



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

Maverik Inc requests a variance of 2545 square feet to the required 15510 square feet landscape area for Lot Unplatted, Truck Plaza Inc, located at 1901 Menaul Blvd NE, zoned NR-LM [Section 14-16-5-6(C)]

Special Exception No:..... **VA-2019-00140**
Project No: **Project# 2019-002294**
Hearing Date: 05-21-19
Closing of Public Record: 05-21-19
Date of Decision: 06-05-19

On the 21st day of May, 2019, property owner Maverik Inc (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 2545 square feet to the required 15510 square feet landscape area (“Application”) upon the real property located at 1901 Menaul Blvd NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 2545 square feet to the required 15510 square feet landscape area.
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 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.*”
3. The request is for a variance from Development Standards 14-16-5-6 (*Landscape, Buffering and Screening*); and 5-6(C) (*General Landscaping Standards*).
4. Maverick is requesting a variance of 2545 square feet to the required 15510 square feet landscape area.

5. 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).
6. Ron Bohannan of Tierra West LLC, agent for Maverick Inc., property owner appeared and gave evidence in support of the application.
7. The subject property is currently zoned NR-LM.
8. The address of the subject property is 1901 Menaul Blvd. NE.
9. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
10. Santa Barbara Martineztown Neighborhood Association, Martineztown Work Grp and Semillas y Raices neighborhood Community Group are the affected neighborhood associations.
11. The affected neighborhood associations were notified by mail dated April 4, 2019.
12. No request for a meeting was requested and nothing was submitted in opposition to the Application.
13. The closest residential zone is south of I-40, several thousands of feet from the subject site.
14. The subject property is located at the northwest corner of Menaul Blvd. NE and University Blvd. NE. and is 2.5 acres in size.
15. The subject property has a storm drainage easement along its northerly property line.
16. The property is currently developed with an existing commercial structure, designated for demolition.
17. The proposed project is for a gas convenience store and a heavy and light vehicle fueling station.
18. This project represents a much needed foundational step in the redevelopment of an area that is presently underutilized and in distress.
19. This would be the first phase of a much larger development of the subject property.
20. Future phases would include construction of a hotel site and a restaurant site.
21. Phase 2 would involve vapor extraction of old underground gasoline storage tanks.
22. This proposed use is permissive in the current zoning.
23. The requested variance is the only variance sought for the project and the site plans will conform to all other site development standards listed in the IDO.
24. The adjacent property to the north has a truck stop and restaurant.
25. The adjacent property to the west is I-25 and its frontage road.
26. The physical characteristics of the subject property are that a drainage easement encumbers the subject property, spanning the northerly property boundary.
27. This condition is unique among lots in the surrounding area.
28. This creates an extraordinary hardship and limits the Applicant's ability to efficiently utilize the lot area, affecting the reasonable use of the property.
29. The site development would concentrate the landscaping and buffering on University Blvd NE and Menaul Blvd NE.
30. This would help create a larger landscape buffer and a more pleasant view in this area.
31. The appearance of the surrounding area will be substantially improved with the site's redevelopment.
32. 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).

33. 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).
34. 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).
35. 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).
36. 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).
37. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
38. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 2545 square feet to the required 15510 square feet landscape area.

APPEAL:

If you wish to appeal this decision, you must do so by June 20, 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.



Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Maverik Inc, 1855 State 51, Suite 800, UT, 84111
Tierra West, 5571 Midway Park PL NE, 87109
Alexander D'Von Boggs, 1742 Menaul Blvd. NE, 87107