



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

C & S Equities LLC (Agent, Consensus Planning) request a variance of 35 feet 9" to allow a parking area closer than the 50 feet minimum separation requirement from an abutting protected lot for Lot 3B2B, IHS Acquisition No. 120 Inc., located at 8830 Horizon Blvd NE, zoned NR-LM [Section 14-16-5-9(F)(1)]

Special Exception No:..... **VA-2019-00440**  
Project No: ..... **Project#2019-003139**  
Hearing Date: ..... 01-21-20  
Closing of Public Record: ..... 01-21-20  
Date of Decision: ..... 02-05-20

On the 21st day of January, 2020, Consensus Planning, agent for property owner C & S Equities LLC ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a variance of 35 feet 9" to allow a parking area closer than the 50 feet minimum separation requirement from an abutting protected lot ("Application") upon the real property located at 8830 Horizon Blvd NE ("Subject Property"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 35 feet 9" to allow a parking area closer than the 50 feet minimum separation requirement from an abutting protected lot.
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 for property owner 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 NR-LM.
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 subject property is the smallest tract along Horizon Boulevard and is platted in a narrow configuration that limits the ability for the applicant to provide the full 50-foot separation for the proposed parking lot. This special circumstance applies to this property specifically and does not apply to other NR-LM properties along Horizon Boulevard or other properties in the vicinity. The wider portion of the subject site on the west is where the applicant intends to construct the proposed office building, which leaves the narrow portion of the site as the only logical and possible location for parking. This proposed configuration is also necessary for proper traffic circulation by connecting to an existing parking area to the east that is associated with the adjacent rehabilitation facility. This property also has a special circumstance as to its location adjacent to Balloon Fiesta Park and a vacant residentially-zoned (R-T) tract. No other NR-LM property exists next to vacant residential land where the parking lot separation would apply. 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, the subject site will be developed with office uses, which are much less intense than other uses available under the existing NR-LM zoning. 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). No evidence to the contrary was presented. Specifically, the proposed office development and associated parking separation variance will have a minimal impact to surrounding properties or infrastructure as compared to warehouse or industrial uses and related truck traffic that are also allowed by the existing NR-LM zoning. There is existing infrastructure in place to handle development of this lot, and approval of the variance will not affect that infrastructure. A letter of support was received from the owner of the only residentially-zoned property impacted. 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, the intent and purpose of the IDO in the NR-LM zone district is to "accommodate moderate-intensity commercial...while buffering adjacent lower intensity... zone districts." The proposed office development is a permissive use in the NR-LM zone district, and the proposed development of the site will continue to provide buffers between it and the adjacent lower intensity R-T zone district to the north. 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, the requested Variance is the minimum necessary to avoid the practical difficulties imposed on the property related to providing adequate parking spaces for the proposed development. Due to the narrowness of the property on its middle and eastern portions, the requested Variance is the minimum necessary to provide parking and circulation required for this proposed development. 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 has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 35 feet 9" to allow a parking area closer than the 50 feet minimum separation requirement from an abutting protected lot.

APPEAL:

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



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Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File

Zoning Enforcement

Consensus Planning, 302 8<sup>th</sup> ST NW, 87102

C&S Equities LLC, 8830 Horizon Blvd NE, 87113