



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

Via Real Estate, LLC requests a variance to separation requirements for car wash use adjacent to a residential zone district for Lot 11-N, Block 11, Gutierrez-Ofimiano J Lower Terrace Subd, located at 4516 Wyoming Blvd NE, zoned MX-M [Section 14-16-4-3(D)(15)a]

Special Exception No:..... **VA-2019-00012**  
Project No: ..... **Project# 2019-001938**  
Hearing Date: ..... 03-19-19  
Closing of Public Record: ..... 03-19-19  
Date of Decision: ..... 04-03-19

On the 19th day of March, 2019, Jim Strozier, Consensus Planning, agent for property owner Via Real Estate, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance to separation requirements for car wash use adjacent to a residential zone district (“Application”) upon the real property located at 4516 Wyoming Blvd NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance to separation requirements for car wash use adjacent to a residential zone district.
2. The requested variance is from the Use-specific Standard required for car wash use regulated by Section 14-16-4-3(D)(15): “[a] car wash building and any associated outdoor uses shall not be located within 50 feet of any Residential zone district or any lot containing a residential use in any Mixed-use zone district.”
3. 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 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 the IDO or the applicable zone district.*

*(5)The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.”*

4. 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(N)(1).
5. Jim Strozier from Consensus Planning, agent for Gordori Investments, LLC, property owner, appeared and gave evidence in support of the application.
6. The subject property is currently zoned MX-M.
7. A site plan was submitted, accompanied by several photographs of the site and surrounding area.
8. Transportation reports no objection to the requested variance.
9. The proposed project is for a new car wash, which is a permissive use under the present zoning.
10. The subject property is located on Wyoming Blvd. NE, just north of Montgomery Blvd. NE
11. The subject property is 1.03 acres in area, and is currently developed as the Quarters BBQ Restaurant, parking lot, and a small warehouse, located at the southern end of the lot, used as storage for the restaurant.
12. These uses have been in operation for several decades and have not created any negative impacts on the surrounding neighborhood.
13. The adjacent single family development to the north is zoned R-1C.
14. This development is located in the Loma del Rey Neighborhood Association.
15. The residential development currently contains a 20 foot wide private alley, asphalt paving on its southern property line, adjacent to the proposed car wash.
16. The residential development, currently has a 6 foot high, CMU block wall on the southern property line, adjacent to the proposed car wash.
17. The proposed site plan, includes an additional 15 foot landscape barrier to be constructed adjacent and south of the 20 foot alley.
18. The adjacent property to the east of the subject property is 3.77 acre owned by the Albuquerque/Bernalillo County Water Utility Authority (Utility), which is developed with a large water tank, parking lot, and associated utility buildings.
19. There are no residential uses on this property, which is currently zoned R-1C.
20. The requested variance is a reduction of 35 feet on the eastern side of the project for a total separation distance of 15 feet.
21. property is zoned R-1C, however, the Utility’s property is developed with a parking lot and large water reservoir storage tank.
22. There are no residential uses on the Utility’s property and none anticipated in the future.
23. The eastern edge of proposed project will have 9 vacuum stalls within 50 feet of the property to the east.
24. All property owners within 100 feet and affected neighborhood association(s) were notified.
25. Loma Del Rey Neighborhood Association is the affected NA.
26. Applicant notified the NA of the Application in early December, 2018.
27. Brain Eagan, Esq., President of the NA, requested a meeting and invited Applicant to a meeting of the Loma del Rey NA on December 12, 2018.
28. During this meeting, two primarily issues of concern were raised to the proposed site plan.
29. Potential traffic safety issues which would be caused by unrestricted flow of customer traffic from and onto Wyoming Blvd, which is already a high volume, congested traffic area.

30. Potential nuisance from customer headlights into adjacent residential houses during later operation hours.
31. As a result of the concerns raised during the neighborhood meeting, Applicant agreed to modify the site project to mitigate these specific concerns raised by the NA.
32. A 3 foot tall CMU painted, block wall will be constructed on the northerner edge of the car wash, which will block and prevent customer's headlights from shining towards residential homes to the north.
33. The addition of restrictive curbing, and signage, only permitting right turns exists onto Wyoming Blvd.
34. Applicant has also agreed to request Albuquerque traffic to explore the feasibility of construction of medians on Wyoming with would block left turns from the car wash onto Wyoming Blvd.
35. The NA has agreed to these changes and supports the variance request.
36. The residential zoning, with no actual residential uses on the Utility's property imposes impractical development standards on the subject site do not further the intent of the IDO to protect residential areas.
37. This separation requirement as required, would result in a large separation and buffer area between two non-residential uses.
38. These special circumstances are not self-imposed, but would create unnecessary hardship due to the existing zoning, which would make a large portion of the subject property undevelopable without protecting the residential uses of an adjacent zone.
39. The requested variance only applies to the eastern boundary shared with the Utility, and does not adversely impact any other residential uses in the area.
40. The requested variance will not require any additional infrastructure improvements since it is an infill development using existing infrastructure.
41. Decreasing the separation requirement between two existing non-residential developments is the minimum necessary and only practical way to comply with the IDO requirements.
42. 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, as required by Section 14-16-6-6(N)(3)(a)(1).
43. The variance will not be contrary to the public safety, health and welfare of the community as required by Section 14-16-6-6(N)(3)(a)(2).
44. The variance will not cause significant adverse material impacts on surrounding properties or infrastructure improvements in the vicinity as required by Section 14-16-6-6(N)(3)(a)(3).
45. The variance will not materially undermine the intent and purpose of the IDO or applicable zone district as required by Section 14-16-6-6(N)(3)(a)(4).
46. 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).
47. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
48. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance to separation requirements for car wash use adjacent to a residential zone district.

CONDITIONS:

The amended site plan shall include a 3 feet tall headlight barrier wall, to be constructed of CMU blocks painted to match to car wash building, erected on the north end of the subject project.

The site plan shall restrict any exits to Wyoming Blvd. to right turns only.

APPEAL:

If you wish to appeal this decision, you must do so by April 18, 2019 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.

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.



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Stan Harada, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
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