one of the houses. You're taking into consideration the architect fees, different types of surveying done for grading and drainage purposes, just little considerations like that. So yeah, we could shrink the house or

reorientate the house, but I'd rather take this time to try to request the variance instead of costing my clients and that for my client, another 10 to \$15,000 in redoing all of this.

ZHE: That would create an extraordinary hardship or potential limitation.

M. MARTIN: Yes, sir.

ZHE: Okay. All right. And same, what about with the other one? You know, that one has, could you show the other one? I mean, that one has even less of a setback.

M. MARTIN: Yeah, so this one's a little less. So you see here, I have the front setback here and then the same thing, the garage is in the front. And then this one's nine feet and one and a half inches. And so same thing, I have all my trust engineering, my structural engineering, those types of things.

ZHE: Okay. Tell me about the properties that are sort of on either side of yours. Are they built in compliance with the setbacks or what?

M. MARTIN: So they're actually empty lots. And I guess back in 2021, that's when, I don't know if it's the IDEO who put that into place, the landscape buffer. So anyone who purchased their land prior to 2021 and wasn't having any replanting issues, isn't required to follow the landscape buffer. So one of my original questions when I went in to talk about this matter, since the lot lines were reestablished in the exact same area, is if it was something that could be grandfathered since it's going back into like the original lot lines. And they let me know like that wasn't an option. So there's no houses around it yet. I'm sure if the owners had bought the lots around it prior to 2021 or didn't have any survey type of work, replating work prior to this, they wouldn't have the same issues.

ZHE: Okay. And tell me about the Petroglyphs National Monument. That's what borders the lots, right? But what does it look like on the other side of your lot line?

M. MARTIN: So right here, you can see where the landscape buffer is. There's about a 10 foot of like a public trail. And then about 10 feet after that public trail, the National Monument starts and it's just the Petroglyphs.

ZHE: Okay. So it gets pretty steep, pretty fast.

M. MARTIN: It gets pretty steep, yes, sir.

ZHE: Okay. Okay. All right. Anything else that you'd like to add before I call for public comment?

M. MARTIN: No, sir.

ZHE: Okay. I recognize a lot of what you showed on screen, but if there's anything that you showed on screen that is not in the record yet, would you please email it to our office by this Friday?

M. MARTIN: Yes, sir. I had sent this to Susie and-

ZHE: Oh, good. Yeah, I recognize the site plans. Thank you.

M. MARTIN: Everything's on record. I don't think I have anything else to provide-

ZHE: Okay.

M. MARTIN: As far as the request.

ZHE: Very good. Well, thank you. Well, let's see if there's any public comments and then if so, you'll have the chance to respond. And so for everyone here today, these are agenda items 17 and 18 being heard together and their requests for setbacks. I'm sorry, the request for variances from the open space landscape buffers at 7805 and 7809 Aguilar Street, respectively. And let's see, I see, let's see, Jane Baechle with the hand raised, are you there?

J. BAECHLE: I am, thank you.

ZHE: Thank you. Would you please state your full name and mailing address for the record?

J. BAECHLE: So it's Jane Baechle. The address is 7021 Lamar Avenue Northwest, 87120.

ZHE: Thank you and please raise your right hand. Do you affirm under penalty of perjury that your testimony today will be true?

J. BAECHLE: I do.

ZHE: Thank you, go ahead.

J. BAECHLE: Okay, so I did send in a letter and I wanna start by affirming that members of the Santa Fe Village Neighborhood Association Board continue to endorse our position regarding requests for variances against the major public open space and the Petroglyph Monument. In my letter, I referenced two things. I briefly described my experience of going to the site to be able to visualize what it actually looked like. And at that time, the sign was literally in the street, the yellow sign notifying this hearing. But fundamentally, the basis of our opposition is our view that major public open space, in particular, the Petroglyph Monument should be protected as outlined in the IDEO standards regarding sensitive lands. The entirety of the Petroglyph Monument and in that area, the trail that is described as a few feet from the boundary is in fact, all of that land is in the monument. The trail that people walk regularly, as well as the area between the trail and this property line are all within the monument boundary. And this is a significant natural and cultural resource that belongs to the people of the United States actually, but its benefits are expected to accrue to all of the people of Albuquerque. And

in creating these provisions, the IDEO adheres to the goals and policies of the ABC Comp Plan, which mandate the protection of heritage landscapes. It's our view that these variances would materially damage the natural and cultural landscape adjacent to this property and materially undermine the IDEO protections that are written to protect major public open space and Petroglyph Monument. And finally, I wanna say again, something I know I've said before, and, you know, Santa Fe Village Neighborhood Association is not just sort of capriciously looking for opportunities to oppose variances. We are also virtually surrounded by the Petroglyph Monument and as an association uphold and support the IDEO provisions to protect that landscape. So thank you very much.

ZHE: Thank you, Ms. Beckley. All right. Very good. So I don't see anyone else in attendance who's a member of the public. And so Ms. Martin, you heard the public comment. Would you like to respond?

M. MARTIN: Yes, ma'am. Thank you, Jane, for your comment. I haven't received your letter yet, but I also haven't checked my mail probably since last Thursday, last Friday. So I apologize about that. But one thing you brought up, that it could materially damage the National Open Space, but I don't agree. There's already single family homes built adjacent to that National Monument. And in my opinion, one of the, one call that I told you about that I received, it was that by, the client had a question about the variance if they would run into the same problem as I did. And they, since they're custom built homes, I work for the contractor, the building contractor as well. I think that by building these homes, obviously it would kind of affect your views from the National Monument, but it would also be able to allow two families to be able to enjoy that space as their backyard and appreciate the monuments that are there and obviously add value to the neighborhood as an entirety.

ZHE: Okay. All right. Very, very interesting. Definitely a lot of considerations. So I appreciate all of the testimony and evidence, all the submittals, both from the applicant and community members. So Ms. Martin, you're saying you didn't get a copy of Ms. Beckley's letter. Did you get a copy of the letter from the National Park Service?

M. MARTIN: You know, I'd have to go, after this meeting, I'm gonna go check my mail because I haven't checked it since last week. Like I said, I was kind of late on the, sending out the letter. I think I sent it out Monday and I had to have it out by Wednesday. So since I sent it out, I haven't got a chance to check my mail, but when I check my mail, I will respond to Ms. Jane Beckley and address those concerns with her and see if it's something that can be handled either through a facilitated meeting or between us, just to address her concerns and kind of put her at ease with her concerns.

ZHE: Yeah, would you like me to defer decision on these to next month to allow for you to, you know, review those letters and respond on the record and, you know, hold any meetings or facilitations?

M. MARTIN: You know, I started this whole process back in May. So it's been a while. So I would rather not defer if possible. I would try, I would like to have this facilitated meeting or whatever needs to happen to make them feel better about the request prior to that.

ZHE: And what about the notice sign? Ms. Beckley had submitted a photo of the notice sign on the ground and testified that to the same, are you aware of that? Or, you know, was that just sort of like one afternoon it was down and then it was put immediately back up? Or do you know what the status of the notice sign was?

M. MARTIN: No, sir. I submitted those, I had the signs posted. Let me see, I take a picture. I posted those signs December 29th. And as you know, everyone's kind of off work for the holidays and the weather was bad. And up here in the petroglyphs, there's a lot of wind. And I believe the sign postage just flew off. I don't have a problem going back down to the city and picking up more signs and trying to reinforce it better. But that was never my intention to just leave it.

ZHE: Okay. All right, well, thanks again, everybody for the submittals and the testimony. You've given me a lot to consider. I will take everything under consideration and issue the written decision in 15 days.

M. MARTIN: Perfect, thank you so much.

ZHE: Thank you.

Planning Department
Alan Varela, Planning Director

Development Review Division

600 2nd Street NW – 3rd Floor
Albuquerque, NM 87102

NOTICE OF APPEAL

February 21, 2024

TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on February 20, 2024. You will receive a Notice of Hearing as to when the appeal will be heard by the **Land Use Hearing Officer**. If you have any questions regarding the appeal please contact Ernesto Alfredo Salas, Sr. Planning Administrative Assistant at (505) 924-3370.

Please refer to the enclosed excerpt from the City Council Rules of Procedure for Land Use Hearing Officer Rules of Procedure and Qualifications for any questions you may have regarding the Land Use Hearing Officer rules of procedure.

Any questions you might have regarding Land Use Hearing Officer policy or procedures that are not answered in the enclosed rules can be answered by Michelle Montoya, Clerk to the Council, (505) 768-3100.

CITY COUNCIL APPEAL NUMBER: AC-24-9
PLANNING DEPARTMENT CASE FILE NUMBER:
PR-2023-009649, VA-2023-00365, VA-2024-00033

APPLICANT: Joe R. Romero
12412 Conejo Rd. NE
Albuquerque NM, 87123

AGENT: Yolanda Montoya
8724 Alameda Park NE
Suite G
Albuquerque NM, 87113

cc: Michelle Montoya, City Council, City county bldg. 9th floor
Kevin Morrow/Legal Department, City Hall, 4th Floor-
Yolanda Montoya, londie.mo4@gmail.com
Joe R. Romero, albuquerqueprize@gmail.com
Jane Baechle, jane.baechle@gmail.com
ZHE File