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

US Eagle Federal Credit Union (Agent, Consensus Planning) requests a variance of 37.4% to the required 60% of clear transparent windows on ground floor façade facing Espanola Street for Lot A, Block 5, Broad Acres Subd, located at 7201 Menaul Blvd NE, zoned MX-M [Section 14-16-5-11-(E)(2)(b)1]

Special Exception No:..... **VA-2020-00111**
Project No: ..... **Project#2020-003779**
Hearing Date: 06-16-20
Closing of Public Record: 06-16-20
Date of Decision: 07-01-20

On the 16th day of June, 2020, Consensus Planning, agent for property owner US Eagle Federal Credit Union ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a variance of 37.4% to the required 60% of clear transparent windows on ground floor façade facing Espanola Street ("Application") upon the real property located at 7201 Menaul Blvd NE ("Subject Property"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 37.4% to the required 60% of clear transparent windows on ground floor façade facing Espanola Street.
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 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).
4. Agent appeared and gave evidence in support of the application.
5. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
6. The subject property is currently zoned MX-M.
7. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, the shape, physical characteristics, surroundings and location characteristics of the site are unusual in comparison with other property in the same zone and vicinity. No evidence to the contrary was presented.
8. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, evidence was submitted supporting that, if granted approval, the Applicant intends to use the property in a manner that is consistent with the IDO and the Development Process Manual (DPM). Agent testified that the site plan properly addresses traffic and pedestrian safety. No evidence to the contrary was presented.
9. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, the variance is designed to be in harmony and consistency with what currently exists on-site and in the neighborhood. No evidence to the contrary was presented.
10. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant presented evidence that the intent of IDO will still be met in that the subject site will continue the existing use, while adding a walk-in retail banking component, and the proposed variance would merely add to the usability of the site. No evidence to the contrary was presented.
11. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Agent testified that any smaller variance would be ineffective. Therefore, the Applicant is not requesting more than what is minimally necessary for a variance. No evidence to the contrary was presented.
12. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
13. The Applicant and Agent have authority to pursue this Application.

DECISION:

APPROVAL of a variance of 37.4% to the required 60% of clear transparent windows on ground floor façade facing Espanola Street.

APPEAL:

If you wish to appeal this decision, you must do so by July 16, 2020 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.

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
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