



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

Ladera Partners LLC requests a variance of 4,921 ft in distance to the required mile from the nearest small loan business establishment for Lot Q1, Town of Atrisco Grant Northeast Unit, located at 3301 Coors Blvd NW, Ste 16, zoned MX-M [Section 14-16-4-3(D)(22)]

Special Exception No:**VA-2018-00064**
Project No:**Project# 2018-001414**
Hearing Date:09-18-18
Closing of Public Record:09-18-18
Date of Decision:10-03-18

On the 18th day of September, 2018, Miller Stratvert PA, agent for property owner Ladera Partners LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 4,921 ft in distance to the required mile from the nearest small loan business establishment (“Application”) upon the real property located at 3301 Coors Blvd NW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 4,921 ft in distance to the required mile from the nearest small loan business establishment.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(N)(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 which 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 the IDO or the applicable zone district.* (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.*”
3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-6-4-(F)(2).
4. Dan Jones, agent for owner Ladera Partners LLC, appeared and gave evidence in support of the application.
5. Regional Finance Company of New Mexico (“the company”) originally located a business at 5300 Sequoia Road NW.

6. The Sequoia location is .2 miles from the subject address.
7. The company left the Sequoia location due to proximity to a bar and resultant a high crime rate.
8. These factors represented a health and safety risk to the Company's patrons.
9. The subject address is situated in an area that is safer, due to a lesser crime rate.
10. Ace Cash Express and Check n' Go, are separate loan businesses that had existed in proximity prior to the enactment of the IDO.
11. The number of small loan businesses would remain the same number, since the Company has already closed the Sequoia location.
12. The subject address is 2 blocks away from the Sequoia location.
13. The company intends to close the Sequoia location and move its business to the subject address.
14. The Company is not a "payday" lender nor a "title loan" company.
15. The Company is an installment lender and is not involved in predatory lending practices.
16. THE IDO separation Section 14-16-3-24 was revised in the IDO to provide separation of payday lenders in order to protect and limit public exposure to these lending practices.
17. The number of small loan lenders in the area would remain the same.
18. All property owners within 100 feet and affected neighborhood association were notified of the application.
19. The Ladera Heights NA, West Bluff NA and Vista Grande NA are the affected neighborhood associations.
20. Nothing has been submitted in opposition to the application.
21. No meeting was requested by any neighborhood association.
22. The subject property is currently zoned MX-M.
23. There are special circumstances applicable to the subject property which 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(N)(3)(a)(1).
24. The variance will not be materially contrary to the public safety, health or welfare, as required by Section 14-16-6-6(N)(3)(a)(2).
25. The variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity as required by Section 14-16-6-6(N)(3)(a)(3).
26. The variance will not materially undermine the intent and purpose of the IDO or the applicable zone district as required by Section 14-16-6-6(N)(3)(a)(4).
27. The variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5).
28. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
29. The ZHE finds that the Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

The criteria within Section 14-16-6-6(N)(3)(a) of the Albuquerque Zoning Code are satisfied.

DECISION:

APPROVAL of a variance of 4,921 ft in distance to the required mile from the nearest small loan business establishment.

If you wish to appeal this decision, you must do so by October 18, 2018 in the manner described below. A non-refundable filing fee will be calculated at the Planning Department's Land Development Coordination counter and is required at the time the Appeal is filed.

Appeal must be filed with the Planning Department within 15 days after the decision. The appeal shall specifically state the section of the Integrated Development Ordinance, City regulation, or condition attached to a decision that has not been interpreted correctly, as required by Section 14-16-6-4(U)(3)(a)(3) of the Integrated Development Ordinance. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

Once an appeal is accepted by the Planning Department, it shall prepare and transmit a record of the appeal together with all appeal material received from the appellant to impacted parties and to the Land Use Hearing Officer (LUHO) through the Clerk of the City Council.

The LUHO shall then schedule a hearing on the matter within 30 consecutive days of receipt and notify the parties, pursuant to Section 14-16-6-4(U)(3)(d). The Planning Department shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above; provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

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.



Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
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