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Project-2021-005037, VA-2021-00099, VA-2021-00032

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CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Planning Department

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

May 7, 2021

TO: Cynthia Borrego, President, City Council

FROM: Brennon Williams, Planning Director *BWilliams*

SUBJECT: AC-21-6, Project-2021-005037, VA-2021-00099, VA-2021-00032:
Sycamore Neighborhood Association appeals the Zoning Hearing Examiners decision to approve a variance of 15 feet to the required 15-foot rear setback distance for Lot 9, Block 32, Terrace Addition, located at 1203 Coal Ave. SE, zoned MX-M Mixed-Use – Medium Intensity [ref. Section 14-16-5-1 of the Integrated Development Ordinance]

OVERVIEW

The Applicant filed a request for a variance of 15 feet to the required 15-foot rear setback for Lot 9, Block 32, Terrace Addition, for the property located at 1203 Coal Ave SE. This application was one (1) of four (4) applications for the subject site. The request was scheduled and heard at the March 16, 2021, Zoning Hearing Examiner's (ZHE) public hearing.

In the Notice of Decision issued March 31, 2021, the ZHE approved the request, determined that the noticing requirements in Section 14-16-6-4 of the Integrated Development Ordinance (IDO) were satisfied, and that the Applicant met the Variance-Review and Decision Criteria for approval as outlined in Section 14-16-6-6(N)(3)(a) of the IDO.

On April 15, 2021, the Sycamore Neighborhood Association appealed the ZHE's approval.

BASIS FOR APPEAL

Section 14-16-6-4(V)(4) of the IDO outlines the applicable criteria for the appeal in determining whether the ZHE erred in his decision:

6-4(V)(4) Criteria for Decision

The criteria for review of an appeal shall be whether the decision-making body or the prior appeal body made 1 of the following mistakes:

- (a) The decision-making body or the prior appeal body acted fraudulently, arbitrarily, or capriciously.
- (b) The decision being appealed is not supported by substantial evidence.

- (c) The decision-making body or the prior appeal body erred in applying the requirements of this IDO (or a plan, policy, or regulation referenced in the review and decision-making criteria for the type of decision being appealed).

STAFF RESPONSE

The reasons for the appeal, excerpted from Appellant's letter, are listed below with a bulleted, italicized response from the ZHE Planner. Please see the Appellant's letter and submittal packet for additional details.

The Zoning Hearing Examiner acted arbitrarily and capriciously by ignoring evidence in the neighborhood's letter regarding a preliminary issue that applicant did not make proper notification to the neighborhoods at the time of filing the application.

- *The Neighborhood Meeting Request was emailed to required recipients December 23, 2020.*
- *Public Notice was sent to required recipients by certified mail on February 1, 2021.*
- *The Applicant's evidence is in the record that the ZHE reviewed, and acknowledged in finding #5.*

The Zoning Hearing Examiner acted arbitrarily and capriciously by writing all four variance decisions identically except for the headings.

- *The decisions addressed each individual request.*
- *The findings supporting the decisions were substantially the same as the four requests were heard together.*

The Zoning Hearing Examiner ignored evidence and arguments submitted by the neighborhood that the property is not exceptional as that term is defined by the courts, that there is no extraordinary hardship, unjustified limitation or practical difficulties that limit all other options to build on this property.

- *Written evidence submitted is in the public record and was considered by the ZHE.*
- *No party in opposition to the request appeared or gave testimony at the public hearing.*
- *Based on the preponderance of evidence given by the Applicant's Agent, the ZHE granted approval of the requests.*

The Zoning Hearing Examiner states that the applicant intends to build what is proposed and ignores evidence that once the 15-foot rear yard variance is granted the city has no control of that assumption.

- *The ZHE determined that the Applicant intends to develop the Subject Property as described in the Application in a manner that is consistent with the Integrated Development Ordinance and the Development Process Manual.*
- *The ZHE acknowledges, per the IDO, that permits and approvals run with the land.*

The Zoning Hearing Examiner ignored New Mexico case law regarding the meaning of extraordinary hardship and practical difficulties in the granting of variances. The variance requirements in Albuquerque are based on the New Mexico Court of Appeals decision in

Downtown Neighborhoods vs. City of Albuquerque. Ignoring the decision of the Court of Appeals is ignoring the variance requirements of the IDO.

- *The ZHE applied the criteria listed in the IDO for approval of a variance. Each criterion is addressed in the Notice of Decision findings 6-10. See citation below:*

14-16-6-6(O)(3)(a)

An application for a Variance – ZHE shall be approved if it meets all of the following criteria:

- 1. There are special circumstances applicable to a single lot that are not self-imposed and that do not apply generally to other property in the same zone district and vicinity, including but not limited to size, shape, topography, location, surroundings, physical characteristics, natural forces, or by government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic 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 this IDO or the applicable zone district.*
- 5. The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.*

The Zoning Hearing Examiner decisions do not explain his reasoning in approving this or three other variances. He does not identify what "unique topography irregular shape and platting" pertains to this property. He ignored photographic evidence in the record that the buildable area of the property does not have an extraordinary grade change.

- *The ZHE found that testimony given at the public hearing and written evidence in the record satisfied the Applicant's burden of proof and supported a finding of special circumstance due to unique topography, and irregular shape and platting.*

/ Lorena Patten-Quintana /

Lorena Patten-Quintana, ZHE Planner
Office of the Zoning Hearing Examiner
City of Albuquerque Planning Department

AC-21-6 Memo_JMA-LPQ Final

Final Audit Report

2021-05-10

Created:	2021-05-10
By:	Lucinda Montoya (lucindamontoya@cabq.gov) Signed
Status:	CBJCHBCAABAARI6I_RsDbMk07e0FuyclvpKJGLJPNghX
Transaction ID:	

"AC-21-6 Memo_JMA-LPQ Final" History



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Document e-signed by BN Williams (bnwilliams@cabq.gov)

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Agreement completed.

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

Joe Grady (Agent, Strata Design, LLC) request a variance of 15ft to the required 15ft rear setback for Lot 9, Block 32, Terrace Addn, located at 1203 Coal Ave SE, zoned MX-M [Section 14-16-5-1]

Special Exception No:..... **VA-2021-00032**
Project No: **Project#2021-005037**
Hearing Date: 03-16-21
Closing of Public Record: 03-16-21
Date of Decision: 03-31-21

On the 16th day of March, 2021, Strata Design, LLC, agent for property owner Joe Grady (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 15ft to the required 15ft rear setback (“Application”) upon the real property located at 1203 Coal Ave SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 15ft to the required 15ft rear setback.
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. Applicant 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. Based on evidence submitted by or on behalf of Applicant, it appears that 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, Applicant testified and provided written evidence that, the Subject Property has unique topography irregular shape and platting, which give rise to the need for this request.
7. 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 develop the Subject Property as described in the Application in a manner that is consistent with the IDO and the Development Process Manual (DPM).
8. 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 proposed development is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by photographic evidence and oral testimony. The Application would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and its surroundings.
9. 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 and the proposed variance would merely add to the safety and usability of the site.
10. 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, Applicant submitted evidence that any smaller setback variance would be ineffective to provide for the safety and usability of the site. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
11. City Transportation submitted a report stating no objection.
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 15ft to the required 15ft rear setback.

APPEAL:

If you wish to appeal this decision, you must do so by April 15, 2021 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.

A handwritten signature in blue ink, appearing to read "Robert Lucero".

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Michelle Negrette, stratadesign.nm@gmail.com



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

Joe Grady (Agent, Strata Design, LLC) request a variance to construct a building taller than 30ft within 100ft of a residential protected lot for Lot 7 and 8, Block 32, Terrace Addn, located at 1203 Coal Ave SE, zoned MX-M [Section 14-16-5-9-C]

Special Exception No:..... **VA-2021-00036**
Project No: **Project#2021-005037**
Hearing Date: 03-16-21
Closing of Public Record: 03-16-21
Date of Decision: 03-31-21

On the 16th day of March, 2021, Strata Design, LLC, agent for property owner Joe Grady ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a variance to construct a building taller than 30ft within 100ft of a residential protected lot ("Application") upon the real property located at 1203 Coal Ave SE ("Subject Property"). Below are the ZHE's finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance to construct a building taller than 30ft within 100ft of a residential 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. Applicant 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. Based on evidence submitted by or on behalf of Applicant, it appears that 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, Applicant testified and provided written evidence that, the Subject Property has unique topography irregular shape and platting, which give rise to the need for this request.
7. 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 develop the Subject Property as described in the Application in a manner that is consistent with the IDO and the Development Process Manual (DPM).
8. 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 proposed development is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by photographic evidence and oral testimony. The Application would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and its surroundings.
9. 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 and the proposed variance would merely add to the safety and usability of the site.
10. 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, Applicant submitted evidence that any smaller setback variance would be ineffective to provide for the safety and usability of the site. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
11. City Transportation submitted a report stating no objection.
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 to construct a building taller than 30ft within 100ft of a residential protected lot.

APPEAL:

If you wish to appeal this decision, you must do so by April 15, 2021 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
Michelle Negrette, stratadesign.nm@gmail.com



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

Joe Grady (Agent, Strata Design, LLC)
request a Wall-Permit Major for Lot 7, 8 and 9,
Block 32, Terrace Addn, located at 1203 Coal
Ave SE, zoned MX-M [Section 14-16-5-7-D]

Special Exception No:..... **VA-2021-00037**
Project No: **Project#2021-005037**
Hearing Date: 03-16-21
Closing of Public Record: 03-16-21
Date of Decision: 03-31-21

On the 16th day of March, 2021, Strata Design, LLC, agent for property owner Joe Grady (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a Permit-Wall or Fence-Major (“Application”) upon the real property located at 1203 Coal Ave SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a Permit-Wall or Fence-Major.
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. Applicant 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. Based on evidence submitted by or on behalf of Applicant, it appears that 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, Applicant testified and provided written evidence that, the Subject Property has unique topography irregular shape and platting, which give rise to the need for this request.
7. 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 develop the Subject Property as described in the Application in a manner that is consistent with the IDO and the Development Process Manual (DPM).
8. 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 proposed development is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by photographic evidence and oral testimony. The Application would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and its surroundings.
9. 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 and the proposed variance would merely add to the safety and usability of the site.
10. 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, Applicant submitted evidence that any smaller setback variance would be ineffective to provide for the safety and usability of the site. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
11. City Transportation submitted a report stating no objection.
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 Permit-Wall or Fence-Major.

APPEAL:

If you wish to appeal this decision, you must do so by April 15, 2021 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.

A handwritten signature in dark ink, appearing to read "Robert Lucero". The signature is fluid and cursive, with the first name "Robert" and last name "Lucero" clearly distinguishable.

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Michelle Negrette, stratadesign.nm@gmail.com



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

Joe Grady (Agent, Strata Design, LLC) request a variance of 20ft to the required 20ft edge buffer for Lot 7, 8 and 9, Block 32, Terrace Addn located at 1203 Coal Ave SE, zoned MX-M [Section 14-16-5-6-E]

Special Exception No:..... **VA-2021-00038**
Project No: **Project#2021-005037**
Hearing Date: 03-16-21
Closing of Public Record: 03-16-21
Date of Decision: 03-31-21

On the 16th day of March, 2021, Strata Design, LLC, agent for property owner Joe Grady (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20ft to the required 20ft edge buffer (“Application”) upon the real property located at 1203 Coal Ave SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20ft to the required 20ft edge buffer.
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. Applicant 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. Based on evidence submitted by or on behalf of Applicant, it appears that 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, Applicant testified and provided written evidence that, the Subject Property has unique topography irregular shape and platting, which give rise to the need for this request.
7. 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 develop the Subject Property as described in the Application in a manner that is consistent with the IDO and the Development Process Manual (DPM).
8. 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 proposed development is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by photographic evidence and oral testimony. The Application would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and its surroundings.
9. 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 and the proposed variance would merely add to the safety and usability of the site.
10. 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, Applicant submitted evidence that any smaller setback variance would be ineffective to provide for the safety and usability of the site. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
11. City Transportation submitted a report stating no objection.
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 20ft to the required 20ft edge buffer.

APPEAL:

If you wish to appeal this decision, you must do so by April 15, 2021 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.

A handwritten signature in dark ink, appearing to read "Robert Lucero".

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Michelle Negrette, stratadesign.nm@gmail.com



DEVELOPMENT REVIEW BOARD APPLICATION

Effective 4/1/2019

Please check the appropriate box(es) and refer to supplemental forms for submittal requirements. All fees must be paid at the time of application.

SUBDIVISIONS		<input type="checkbox"/> Final Sign off of EPC Site Plan(s) (Form P2)	
<input type="checkbox"/> Major - Preliminary Plat (Form S1)	<input type="checkbox"/> Major Amendment to Site Plan (Form P2)	<input type="checkbox"/> Vacation of Public Right-of-way (Form V)	
<input type="checkbox"/> Minor - Preliminary/Final Plat (Form S2)	MISCELLANEOUS APPLICATIONS		<input type="checkbox"/> Vacation of Public Easement(s) DRB (Form V)
<input type="checkbox"/> Major - Final Plat (Form S2)	<input type="checkbox"/> Extension of Infrastructure List or IIA (Form S1)	<input type="checkbox"/> Vacation of Private Easement(s) (Form V)	
<input type="checkbox"/> Minor Amendment to Preliminary Plat (Form S2)	<input type="checkbox"/> Minor Amendment to Infrastructure List (Form S2)	PRE-APPLICATIONS	
<input type="checkbox"/> Extension of Preliminary Plat (Form S1)	<input type="checkbox"/> Temporary Deferral of SNW (Form V2)	<input type="checkbox"/> Sketch Plat Review and Comment (Form S2)	
	<input type="checkbox"/> Sidewalk Waiver (Form V2)		
SITE PLANS		<input type="checkbox"/> Waiver to IDO (Form V2)	APPEAL
<input type="checkbox"/> DRB Site Plan (Form P2)	<input type="checkbox"/> Waiver to DPM (Form V2)	<input type="checkbox"/> Decision of DRB (Form A)	
BRIEF DESCRIPTION OF REQUEST			
Appeal of Variance VA-00032			
APPLICATION INFORMATION			
Applicant: Sycamore Neighborhood Association		Phone: 505-843-6154	
Address: 411 Maple St. NE		Email: mg711@gmail.com	
City: Albuquerque	State: N.M.	Zip: 87106	
Professional/Agent (if any):		Phone:	
Address:		Email:	
City:	State:	Zip:	
Proprietary Interest in Site:		List all owners:	
SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)			
Lot or Tract No.: Lot 9	Block: Block 32	Unit:	
Subdivision/Addition: Terrace Addition	MRGCD Map No.:	UPC Code: 101505716619831508	
Zone Atlas Page(s): K15	Existing Zoning: MX-M	Proposed Zoning:	
# of Existing Lots:	# of Proposed Lots:	Total Area of Site (Acres):	
LOCATION OF PROPERTY BY STREETS			
Site Address/Street: 1203 Coal Avenue SE		Between: Cedar Street SE	and: Spruce Street SE
CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)			
Signature: Mardon Gardella		Date: April 15, 2021	
Printed Name: Mardon Gardella		<input type="checkbox"/> Applicant or <input checked="" type="checkbox"/> Agent	
FOR OFFICIAL USE ONLY			
Case Numbers	Action	Fees	Case Numbers
Meeting Date:		Fee Total:	
Staff Signature:		Date:	
		Project #	

FORM A: Appeals

Complete applications for appeals will only be accepted within 15 consecutive days, excluding holidays, after the decision being appealed was made.

☐ APPEAL OF A DECISION OF CITY PLANNING STAFF (HISTORIC PRESERVATION PLANNER) ON A HISTORIC CERTIFICATE OF APPROPRIATENESS - MINOR TO THE LANDMARKS COMMISSION (LC)

☐ APPEAL OF A DECISION OF CITY PLANNING STAFF ON AN IMPACT FEE ASSESSMENT TO THE ENVIRONMENTAL PLANNING COMMISSION (EPC)

☒ APPEAL TO CITY COUNCIL THROUGH THE LAND USE HEARING OFFICER (LUHO)

Interpreter Needed for Hearing? No If yes, indicate language: _____

A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD. PDF shall be organized with the Development Review Application and this Form A at the front followed by the remaining documents in the order provided on this form.

Project number of the case being appealed, if applicable: Project # 2021-005031

Application number of the case being appealed, if applicable: VA-2021-00032

Type of decision being appealed: Variance - ZHE

Letter of authorization from the appellant if appeal is submitted by an agent

Appellant's basis of standing in accordance with IDO Section 14-16-6-4(U)(2)

Reason for the appeal identifying the section of the IDO, other City regulation, or condition attached to a decision that has not been interpreted or applied correctly, and further addressing the criteria in IDO Section 14-16-6-4(U)(4)

Copy of the Official Notice of Decision regarding the matter being appealed

I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting or hearing, if required, or otherwise processed until it is complete.

Signature:		Date:
Printed Name:		<input type="checkbox"/> Applicant or <input type="checkbox"/> Agent
FOR OFFICIAL USE ONLY		
Case Numbers:	Project Number:	
Staff Signature:		
Date:		

Revised 2/6/19

FORM A: Appeals

Complete applications for appeals will only be accepted within 15 consecutive days, excluding holidays, after the decision being appealed was made.

- ☐ APPEAL OF A DECISION OF CITY PLANNING STAFF (HISTORIC PRESERVATION PLANNER) ON A HISTORIC CERTIFICATE OF APPROPRIATENESS – MINOR TO THE LANDMARKS COMMISSION (LC)
- ☐ APPEAL OF A DECISION OF CITY PLANNING STAFF ON AN IMPACT FEE ASSESSMENT TO THE ENVIRONMENTAL PLANNING COMMISSION (EPC)
- ☒ APPEAL TO CITY COUNCIL THROUGH THE LAND USE HEARING OFFICER (LUHO)

Interpreter Needed for Hearing? No if yes, indicate language: _____

A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD. PDF shall be organized with the Development Review Application and this Form A at the front followed by the remaining documents in the order provided on this form.

Project number of the case being appealed, if applicable: Project #2021-005037

Application number of the case being appealed, if applicable: VA-2021-00036

Type of decision being appealed: Variance - ZHE

Letter of authorization from the appellant if appeal is submitted by an agent

Appellant's basis of standing in accordance with IDO Section 14-16-6-4(U)(2)

Reason for the appeal identifying the section of the IDO, other City regulation, or condition attached to a decision that has not been interpreted or applied correctly, and further addressing the criteria in IDO Section 14-16-6-4(U)(4)

Copy of the Official Notice of Decision regarding the matter being appealed

I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting or hearing, if required, or otherwise processed until it is complete.		
Signature: <u>Mardon Gardella</u>		Date: <u>April 15, 2021</u>
Printed Name: <u>Mardon Gardella</u>		<input type="checkbox"/> Applicant or <input checked="" type="checkbox"/> Agent
FOR OFFICIAL USE ONLY		
Case Numbers:	Project Number:	
Staff Signature:		
Date:		

Revised 2/6/19



DEVELOPMENT REVIEW BOARD APPLICATION

Effective 4/1/2019

Please check the appropriate box(es) and refer to supplemental forms for submittal requirements. All fees must be paid at the time of application.

SUBDIVISIONS		<input type="checkbox"/> Final Sign off of EPC Site Plan(s) (Form P2)	
<input type="checkbox"/> Major - Preliminary Plat (Form S1)	<input type="checkbox"/> Major Amendment to Site Plan (Form P2)	<input type="checkbox"/> Vacation of Public Right-of-way (Form V)	
<input type="checkbox"/> Minor - Preliminary/Final Plat (Form S2)	MISCELLANEOUS APPLICATIONS		<input type="checkbox"/> Vacation of Public Easement(s) DRB (Form V)
<input type="checkbox"/> Major - Final Plat (Form S2)	<input type="checkbox"/> Extension of Infrastructure List or IIA (Form S1)	<input type="checkbox"/> Vacation of Private Easement(s) (Form V)	
<input type="checkbox"/> Minor Amendment to Preliminary Plat (Form S2)	<input type="checkbox"/> Minor Amendment to Infrastructure List (Form S2)	PRE-APPLICATIONS	
<input type="checkbox"/> Extension of Preliminary Plat (Form S1)	<input type="checkbox"/> Temporary Deferral of S/W (Form V2)	<input type="checkbox"/> Sketch Plat Review and Comment (Form S2)	
	<input type="checkbox"/> Sidewalk Waiver (Form V2)		
SITE PLANS		<input type="checkbox"/> Waiver to IDO (Form V2)	APPEAL
<input type="checkbox"/> DRB Site Plan (Form P2)	<input type="checkbox"/> Waiver to DPM (Form V2)	<input type="checkbox"/> Decision of DRB (Form A)	
BRIEF DESCRIPTION OF REQUEST			
Appeal of Variance VA-00036			
APPLICATION INFORMATION			
Applicant: Sycamore Neighborhood Association		Phone: 505-843-6154	
Address: 411 Maple St. NE		Email: mg411@gmail.com	
City: Albuquerque	State: N.M.	Zip: 87106	
Professional/Agent (if any):		Phone:	
Address:		Email:	
City:	State:	Zip:	
Proprietary Interest in Site:		List all owners:	
SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)			
Lot or Tract No.: Lots 7+8	Block: 32	Unit:	
Subdivision/Addition: Terrace Addition	MRGCD Map No.:	UPC Code: 101505716619831508	
Zone Atlas Page(s): K15	Existing Zoning: MX-M	Proposed Zoning:	
# of Existing Lots:	# of Proposed Lots:	Total Area of Site (Acres):	
LOCATION OF PROPERTY BY STREETS			
Site Address/Street: 1203 Coal Ave SE	Between: Cedar St. SE	and: Spruce St. SE	
CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)			
Signature: Mardon Gardella		Date: April 15, 2021	
Printed Name: Mardon Gardella		<input type="checkbox"/> Applicant or <input checked="" type="checkbox"/> Agent	
FOR OFFICIAL USE ONLY			
Case Numbers	Action	Fees	Case Numbers
Meeting Date:		Fee Total:	
Staff Signature:	Date:	Project #	

Sycamore Neighborhood Association

411 Maple Street NE
Albuquerque, New Mexico 87106
mg411@q.com

April 9, 2021

Mardon Gardella
411 Maple, NE
Albuquerque, NM 87106

Dear Mardon,

You are hereby authorized to represent the Sycamore Neighborhood Association in appealing variances VA-2021-00032 and VA-2021-00036.

Richard Vigliano
President
Sycamore Neighborhood
Assoc. 505-980-9813

Sycamore Neighborhood Association

411 Maple Street NE
Albuquerque, New Mexico 87106
mg411@q.com

April 15, 2021
Stephen Chavez
Land Use Hearing Officer
City of Albuquerque
600 2nd. Street NW 87102
Albuquerque, New Mexico

Reference: Sycamore Neighborhood Association
appeals the Zoning Hearing Examiner's decision of VA
00032 a variance of 15 feet to the required 15 foot rear
yard setback.

Dear Sir,

Sycamore Neighborhood Association has standing to
appeal the decision of VA 00032 because the property
that is the subject of the decision is within the
boundaries of Sycamore Neighborhood, we
participated in the hearing by submitting a letter and
photographs to the file in a timely manner.

We base our appeal on the requirements in section 6-4(V)(4) of the IDO and the Zoning Hearing Examiner's several mistakes made in arriving at his decisions.

6-4(V)(4)(a)

The Zoning Hearing Examiner acted arbitrarily and capriciously by ignoring evidence in the neighborhood's letter regarding a preliminary issue that applicant did not make proper notification to the neighborhoods at the time of filing the application.

The Zoning Hearing Examiner acted arbitrarily and capriciously by writing all four variance decisions identically except for the headings. All decisions in item 5. state, "the affected (sic) neighborhood were notified." Our letter addresses two preliminary issues. The first one is improper notice. All four decisions in item 10 state, "any smaller setback variance would be ineffective...". Only two of the four variances are for setbacks.

6-4(V)(4)(b)

The Zoning Hearing Examiner ignored evidence and arguments submitted by the neighborhood that the property is not exceptional as that term is defined by the courts, that there is no extraordinary hardship, unjustified limitation or practical difficulties that limit all other options to build on this property.

The Zoning Hearing Examiner states that the applicant intends to build what is proposed and ignores evidence that once the 15 foot rear yard variance is granted the city has no control of that assumption.

6-4(V)(4)(c)

The Zoning Hearing Examiner erred in applying the requirements of the IDO. The Zoning Hearing Examiner ignored New Mexico case law regarding the meaning of extraordinary hardship and practical difficulties in the granting of variances. The variance requirements in Albuquerque are based on the New Mexico Court of Appeals decision in Downtown Neighborhoods vs. City of Albuquerque. Ignoring the decision of the Court of Appeals is ignoring the variance requirements of the IDO.

The Zoning Hearing Examiner decisions do not explain his reasoning in approving this or three other variances. He does not identify what "unique topography irregular shape and platting" pertains to this property. He ignored photographic evidence in the record that the buildable area of the property does not have an extraordinary grade change.

We are appealing only two of the four variance requests because we cannot afford the \$520 that it would cost to appeal all four. Neighborhood associations take in money by the pennies, and we took

in none this last year. This cost is excessive for a neighborhood association.

For these and other reasons we appeal this decision.

Sincerely,
Sycamore Neighborhood Association

By Mardon Gardella

Sycamore Neighborhood Association

411 Maple Street NE
Albuquerque, New Mexico 87106
mg411@q.com

April 15, 2021
Stephen Chavez
Land Use Hearing Officer
City of Albuquerque
600 2nd. Street NW 87102
Albuquerque, New Mexico

Reference: Sycamore Neighborhood Association
appeals the Zoning Hearing Examiner's decision of
VA00036, a variance to the required maximum 30 foot
height for a building within 100 feet of a protected lot.

Dear Sir,

Sycamore Neighborhood Association has standing to
appeal VA 00036 because the property that is the
subject of the decision is within the boundaries of
Sycamore Neighborhood, we participated in the

hearing by submitting a letter and photographs to the file in a timely manner.

We base our appeal on the Zoning Hearing Examiner's several mistakes at arriving at his decisions.

6-4(V)(4)(a)

The Zoning Hearing Examiner acted arbitrarily and capriciously by ignoring evidence in the neighborhood's letter regarding a preliminary issue that applicant did not make proper notification to the neighborhoods at the time of filing the application.

The Zoning Hearing Examiner acted arbitrarily and capriciously by writing all four variance decisions identically except for the headings. Item 5 in all the decisions states, "the affected (sic) neighborhood were notified." Our letter addresses two preliminary issues. The first one is improper notice. All four decisions in item 10 state, "any smaller setback variance would be ineffective...". Only two of the four variances are for setbacks.

6-4(V)(4)(b)

The Zoning Hearing Examiner ignored evidence and arguments submitted by the neighborhood that the property is not exceptional as that term is defined by the courts, that there is no extraordinary hardship, unjustified limitation or practical difficulties that limit all other options to build on this property.

The Zoning Hearing Examiner, in item 8, states, "the proposed development is designed to be in harmony and consistency with what currently exists in the neighborhood". This statement ignores both the applicant's and the neighborhood's submitted photos that do not show three story buildings in the immediate neighborhood. This would be the tallest building for blocks, except possibly, the ridge of the roof at Strong Thorne Mortuary.

6-4(V)(4)(c)

The Zoning Hearing Examiner failed to follow the IDO by not considering the mandate to protect the adjacent lot to the east. The IDO clearly states that "no portion of a building or accessory building can exceed 30 feet in height within 100 feet of a protected lot". By designating the R-T lot as a Protected Lot the IDO signals that special attention needs to be considered for the development adjacent to the protected lot.

The Zoning Hearing Examiner erred in applying the requirements of the IDO. The Zoning Hearing Examiner ignored New Mexico case law regarding the meaning of extraordinary hardship and practical difficulties in the granting of variances. The variance requirements in Albuquerque are based on the New Mexico Court of Appeals decision in Downtown Neighborhoods vs. City of Albuquerque. Ignoring the

decision of the Court of Appeals is ignoring the variance laws of the IDO.

The Zoning Hearing Examiner decisions do not explain his reasoning in approving this or three other variances. He does not identify what "unique topography irregular shape and platting" pertains to this property. He ignored photographic evidence in the record that the buildable area of the property does not have an extraordinary grade change.

We are appealing only two of the four variance requests because we cannot afford the \$520 that it would cost to appeal all four. Neighborhood associations take in money by the pennies, and we took in none this last year. This cost is excessive for a neighborhood association.

For these and other reasons we appeal this decision.

Sincerely,
Sycamore Neighborhood Association

By Mardon Gardella



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

Joe Grady (Agent, Strata Design, LLC) request a variance of 15ft to the required 15ft rear setback for Lot 9, Block 32, Terrace Addn, located at 1203 Coal Ave SE, zoned MX-M [Section 14-16-5-1]

Special Exception No:..... **VA-2021-00032**
Project No: **Project#2021-005037**
Hearing Date: 03-16-21
Closing of Public Record: 03-16-21
Date of Decision: 03-31-21

On the 16th day of March, 2021, Strata Design, LLC, agent for property owner Joe Grady (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 15ft to the required 15ft rear setback (“Application”) upon the real property located at 1203 Coal Ave SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 15ft to the required 15ft rear setback.
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. Applicant 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. Based on evidence submitted by or on behalf of Applicant, it appears that 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, Applicant testified and provided written evidence that, the Subject Property has unique topography irregular shape and platting, which give rise to the need for this request.
7. 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 develop the Subject Property as described in the Application in a manner that is consistent with the IDO and the Development Process Manual (DPM).
8. 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 proposed development is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by photographic evidence and oral testimony. The Application would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and its surroundings.
9. 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 and the proposed variance would merely add to the safety and usability of the site.
10. 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, Applicant submitted evidence that any smaller setback variance would be ineffective to provide for the safety and usability of the site. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
11. City Transportation submitted a report stating no objection.
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 15ft to the required 15ft rear setback.

APPEAL:

If you wish to appeal this decision, you must do so by April 15, 2021 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.

A handwritten signature in dark ink, appearing to read "Robert Lucero".

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Michelle Negrette, stratadesign.nm@gmail.com



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

Joe Grady (Agent, Strata Design, LLC) request a variance to construct a building taller than 30ft within 100ft of a residential protected lot for Lot 7 and 8, Block 32, Terrace Addn, located at 1203 Coal Ave SE, zoned MX-M [Section 14-16-5-9-C]

Special Exception No:..... **VA-2021-00036**
Project No: **Project#2021-005037**
Hearing Date: 03-16-21
Closing of Public Record: 03-16-21
Date of Decision: 03-31-21

On the 16th day of March, 2021, Strata Design, LLC, agent for property owner Joe Grady (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance to construct a building taller than 30ft within 100ft of a residential protected lot (“Application”) upon the real property located at 1203 Coal Ave SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance to construct a building taller than 30ft within 100ft of a residential 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. Applicant 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. Based on evidence submitted by or on behalf of Applicant, it appears that 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, Applicant testified and provided written evidence that, the Subject Property has unique topography irregular shape and platting, which give rise to the need for this request.
7. 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 develop the Subject Property as described in the Application in a manner that is consistent with the IDO and the Development Process Manual (DPM).
8. 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 proposed development is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by photographic evidence and oral testimony. The Application would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and its surroundings.
9. 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 and the proposed variance would merely add to the safety and usability of the site.
10. 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, Applicant submitted evidence that any smaller setback variance would be ineffective to provide for the safety and usability of the site. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
11. City Transportation submitted a report stating no objection.
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 to construct a building taller than 30ft within 100ft of a residential protected lot.

APPEAL:

If you wish to appeal this decision, you must do so by April 15, 2021 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.

A handwritten signature in blue ink, appearing to read "Robert Lucero".

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Michelle Negrette, stratadesign.nm@gmail.com

REQUEST FOR SPECIAL EXCEPTION

☐ Variance ☐ Conditional Use ☐ Other

Interpreter: ☐ Yes ☐ No

VA# 2021-00032

PR# 2021-005037

Date:		Received By:	
Address of Request: 1203 COAL AV SE			
City: Albq.	State: NM	Zip: 87106	
Lot: 1 Lot - LOT 9	Block: 32	Zone: MX-M	Map page: K15
Subdivision: TERRACE ADDN		UPC# 101505716619831503	
Property Owner(s): Joe Grady			
Mailing Address: PO Box 30801			
City: Albq.	State: NM	Zip: 87190	
Phone: 561-699-4119	Email:		
Agent: Strata Design - Michelle Negrette			
Mailing Address: 711 Amhearst SE			
City: Albq	State: NM	Zip: 87106	
Phone: 505-710-4221	Email: stratadesign.nm@gmail.com		
		Fee Total: \$	210.00

Completed Application Requirements:

- o Copy of relevant IDO section
- o Letter of authorization (if agent representation)
- o Proof of Pre-application Meeting (not required for a variance)
- o Proof that neighborhood meeting requirements were met
- o Proof that public notice requirements were met
- o Photos (site and existing structures)
- o Sketch plan
- o Justification letter
- o Sign posting

Approved for acceptance by:

Date:

Hearing Date:

ZONING OFFICIAL USE ONLY			
Request for exception to IDO Section: 14-16-5-1			
Description of request: * (1 Lot) Variance of 15ft to the required 15ft rear setback.			
<input type="checkbox"/> Ownership verified on AGIS	<input type="checkbox"/> Proof of ownership included	<input type="checkbox"/> Letter of authorization included	
Case history number(s) from AGIS: 1011129			
APO:	CPO#	HPO#	VPO#
Wall variances not allowed in low-density residential development in these 2 areas per 5-7(D)(3)(e):			
1) CPO 3 and 2) Monte Vista / College View Historic Dist. - Mapped Area:			
2) CPO-8 states walls no more than 3 feet high, but may request a variance			

5-1(D) MIXED-USE ZONE DISTRICTS**5-1(D)(1) Mixed-use Zone District Table**

All development in any Mixed-use zone district shall comply with the dimensional standards in Table 5-1-2, unless an exception or a different standard is stated in another section of this IDO. Subsection 14-16-2-4(E) (Mixed-use – Form-based Zone District (MX-FB)) includes dimensional standards for MX-FB sub-zones.

Table 5-1-2: Mixed-use Zone District Dimensional Standards

UC-MS-PT = Urban Centers, Main Streets, and Premium Transit areas as identified in the ABC Comp Plan

BR = bedroom DU = dwelling units.

Note: Any different dimensional standards in Part 14-16-3 (Overlay Zones) and Section 14-16-5-9 (Neighborhood Edges) applicable to the property shall supersede the standards in this table.

Zone District	MX-T	MX-L	MX-M	MX-H
Site Standards				
Usable open space, minimum ⁽¹⁾	Efficiency or 1 BR: 225 sq. ft./unit 2 BR: 285 sq. ft./unit ≥3 BR: 350 sq. ft./unit UC-MS-PT: 50% reduction			
Setbacks ⁽²⁾⁽³⁾⁽⁴⁾				
Front, minimum	5 ft. UC-MS-PT: 0 ft.[5]			
Front, maximum	N/A UC-MS-PT: 15 ft.			
Side, minimum	Interior: 0 ft.; Street side of corner lots: 5 ft. UC-MS-PT: 0 ft.			
Side, maximum	N/A UC-MS-PT: Interior: N/A; Street side of corner lots: 15 ft.[5]			
Rear, minimum	15 ft. UC-MS-PT: 0 ft. where rear lot line abuts a street or alley			
Rear, maximum	N/A			
Building Height				
Building height, maximum	30 ft.	38 ft. UC-MS-PT: 55 ft. UC-MS-PT-MT: 12 ft. Structured Parking Bonus UC-MS-PT-MT: 12 ft. Workforce Housing Bonus	48 ft. UC-MS-PT: 65 ft. No maximum for portions of building >100 ft. from all lot lines	68 ft. UC-MS-PT: 75 ft. UC-MS-PT-MT: 24 ft. Structured Parking Bonus

(1) Usable open space requirements indicated in this table are for multi-family residential development only. Additional usable open space requirements in Subsections 14-16-4-3(B)(3)(i) (Dwelling, Cottage Development) and 14-16-4-3(B)(5)(a) (Dwelling, Townhouse) may apply to low-density residential development in any Mixed-use zone district.

(2) At corners and junctions with driveways, drive aisles, or alleys, additional clear sight triangle requirements in the DPM may apply.

(3) For all low-density residential development, any driveway on a front or street side lot line must meet the standards in Subsection 14-16-5-3(C)(3)(b) (Driveways, Drive Aisles, and Access).

(4) For buildings constructed on a lot line abutting a privately owned lot that is not under the same ownership as the subject property, Subsection 14-16-5-1(F) (Buildings Constructed on a Lot Line) applies.

(5) In UC-MS-PT areas, all development must meet the standards in Subsection 14-16-5-1(D)(2).

PRE-APPLICATION REVIEW TEAM (PRT) MEETING NOTES

PA# 20-233 Date: 12/11/20 Time: N/A (sent via email to stratadesign.nm@gmail.com)

Address: 1203 COAL SE //

AGENCY REPRESENTATIVES

Planning: Linda Rumpf (lrumpf@cabq.gov)

Zoning/Code Enforcement: Carl Garcia (cagarcia@cabq.gov)

Fire Marshal: Bob Nevarez (rnevarez@cabq.gov) or call 505-924-3611 (if needed)

Transportation: Nilo Salgado (nsalgado-fernandez@cabq.gov)

Hydrology: Ernest Armilo, P.E. (earmilo@cabq.gov)

Solid Waste: Herman Gallegos (hgallegos@cabq.gov)

PRT DISCUSSIONS ARE FOR INFORMATIONAL PURPOSES ONLY!

THEY ARE NON-BINDING AND DO NOT CONSTITUTE ANY KIND OF APPROVAL.

Additional research may be necessary to determine the exact type of application and/or process needed.

Factors unknown at this time and/or thought of as minor could become significant as the case progresses.

REQUEST: Client desires to build a 3 story medical office building with 3 residential units on the top floor.

Prior building on site was medical office building.

SITE INFORMATION:

Zone: MX-M

Size: 0.45 acres

Use: Office

Overlay zone: x

Comp Plan Area of: Change

Comp Plan Corridor: x

Comp Plan Center: x

MPOS or Sensitive Lands: x

Parking: 5-5

MR Area: x

Landscaping: 5-6

Street Trees: 5-6(D)(1)

Use Specific Standards: Allowable Uses, Table 4-2-1

Dimensional Standards: Table 5-1-2: Mixed-use Zone District Dimensional Standards

*Neighborhood Organization/s: Silver Hill NA, Sycamore NA

**This is preliminary information only. Neighborhood Organization information is only accurate when obtained from the Office of Neighborhood Coordination (ONC) at www.cabq.gov/neighborhoods.resources.*

PROCESS:

Type of Action: ZHE

PRE-APPLICATION REVIEW TEAM (PRT) MEETING NOTES

PA# 20-233 Date: 12/11/20 Time: N/A (sent via email)

Address: 1203 COAL SE

NOTES:

QUESTIONS OR CONCERNS (Please be specific so that our staff can do the appropriate research)

Requesting verification of number of variances needed. Based on previous PRT and modification to drawings (see attached) we understand that we need a variance for:

1. Height - protected lot R-T to east triggers height limit of 30'. On north and east side of building, building meets this due to extreme topography. On west and south, building exceeds by 10.' Do we request ONE variance for this or for each of the two facades that exceed the height.

2) Neighborhood Edge buffer - north edge of lot triggers buffer due to adjacency to RM-H. We will be requesting to allow for the alley to count as contributing and for the parking to encroach into this area. Is this ONE or TWO variance requests?

3) Fire stair encroaching into rear yard and Neighborhood Edge buffer. Would this be ONE or TWO variances?

Corrected 1/24/2020
by Planning Services/Clerk for

See the Integrated Development Ordinance

<http://documents.cabq.gov/planning/IDO/IDO-Effective-2018-05-17.pdf>

New Public Notice Forms

We have created forms for all email/mailed public notice and for Pre-submittal Neighborhood Meetings. Please complete these forms for public notice:

- Neighborhood Meeting or <http://www.cabq.gov/planning/urban-design-development/neighborhood-meeting-requirement-in-the-integrated-development-ordinance>
- Public Notice or <http://www.cabq.gov/planning/urban-design-development/public-notice>

Records requests

To request a site plan and/or Notice of Decision, please use ABQ Records web page:

<https://www.cabq.gov/clerk/public-records>

Please include the site's address and the Case Tracking #s (see Zoning Comments) in your request.

Requests to Inspect Public Records

Any person may submit their request to inspect public records to the Office of the City Clerk by clicking on the following link to request records using our ABQ Records portal. <https://cabq.nextrequest.com/>

This enables us to respond to requests in the order in which they are received. Plus, it's a better way to share large files.

- Linda Rumpf, lrumpf@cabq.gov

PRE-APPLICATION REVIEW TEAM (PRT) MEETING NOTES

PA# 20-233 Date: 12/11/20 Time: N/A (sent via email)

Address: 1203 COAL SE

File Submittal

For Administrative Amendments, DRB, EPC, hydrology and traffic submittals, e-mail electronic files to PLNDRS@cabq.gov. For questions about an application submittal or the submittal process itself, please contact Jay Rodenbeck at irodenbeck@cabq.gov and/or to Maggie Gould at mgould@cabq.gov.

For other questions, please contact the Planning representative at the top of the PRT Notes.

For Building Safety Plan Review, contact Building Safety at 924-3963. Website: <https://www.cabq.gov/planning/building-safety-permits>

Zoning Comments

- Address: 1203 COAL AV SE
Apartment: A-E
Lot: 7 Block: 32
- Subdivision: TERRACE ADDN
- Case Number: 1011129 – Text amendment to sector development plan – no impact to this project
- University Neighborhoods Mapped Area
- Type: Change
- IDO Zoning: MX-M

Allowable uses:

- Medical clinic/Office – Permissive
- 4-3(D)(25) Medical or Dental Clinic – Use specific standard
- **Medical or Dental Clinic – Definition**
An establishment where patients who are not lodged overnight are admitted for examination and treatment by a group of licensed health care practitioners, dentists, or licensed health care practitioners and dentists in practice together.
- Dwelling, multi-family – Permissive
- Use specific standard 4-3(B)(7) Dwelling, Multi-family
- **Dwelling, Multi-family - Definition**
A building, multiple buildings, or a portion of a building located on a single lot, containing 3 or more dwelling units, each of which is designed for or occupied by one family only, with separate housekeeping and cooking facilities for each, and that does not meet the definition of a townhouse dwelling. Within mixed-use development, a building containing 2 or more dwelling units is considered multi-family. See also Development Definitions for Multi-family

Your questions:

PRE-APPLICATION REVIEW TEAM (PRT) MEETING NOTES

PA# 20-233 Date: 12/11/20 Time: N/A (sent via email)

Address: 1203 COAL SE

- Per section below, if entire building is within 100' of the protected lot this will require 1 variance per lot that the building is on. (It appears 2 variance for height - 1 per lot)
5-9(C) BUILDING HEIGHT STEPDOWN
5-9(C)(1) General Requirement On Regulated Lots, any portion of a primary or accessory building within 100 feet of the nearest Protected Lot property line shall step down to a maximum height of 30 feet. (See figure below.)
- 5-6(E)(3)(a) General
An edge buffer area at least 20 feet wide shall be provided on the subject property along the property line between the two properties. 1 variance per lot to reduce or eliminate the 20' buffer, (It appears 3 variances)
- Per Table 5-1-2 a 15 ft rear yard setback is required. It appears that 1 variance will be required to reduce the rear setback.

Process

Please contact Lorena at lpatten-quintana@cabq.gov with additional ZHE questions.

Transportation Development comments

For additional information contact Nilo Salgado (924-3630) or Jeanne Wolfenbarger (924-3991)

3/9/2020

Curb Cuts

- Follow DPM guidelines for residential and commercial curb cuts.
- Residential curb cut requirements – (12 feet to 22 feet wide for residential, 30 feet only if there is a 3-car garage or parking for RV)
- Location of drive with respect to intersection depends on classification of the street. (See attached table.) Classification of street is according to the Long Range Master Plan developed by MRCOG.

Clear Sight Triangle at Access Points and Intersections

- Clear sight triangle (See attached hand-outs.) Nothing opaque should be in the triangle.

Private Site and Parking Lot Design

- Follow DPM and IDO Guidelines for Site and Parking Lot Design. Current ADA standards must be followed including required number of handicapped parking spaces and drive aisles, ADA access to public right-of-way, and ADA access to on-site buildings.

PRE-APPLICATION REVIEW TEAM (PRT) MEETING NOTES

PA# 20-233 Date: 12/11/20 Time: N/A (sent via email)

Address: 1203 COAL SE

- See the Traffic Circulation Layout (TCL) Checklist. A TCL is required for any change or addition to a building > 500 sq. ft. or if the parking or circulation is changed. (This includes a repaving of parking lot.) Drawing must be stamped by a registered engineer or architect.
- When developing a parking lot layout, include all dimensioning for construction purposes. Also include all curb, curb ramp and signage details.
- Parking Calculations must be provided and per the requirements in the IDO. Number of vehicular spaces, motorcycle spaces, and bicycle spaces shall be specified and follow IDO requirements.
- Demonstrate queuing capacity when needed in situations such as for drive-thru facilities. It is imperative to demonstrate that the queuing will not block accessways to the site or cause vehicles to back into the main roadway. Also, provide necessary one-way signage and pavement markings.
- Shared access/parking agreement is required if access/parking is shared with parking lot adjacent to site. (This can be established on a plat if submittal of a plat is required or by an agreement.)
- Existing driveways that are not being used are required to be removed and replaced with standard curb and sidewalk to match existing.

Traffic Studies and Traffic Signals

1. See the Traffic Impact Study (TIS) thresholds. In general, a minimum combination of 100 vehicles entering and exiting in the peak hour warrants a Traffic Impact Study. Visit with Traffic Engineer for determination, and fill out a TIS Form that states whether one is warranted. In some cases, a trip generation may be requested for determination.
2. A proposed new traffic signal needs to A) follow guidelines for traffic signal spacing, B) meet the requirements for a traffic signal warrant study to be in operation and C) be approved by both Planning and by Traffic Operations.

Platting and Public Infrastructure Requirements for Roadways

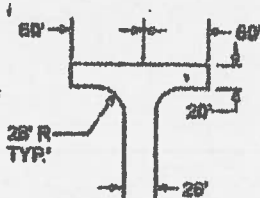
1. When submitting to DRB, all public roadway improvements that are required shall be shown on an infrastructure list. Public improvements must be included on a public work order set of drawings.
2. All public roadway facilities must be within public right-of-way including the entire width of the public sidewalk, all public curb ramps, overhead utilities, traffic signals and lighting, etc.

PRE-APPLICATION REVIEW TEAM (PRT) MEETING NOTES

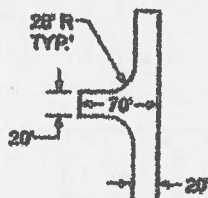
PA# 20-233 Date: 12/11/20 Time: N/A (sent via email)

Address: 1203 COAL SE

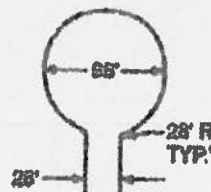
3. Curb and sidewalk is required along entire frontage of property. Follow IDO/DPM for specific width requirements.
4. There is a Bikeway Master Plan that is prepared MRCOG which lays out proposed bicycle facilities including bicycle trails, bike lanes, and bike routes. The site would be required to provide such facilities along the site frontage if they have not been constructed yet. Right-of-way dedication would likely be required.
5. Depending on site's use of an adjacent alleyway and on type of use for proposed site, alleyway improvements are required. This would include paving and/or proper right-of-way dedication to meet current width standards.
6. Follow DPM and MRCOG's Long Range Master Plan for roadway width requirements. Provide roadway cross-section. (New roadway requirements and roadway widening is also coordinated with Department of Municipal Development, depending on what plans or projects they may have on a specific roadway.)
7. If private road is over 150' long, the turnaround shall be per fire code dimensions. Fire Marshall Approval and Solid Waste Approval is required on all site layouts. For dead-ends, see options below for space dedicated to turn-arounds:



120' HAMMERHEAD



ACCEPTABLE ALTERNATIVE
TO 120' HAMMERHEAD



96' DIAMETER
CUL-DE-SAC

8. For any private access easements on plats, all beneficiaries and maintenance responsibilities must be listed.
9. Due to sight distance concerns and to construct sufficient curb ramps, right-of-way dedication is required to add curves to corners of properties at intersections if they are not already developed. See Table 23.3 of the DPM.
10. Any private structures that are located within public right-of-way such as fences and walls shall either be removed or else a revocable permit with the City is required in which an annual fee is paid per year, based on square footage of the encroachment.

PRE-APPLICATION REVIEW TEAM (PRT) MEETING NOTES

PA# 20-233 Date: 12/11/20 Time: N/A (sent via email)

Address: 1203 COAL SE

If you would have additional questions or would like to schedule a follow-up conference call meeting please contact Linda Rumpf at lrumpf@caba.gov

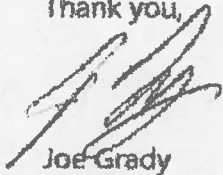
February 2, 2021

Re: Variances for 1203 coal SE

To Whom It May Concern,

The Grady Group authorizes Strata Design, LLC to act as an agent on their behalf for the application for variances at 1203 Coal SE.

Thank you,

A handwritten signature in black ink, appearing to read "Joe Grady", written over a horizontal line.

Joe Grady

Managing partner

Grady Group, Inc

From: Sanchez, Suzanna A. suzannasanchez@cabq.gov
 Subject: ZHE Contacts for 1203 Coal Avenue SE
 Date: December 17, 2020 at 5:39 PM
 To: mnegrett@mac.com

SS

Dear Applicant,

- Below are the neighborhood associations that need to be notified of your ZHE application. Please forward the attached 1. Letter to Neighborhood Association to the email addresses below.

Association Name	First Name	Last Name	Email	Address Line 1	City	State	Zip
Silver Hill NA	James	Montalbano	ja.montalbano@gmail.com	1409 Silver Avenue SE	Albuquerque	NM	87106
Silver Hill NA	Don	McIver	dbodlnem@gmail.com	1801 Gold Avenue SE	Albuquerque	NM	87106
Sycamore NA	Mardon	Gardella	mg411@q.com	411 Maple Street NE	Albuquerque	NM	87106
Sycamore NA	Richard	Vigliano	richard@vigilano.net	1205 Copper NE	Albuquerque	NM	87106
University Heights Notify List ATTACHED							

- Below is a list of property owners within 100+ feet of the subject property. Please mail the attached, 2. Letter to Property Owners- February. Also, please provide proof that the letters were sent. Proof can be either a receipt for postage stamps purchased or a photo of the addressed envelopes.

Owner	OWNADD	OWNADD2
KOCHER FRANK H & KATHRYN M	1340 MUNRAS AVE SUITE 310	MONTEREY CA 93940-6140
PRESBYTERIAN PROPERTIES INC ATTN: REAL ESTATE DEPT	PO BOX 26666	ALBUQUERQUE NM 87125-6666
SCHMITZ JOSEPH P	1108 N 84TH PL	SCOTTSDALE AZ 85257-4104
SMI ABQ ASSETS LLC DBA DANIELS FAMILY SERVICES	1100 COAL AVE SE	ALBUQUERQUE NM 87106
SANCHEZ CHARLES R	8114 SAN JUAN RD NE	ALBUQUERQUE NM 87108-2344
FELD PETER	PO BOX 4737	ALBUQUERQUE NM 87196
SCHILLKE PETER & LAUREL E	1217 COAL AVE SE	ALBUQUERQUE NM 87106-5242
DASKALOS CHRIS	1112 ROXBURY DR	LOS ANGELES CA 90035-1032
SCHILLKE PETER & LAUREL E	1217 COAL AVE SE	ALBUQUERQUE NM 87106
MARINO JASON MICHAEL & KIRSTEN ROCA	1200 COAL AVE SE	ALBUQUERQUE NM 87106-5210
CLARK MARLON L	506 CEDAR ST SE	ALBUQUERQUE NM 87106-5204
KOCHER FRANK H & KATHRYN M	1340 MUNRAS AVE SUITE 310	MONTEREY CA 93940-6140
EK ASHLEE K	1204 COAL AVE SE	ALBUQUERQUE NM 87106-5210
D & S ONE INC	PO BOX 30801	ALBUQUERQUE NM 87190-0801
KOCHER FRANK H & KATHRYN M	1340 MUNRAS AVE	MONTEREY CA 93940-6140

Please keep a copy of the email that you send and copies of each letter once you have filled them in. Please let me know if you have questions or need assistance. The deadline for February submittals is January 5th.

(Note: If you miss the deadline on January 5th, you will be required to re-notify with a March 16th hearing date).

Thank you,

Suzie



SUZIE SANCHEZ
 zhe administrative assistant
 o 505.924.3894
 e suzannasanchez@cabq.gov
 cabq.gov/planning



REQUEST FOR NEIGHBORHOOD MEETING

Date: Dec 23, 2020

To Whom This May Concern:

I am requesting approval from the Zoning Hearing Examiner within the City of Albuquerque for a conditional use or variance to allow Variance of 15' to the required 15' rear setback
Variance of 20' to the required 20' edge buffer, variance to construct a
building taller than 30' within 100' of a protected lot (summary of request).

Variance of 3' to the 3' maximum wall height.

Property owner Grady Group, Inc.

Agent if applicable Strata Design, LLC.

Property Address 1203 Coal SE, Albuquerque, NM, 87106 (zip code).

This letter is an offer to meet with you to provide additional information. If you wish to meet, please respond within 15 days. If you do not want to meet, or you support the proposal, please let me know.

Thank you,

Applicant Name Michelle Negrette

Email stratadesign.nm@gmail.com

Phone Number 505.710.4221

The City may require the applicant to attend a City-sponsored facilitated meeting with the Neighborhood Associations whose boundaries include or are adjacent to the proposed project, based on the complexity and potential impacts of a proposed project. For more information, please contact the ZHE Administrative Assistant Suzie Sanchez at 505-924-3894 or suzannasanchez@cabq.gov.

Please note: "You may submit written comments to the Zoning Hearing Examiner up to 6 days before the hearing (5pm on the Wednesday before the hearing). Written comments received after that deadline will not be taken into consideration for this application.

[Note: Items with an asterisk (*) are required.]

Neighborhood Meeting Request for a Proposed Project in the City of Albuquerque

Date of Request*: _____

This request for a Neighborhood Meeting for a proposed project is provided as required by Integrated Development Ordinance (IDO) Subsection 14-16-6-4(K) Public Notice to:

Neighborhood Association (NA)*: _____

Name of NA Representative*: _____

Email Address* or Mailing Address* of NA Representative¹: _____

The application is not yet submitted. If you would like to have a Neighborhood Meeting about this proposed project, please respond to this request within 15 days.²

Email address to respond yes or no: _____

The applicant may specify a Neighborhood Meeting date that must be at least 15 days from the Date of Request above, unless you agree to an earlier date.

Meeting Date / Time / Location:

Project Information Required by IDO Subsection 14-16-6-4(K)(1)(a)

1. Subject Property Address* _____

Location Description _____

2. Property Owner* _____

3. Agent/Applicant* [If applicable] _____

4. Application(s) Type* per IDO Table 6-1-1 [mark all that apply]

☐ Conditional Use Approval

☐ Permit _____ (Carport or Wall/Fence – Major)

☐ Site Plan

☐ Subdivision _____ (Minor or Major)

¹ Pursuant to IDO Subsection 14-16-6-4(K)(5)(a), email is sufficient if on file with the Office of Neighborhood Coordination. If no email address is on file for a particular NA representative, notice must be mailed to the mailing address on file for that representative.

² If no one replies to this request, the applicant may be submitted to the City to begin the review/decision process.

[Note: Items with an asterisk (*) are required.]

- ☐ Vacation _____ (Easement/Private Way or Public Right-of-way)
☐ Variance
☐ Waiver
☐ Zoning Map Amendment
☐ Other: _____

Summary of project/request^{3*}:

5. This type of application will be decided by³: ☐ City Staff
OR at a public meeting or hearing by:
☐ Zoning Hearing Examiner (ZHE) ☐ Development Review Board (DRB)
☐ Landmarks Commission (LC) ☐ Environmental Planning Commission (EPC)
☐ City Council
6. Where more information about the project can be found⁴:

Project Information Required for Mail/Email Notice by IDO Subsection 6-4(K)(1)(b):

1. Zone Atlas Page(s)⁵ _____
2. Architectural drawings, elevations of the proposed building(s) or other illustrations of the proposed application, as relevant²: Attached to notice or provided via website noted above
3. The following exceptions to IDO standards will be requested for this project²:

☐ Deviation(s) ☐ Variance(s) ☐ Waiver(s)

Explanation:

4. An offer of a Pre-submittal Neighborhood Meeting is required by Table 6-1-1²: ☐ Yes ☐ No

³ Attach additional information, as needed to explain the project/request. Note that information provided in this meeting request is conceptual and constitutes a draft intended to provide sufficient information for discussion of concerns and opportunities.

⁴ Address (mailing or email), phone number, or website to be provided by the applicant

⁵ Available online here: <http://data.cabq.gov/business/zoneatlas/>

[Note: Items with an asterisk (*) are required.]

5. **For Site Plan Applications only***, attach site plan showing, at a minimum:

- ☐ a. Location of proposed buildings and landscape areas.*
- ☐ b. Access and circulation for vehicles and pedestrians.*
- ☐ c. Maximum height of any proposed structures, with building elevations.*
- ☐ d. **For residential development***: Maximum number of proposed dwelling units.
- ☐ e. **For non-residential development***:
 - ☐ Total gross floor area of proposed project.
 - ☐ Gross floor area for each proposed use.

Additional Information:

1. From the IDO Zoning Map⁶:

- a. Area of Property [typically in acres] _____
- b. IDO Zone District _____
- c. Overlay Zone(s) [if applicable] _____
- d. Center or Corridor Area [if applicable] _____

2. Current Land Use(s) [vacant, if none] _____

Useful Links

Integrated Development Ordinance (IDO):

<https://ido.abc-zone.com/>

IDO Interactive Map

<https://tinyurl.com/IDOzoningmap>

Cc: _____ [Other Neighborhood Associations, if any]

⁶ Available here: <https://tinyurl.com/idozoningmap>

From: **Richard Vigliano** richard@vigliano.net
Subject: **Re: 1203Coal.SELetter to Neighborhood Association.pdf**
Date: **January 17, 2021 at 11:37 AM**
To: **Michelle Negrette** stratadesign.nm@gmail.com
Cc: **Peter Schillke** pschillike@gmail.com, **Laurel Schillke** lschillike@gmail.com

RV

I understand, these can be addressed at the meeting with docs to follow if necessary.

I looked again at the site plan and the dimensions are illegible on my screen, and the plan does not show the easements to plan to vacate.

Richard Vigliano, Principal
505.980.9813
richard@vigliano.net

Richard Vigliano LLC
1205 Copper Ave. NE
Albuquerque, NM 87106

On Sunday, January 17, 2021, 11:14:10 AM MST, Michelle Negrette <stratadesign.nm@gmail.com> wrote:

Hi Richard,

I am out of the office until Tuesday morning as tomorrow is a federal holiday and will not have access to a computer. I believe the information you are requesting was provided in the email that was sent to the neighborhood associations. If you do not find this information adequate, I can provide you something additional, however, it will not be prior to our 9am meeting.

Thank you,
Michelle

On Jan 17, 2021, at 11:05 AM, Richard Vigliano <richard@vigliano.net> wrote:

Michelle, We request a site plan showing the easements proposed for the variances and key dimensions prior to the zoom meeting. Also the Schillkes want you to be prepared to discuss the impact of rotating the project 90 degrees so the current east (long) side of the structure (which abuts there property) is on the north (alley) side.

Thank you,

Richard Vigliano, Principal
505.980.9813
richard@vigliano.net

Richard Vigliano LLC
1205 Copper Ave. NE

1203 Copper Ave. NE
Albuquerque, NM 87106

On Wednesday, December 23, 2020, 12:40:15 PM MST, Michelle Negrette
<stratadesign.nm@gmail.com> wrote:

Hello,

My client is proposing to build a mixed use building at 1203 Coal SE with 3-4 residential units, offices and medical offices. Please find the attached Letter to Neighborhood Association, a site plan, rendered elevation and aerial view. Please let me know if you have any questions regarding this request.

Thank you,
Michelle

Michelle Negrette
Strata Design, LLC
505.710.4221
stratadesign.nm@gmail.com

From: **Michelle Negrette** stratadesign.nm@gmail.com
Subject: **1203Coal.SELetter to Neighborhood Association.pdf**
Date: **December 23, 2020 at 12:39 PM**

MN

To: ja.montaibano@gmail.com, dbodinem@gmail.com, mg411@q.com, richard@vigliano.net, ja.montaibano@comcast.net, jamesolbert81@gmail.com, **Allen Montgomery Parkman** parkman@unm.edu, **Don Hancock** sricdon@earthlink.net, **Julie Kidder** juliernkidder@gmail.com, e2brecht@gmail.com, info@willsonstudio.com
Cc: **Joe Grady** joegrady6@hotmail.com, **Sara Zahm** sara@sarazahm.com, **Annie Lilyblade** annie.lilyblade@saitdesign.com

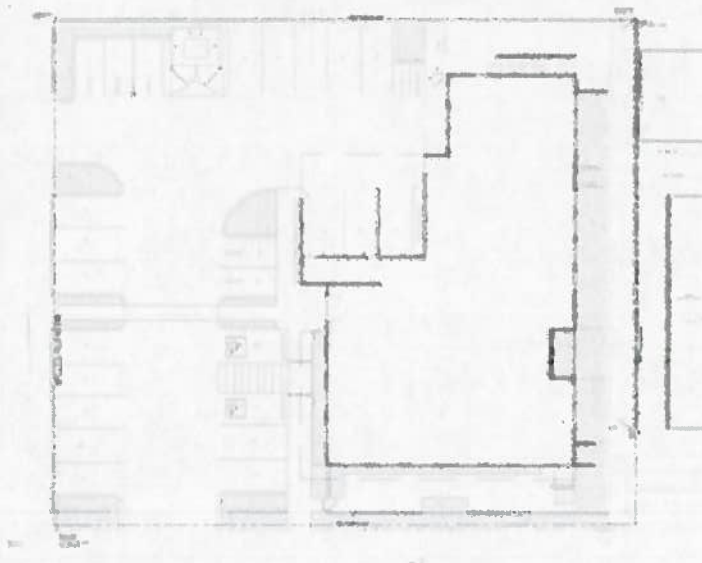
Hello,

My client is proposing to build a mixed use building at 1203 Coal SE with 3-4 residential units, offices and medical offices. Please find the attached Letter to Neighborhood Association, a site plan, rendered elevation and aerial view. Please let me know if you have any questions regarding this request.

Thank you,
Michelle



1203Coal.SELetter to Neighborhood Association.pdf

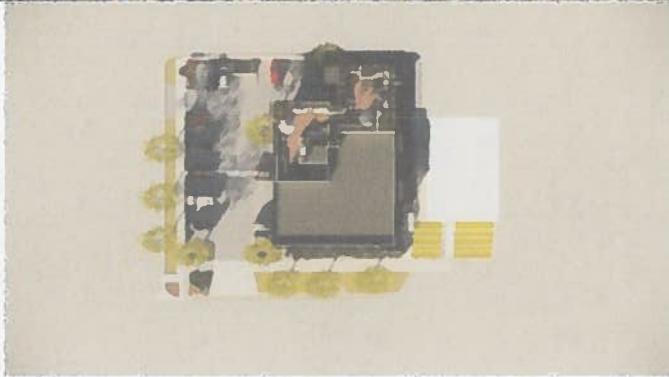


1203 Coal Avenue SE
Albuquerque, NM

PRELIMINARY SITE PLAN

12.18.20





From: **Richard Vigilano** richard@vigliano.net
Subject: **Re: 411 Cedar NE - Variance request for wall height**
Date: **January 19, 2021 at 9:31 AM**
To: **Michelle Negrette** stratadesign.nm@gmail.com, **Peter Schillke** pschillke@gmail.com
Cc: **ja.montalbano@gmail.com**, **mg411@q.com**, **Don Hancock** sricdon@earthlink.net, **Laurel Schillke** lschillke@gmail.com

RV

I temporarily lost my internet connection, can you let me back in???

Sent from Yahoo Mail on Android

On Fri, Jan 15, 2021 at 9:36 AM, Michelle Negrette
<stratadesign.nm@gmail.com> wrote:

Hi All,

Have scheduled 2 zoom meetings back to back.

The first meeting:

Topic: 1203 Coal SE

Time: Jan 19, 2021 09:00 AM Mountain Time (US and Canada)

Join Zoom Meeting

<https://us04web.zoom.us/j/74772174357?pwd=bFFaank1V1luVHdHdFRjMGdqcm1UUT09>

Meeting ID: 747 7217 4357

Passcode: 7VVqvN

The Second Meeting:

Topic: Michelle Negrette's Zoom Meeting

Time: Jan 19, 2021 09:40 AM Mountain Time (US and Canada)

Join Zoom Meeting

<https://us04web.zoom.us/j/71074779676?pwd=RTV3WkRUYlVzMDdpSldMNS9FY0xSZz09>

Meeting ID: 710 7477 9676

Passcode: 5Yy5ve

Please let me know if you have any issues logging on via text 505.710.4221 or email: strata design.nm@gmail.com

Thank you,
Michelle

On Jan 15, 2021, at 7:54 AM, Peter Schillke <pschillke@gmail.com> wrote:

works for me also. I'm sure that 40 minutes will be enough time

Peter

On Thu, Jan 14, 2021 at 11:42 PM Richard Vigilano <richard@vigliano.net> wrote:

This works for me; 40' may not be enough. Thank you.

Sent from Yahoo Mail on Android

On Thu, Jan 14, 2021 at 10:11 PM, Michelle Negrette

<stratadesign.nm@gmail.com> wrote:

Hi All,

Would 9 am work? Is zoom a good platform for everyone, or is there another that you would prefer. I have the "free" zoom, so I am limited to 40 min. If that is not enough time, I can schedule two meetings back to back. Please let me know what you would like.

Thank you,
Michelle

On Jan 14, 2021, at 1:09 PM, Peter Schillke <pschillke@gmail.com> wrote:

I have a dental appointment at 11 that day. 9 AM or any time after 1 should work

Peter Schillke

On Wed, Jan 13, 2021 at 5:55 PM Michelle Negrette <stratadesign.nm@gmail.com> wrote:

Hi Richard,

Would next Tuesday at 11:00 am work for you all?

Thanks,
Michelle

On Jan 13, 2021, at 8:51 AM, Richard Vigliano <richard@vigliano.net> wrote:

Michelle, Pursuant to our discussion the Sycamore Neighborhood requests a zoom meeting to clarify the specifics of the projects and explore suggestions put forward by the adjacent landowners, the Schillkes. Please let us know some dates and times your team and Mr. Hancock is available. Thank you.

Richard Vigliano, Principal
505.980.9813
richard@vigliano.net

Richard Vigliano LLC
1205 Copper Ave. NE
Albuquerque, NM 87106

On Wednesday, December 23, 2020, 12:52:01 PM MST, Michelle Negrette <stratadesign.nm@gmail.com> wrote:

Good Afternoon,

Please find the attached letter to the Neighborhood Association and a site plan indicating the area of the requested variance.

Thank you,
Michelle

Michelle Negrette
Strata Design, LLC
505.710.4221
stratadesign.nm@gmail.com



Michelle Negrette
Strata Design, LLC
505.710.4221
stratadesign.nm@gmail.com

Michelle Negrette
Strata Design, LLC
505.710.4221
stratadesign.nm@gmail.com

Michelle Negrette
Strata Design, LLC
505.710.4221
stratadesign.nm@gmail.com

Strata Design was contacted by the Neighborhood Association (Richard Vigliano) on February 7, 2021 to discuss arranging a zoom call to go over a few question that Peter and Laurel Schillke had regarding the proposed variances.

A zoom call was scheduled for Jan 19, 2021 with Neighborhood Association. The following Attendees were present:

Michelle Negrette

Joe Grady, Grady Group

Richard Vigliano

Peter and Laurel Schillke

Don McIver

The design team discussed each variance with the group. Questions were asked regarding the roof top terrace and the possibility of lowering the parapet. The design team explained the need for the parapet to meet guard rail height for safety concerns and to screen mechanical equipment, but would explore ways to reduce the parapet height were possible. Peter and Laurel Schillke expressed concern about the shadow the proposed building could project on to their adjacent property and asked if the project could be turned 90 degrees. The design team explained that due to the topography of the site and the required parking, the building needed to be located on the site as is. In addition, the design team explained that the impact of the building on their site would be no more than a two story building which would be meeting all the IDO requirements, including the Building Height Stepdown requirement. The group had no further questions for the design team.

Public Notice of Hearing

Date: Feb 1, 2021

To Whom This May Concern:

I am requesting approval from the Zoning Hearing Examiner within the City of Albuquerque for a conditional use or variance to allow a ~~variance of 15' to the required 15ft rear setback (1 lot), 20ft to the rear 20ft edge buffer (3 lots), to construct a building taller than 30ft within 100 ft of a protected lot (2 lots), and of 3 feet to the 3ft maximum wall height.~~ ^(summary of request)

Property owner: Grady Group

Agent (if applicable): Strata Design, LLC

Property Address: 1203 Coal Avenue Se, Albuquerque, NM, 87106 (zip code).

A hearing will be held on March 16, 2021 beginning at 9:00AM via ZOOM.

Join Zoom Meeting

<https://cabq.zoom.us/j/7044490999>

Meeting ID: 704 449 0999

One tap mobile

+16699006833,,7044490999# US (San Jose)

+12532158782,,7044490999# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

Meeting ID: 704 449 0999

Find your local number: <https://cabq.zoom.us/j/a2s7T1dnA>

Thank you,

Applicant's Name: Michelle Negrette

Applicant's Number or Email Address: stratadesign.nm@gmail.com

For more information, please contact the ZHE Administrative Assistant Suzie Sanchez at 505- 924-3894 or suzannasanchez@cabq.gov.

Please note: "You may submit written comments to the Zoning Hearing Examiner up to 6 days before the hearing (5pm on the Wednesday before the hearing). Written comments received after that deadline may result in deferral.



PART I - PROCESS

Use Table 6-1-1 in the Integrated Development Ordinance (IDO) to answer the following:

Application Type:

Decision-making Body: **Zoning Hearing Examiner**

Pre-Application meeting required: ☒ Yes ☐ No

Neighborhood meeting required: ☒ Yes ☐ No

Mailed Notice required: ☒ Yes ☐ No

Electronic Mail required: ☐ Yes ☒ No

Is this a Site Plan Application: ☐ Yes ☒ No *Note: If yes, see second page*

PART II - DETAILS OF REQUEST

Address of property listed in application:

Name of property owner:

Name of applicant:

Date, time, and place of public meeting or hearing, if applicable:

March 16, 2021 9:00AM via Zoom (Meeting ID# 704 449 0999)

Address, phone number, or website for additional information:

www.cabq.gov/zoninghearingexaminer or 505-924-3894

PART III - ATTACHMENTS REQUIRED WITH THIS NOTICE

☐ Zone Atlas page indicating subject property.

☐ Drawings, elevations, or other illustrations of this request.

☐ Summary of pre-submittal neighborhood meeting, if applicable.

☐ Summary of request, including explanations of deviations, variances, or waivers.

**IMPORTANT PUBLIC NOTICE MUST BE GIVEN IN A MANNER PURSUANT TO
SUBSECTION 14-16-6-9(B) OF THE CITY OF ALBUQUERQUE INTEGRATED DEVELOPMENT
ORDINANCE. ALL REQUIRED ATTACHMENTS MUST BE PRESENTED WITH THE
APPLICATION.**

I certify that the information I have included here and sent in the required notice was complete, true, and accurate to the extent of my knowledge.

(Applicant signature) _____ (Date)

Note: Providing incomplete information may require re-sending public notice. Providing false or misleading information is a violation of the IDO pursuant to IDO Subsection 14-16-6-9(B)(3) and may lead to a denial of your application.

**OFFICIAL PUBLIC NOTIFICATION FORM
FOR MAILED OR ELECTRONIC MAIL NOTICE
CITY OF ALBUQUERQUE PLANNING DEPARTMENT**



PART IV – ATTACHMENTS REQUIRED FOR SITE PLAN APPLICATIONS ONLY

Provide a site plan that shows, at a minimum, the following:

- ☐ a. Location of proposed buildings and landscape areas.
- ☐ b. Access and circulation for vehicles and pedestrians.
- ☐ c. Maximum height of any proposed structures, with building elevations.
- ☐ d. For residential development: Maximum number of proposed dwelling units.
- ☐ e. For non-residential development:
 - ☐ Total gross floor area of proposed project.
 - ☐ Gross floor area for each proposed use.

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Postage \$0.55

Total Postage and Fees \$4.15

02/01/2021

JOSEPH SCHMITZ
1108 N 84TH AVE
SOUTHDALE, AZ 85571-104

PS Form 3800, April 2015 PSN 7530-02-000-9001 See Reverse for instructions

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D'S ONE INC
PO BOX 3080
ALBUQUERQUE, NM 87190-0801

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Postage \$0.55

Total Postage and Fees \$4.15

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ASHLEE EIL
1204 COAL AVE SE
ALBUQUERQUE, NM 87106-5210

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MARION CULX
500 COAL ST SE
ALBUQUERQUE, NM 87106-5204

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STAN MANNOT KIRSTEN ELLA
1100 COAL AVE SE
ALBUQUERQUE, NM 87106-5210

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CHRIS DASKALOS
1113 BOX BURY DR
LOS ALBUQUERQUE, NM 87105-1001

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PETER LAXUEL ESQUILVE
1113 COAL AVE SE
ALBUQUERQUE, NM 87106-5242

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PETER FEO
PO BOX 4737
ALBUQUERQUE, NM 87106

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☐ Adult Signature Restricted Delivery \$0.00

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02/01/2021

CHRISTOPHER SANCHEZ
8114 SAN JUAN RD
ALBUQUERQUE, NM 87106-2344

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02/01/2021



Sent To

SMITH ASSISTS
1100 CARRIE AVE SE
ALBUQUERQUE, NM 87106

Street and Apt. No., or PO Box No.

City, State, ZIP+4

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PLS BUYER AND PERSIST ATTORNEY
PO BOX 2666
ALBUQUERQUE, NM 87125-6666

Street and Apt. No., or PO Box No.

City, State, ZIP+4

PS Form 3800, April 2015 PSN 7530-02-000-9047

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02/01/2021



Sent To

FLANCA KATHRYN KOCHER
1340 MONTEREY AVE STE 310
MONTEREY, CA 93940-6140

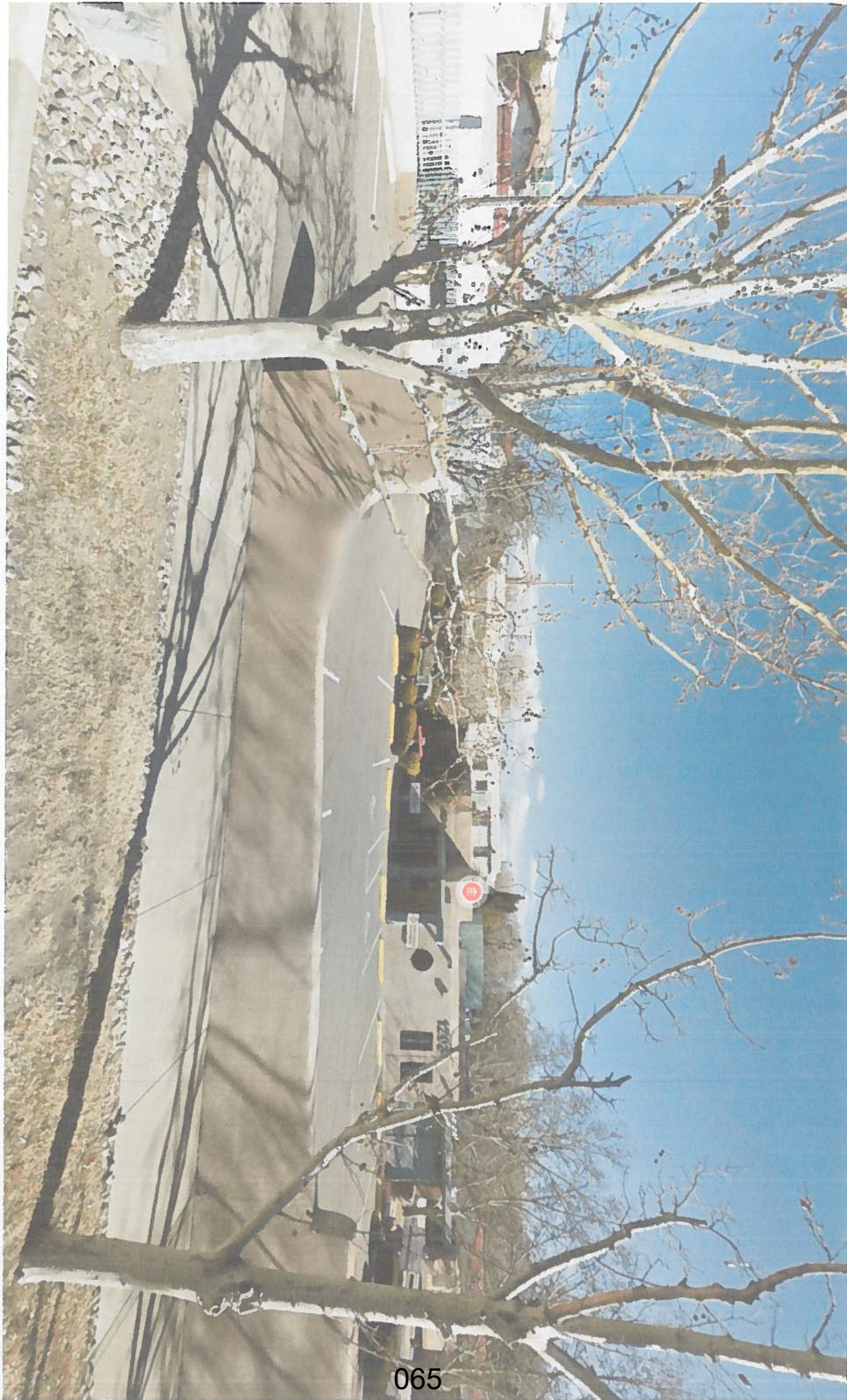
Street and Apt. No., or PO Box No.

City, State, ZIP+4

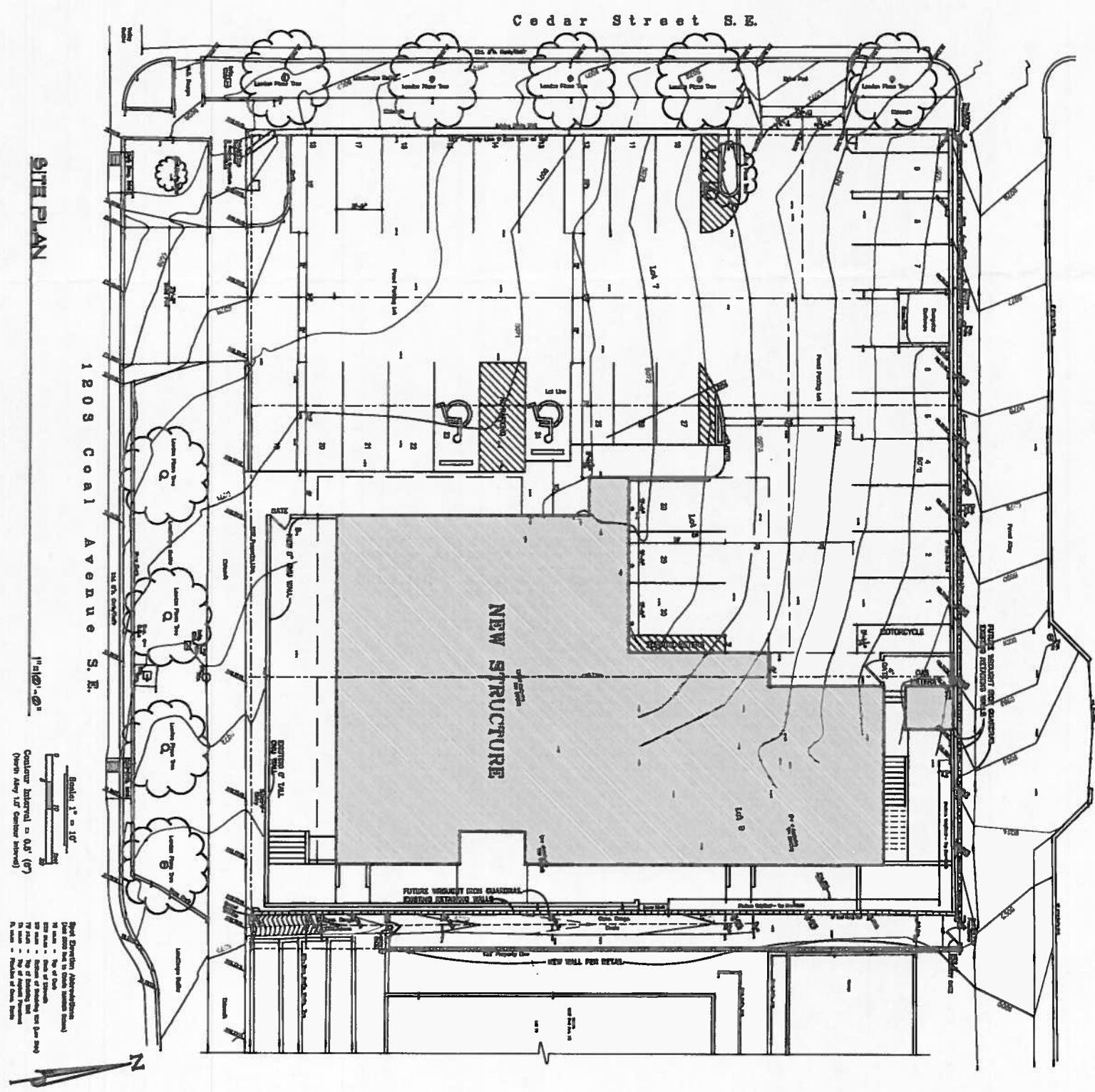
PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions









SITE PLAN

1203 COAL AVENUE S.E.

Cedar Street S.E.

NEW STRUCTURE

Scale: 1" = 10'
Graphic Scale: 0' 10' 20'
Contour Interval = 0.5' (5')
(Open May 12, 2020 shown)

Site Description: Approximate
to show - 1/2" of 10'
to show - 1/2" of 10'
to show - 1/2" of 10'
to show - 1/2" of 10'
to show - 1/2" of 10'
to show - 1/2" of 10'
to show - 1/2" of 10'

PAGE
51

JOE GRADY
PH: 561-699-4119
EM: JOEGRADY6@HOTMAIL.COM

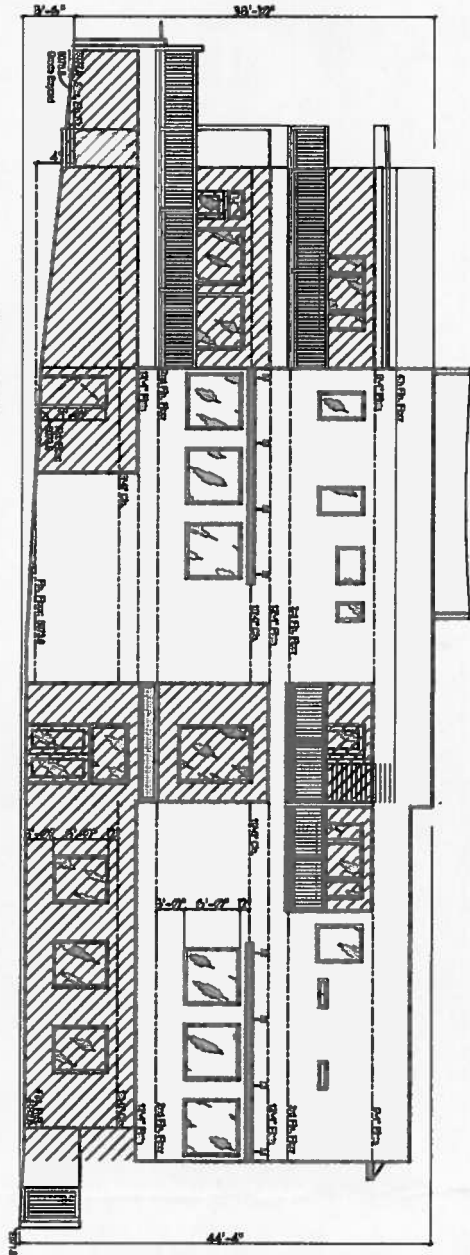
3-STORY BUILDING
1203 COAL AVENUE SE
LOTS 7, 8, & 9, BLOCK 33, TERRACE ADDITION
ALBUQUERQUE, NEW MEXICO

Pistols
Drafting & Design
Chris Martinez
PH: (505) 298-5588
Email: pistolsdrafting@gmail.com

SITE PLAN

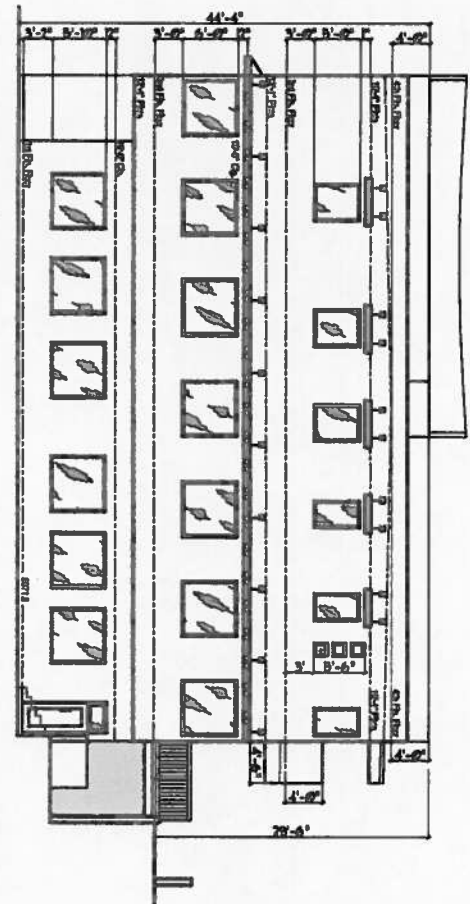
DATE
DRAWN
9-11-2020

REVISIONS	
6.19	
6.17	
6.16	



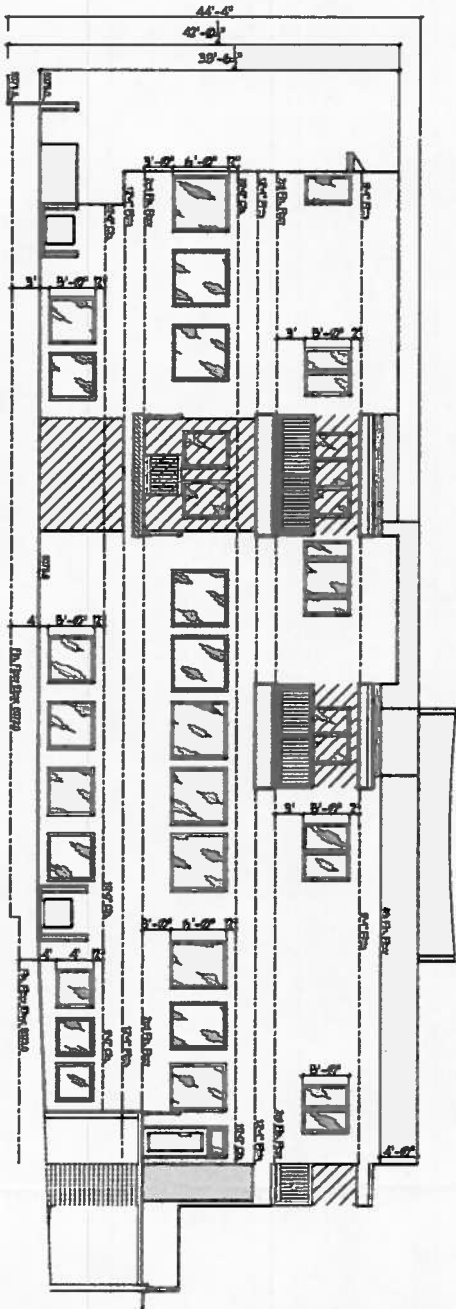
West Elevation

1/4" = 1'-0"



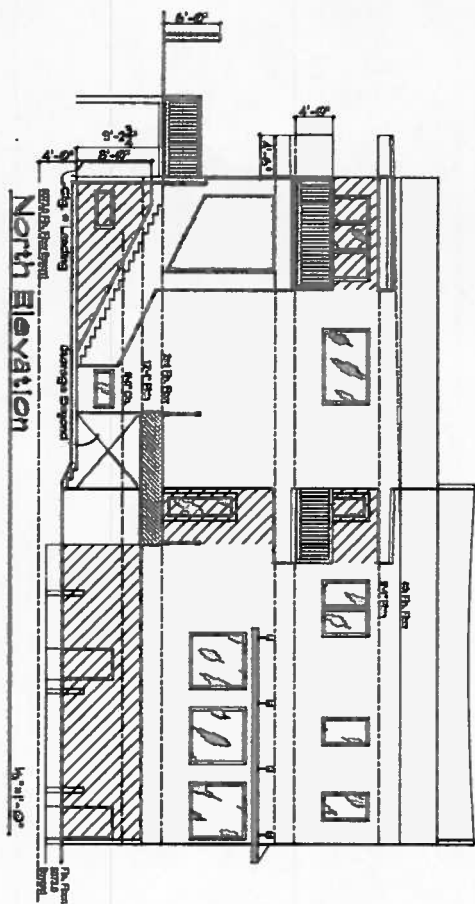
South Elevation

1/4" = 1'-0"



East Elevation

1/4" = 1'-0"



North Elevation

1/4" = 1'-0"

PAGE
OF
3

JOE GRADY
PH: 561-699-4119
EM: JOEGRADY6@HOTMAIL.COM

3-STORY BUILDING
1203 COAL AVENUE SE
LOTS 7, 8, & 9, BLOCK 88, TERRACE ADDITION
ALBUQUERQUE, NEW MEXICO

Pistol's
Drafting & Design
Chris Mullins
PH: (505) 298-5555
Email: pistoldrafting@gmail.com

EXTERIOR
ELEVATIONS

DATE
DRAWN
9-11-2020

REVISIONS
6.28
7.28
8.18



DATE
03/28/11
5-11-2011

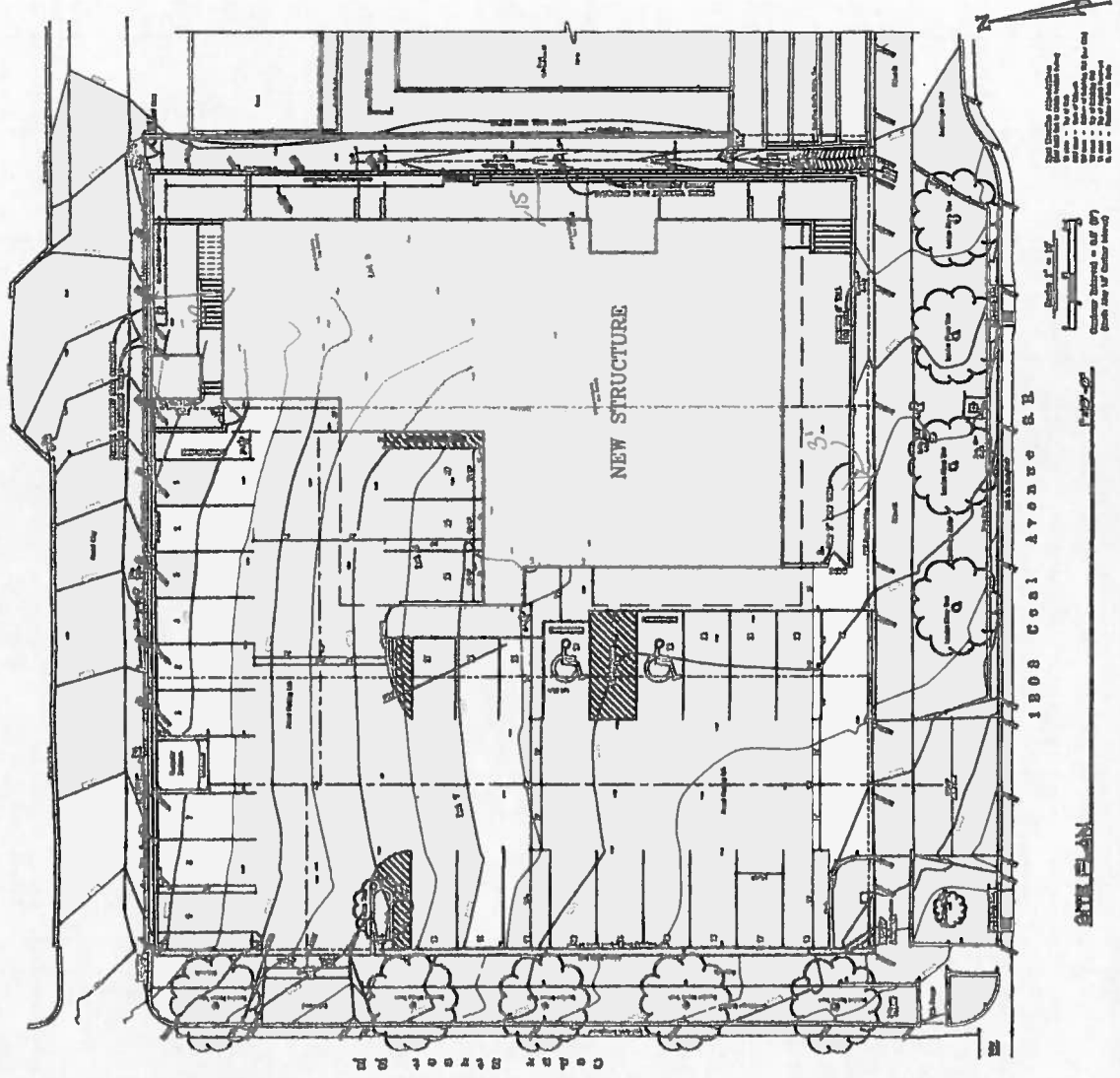
SITE PLAN

PROPOSED
DESIGN & CONSTRUCTION
FOR THE
NEW 3-STORY BUILDING
1808 COAL AVENUE SE
ALBUQUERQUE, NEW MEXICO
84604

3-STORY BUILDING
1808 COAL AVENUE SE
ALBUQUERQUE, NEW MEXICO
84604

JOE GRADY
PCL 981-658-4119
JG@GRADYARCHITECTS.COM

PAGE
51



Site Plan
Scale: 1" = 10'-0"
North Arrow
Customer: 1808 Coal Ave SE
Scale: 1" = 10'-0"
Date: 03/28/11

1808 COAL AVENUE SE

CEAR STREET S.E.



February 1, 2021

Office of the Zoning Hearing Examiner
City of Albuquerque
Albuquerque, NM 87103

RE: 1203 Coal Avenue SE
(Existing Legal:)Terrace Addition
Current Zoning: MX-M
Zone Atlas Map: K-15

SUBJ: Variance Request for a Variance of 15ft to the required 15ft rear setback.

To Whom It May Concern:

I am writing on behalf of my client, the Grady Group, the owners of 1203 Coal Avenue SE, to request a variance to **14-16-15-1 Dimensional Standards** (Figure 1) due to the exceptional conditions of the property outlined below.

1203 Coal Avenue SE consists of a mostly vacant lot platted prior to the City of Albuquerque adopting a zoning code. Previously developed in the 1950's as a single-story medical building, the owner removed the vacant structure in April of 2020 due to building obsolescence. Site walls and parking lot remain on the property. Site walls remain on the property. The owner wishes to construct a three-story mixed-use building with ground floor medical offices and a mix of offices and residences on the second and third floor on the property. The owner is proposing to encroach into the rear yard setback for a portion of the building in order to provide storage below the rear yard terrace. Due to the extensive grade change and surrounding development pattern, this lot has special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other properties in the same zone and vicinity. The property consists of three lots and this variance request is for the one lot for which the storage building will be located.

Table 5-1-2: Mixed-use Zone District Dimensional Standards

UC-MS-PT = Urban Centers, Main Streets, and Premium Transit areas as identified in the ABC Comp Plan
BR = bedroom DU = dwelling units.

Note: Any different dimensional standards in Part 14-16-3 (Overlay Zones) and Section 14-16-5-9 (Neighborhood Edges) applicable to the property shall supersede the standards in this table.

Zone District	MX-T	MX-L	MX-M	MX-H
Site Standards				
Usable open space, minimum ^[1]	Efficiency or 1 BR: 225 sq. ft./unit 2 BR: 285 sq. ft./unit ≥3 BR: 350 sq. ft./unit UC-MS-PT: 50% reduction			
Setbacks ^[2] [3][4]				
Front, minimum	5 ft. UC-MS-PT: 0 ft.[5]			
Front, maximum	N/A UC-MS-PT: 15 ft.			
Side, minimum	Interior: 0 ft.; Street side of corner lots: 5 ft. UC-MS-PT: 0 ft.			
Side, maximum	N/A UC-MS-PT: Interior: N/A; Street side of corner lots: 15 ft.[5]			
Rear, minimum	15 ft. UC-MS-PT: 0 ft. where rear lot line abuts a street or alley			
Rear, maximum	N/A			
Building Height				
Building height, maximum	30 ft.	38 ft. UC-MS-PT: 55 ft.	48 ft. UC-MS-PT: 65 ft. No maximum for portions of building >100 ft. from all lot lines UC-MS-PT-MT: 12 ft. Structured Parking Bonus	68 ft. UC-MS-PT: 75 ft. UC-MS-PT-MT: 24 ft. Structured Parking Bonus
UC-MS-PT-MT: 12 ft. Workforce Housing Bonus				
^[1] Usable open space requirements indicated in this table are for multi-family residential development only. Additional usable open space requirements in Subsections 14-16-4-3(B)(3)(i) (Dwelling, Cottage Development) and 14-16-4-3(B)(5)(a) (Dwelling, Townhouse) may apply to low-density residential development in any Mixed-use zone district. ^[2] At corners and junctions with driveways, drive aisles, or alleys, additional clear sight triangle requirements in the DPM may apply. ^[3] For all low-density residential development, any driveway on a front or street side lot line must meet the standards in Subsection 14-16-5-3(C)(3)(b) (Driveways, Drive Aisles, and Access). ^[4] For buildings constructed on a lot line abutting a privately owned lot that is not under the same ownership as the subject property, Subsection 14-16-5-1(F) (Buildings Constructed on a Lot Line) applies. ^[5] In UC-MS-PT areas, all development must meet the standards in Subsection 14-16-5-1(D)(2).				

Figure 1: Table 5-1-2 Mixed-use Zone District Dimensional Standards

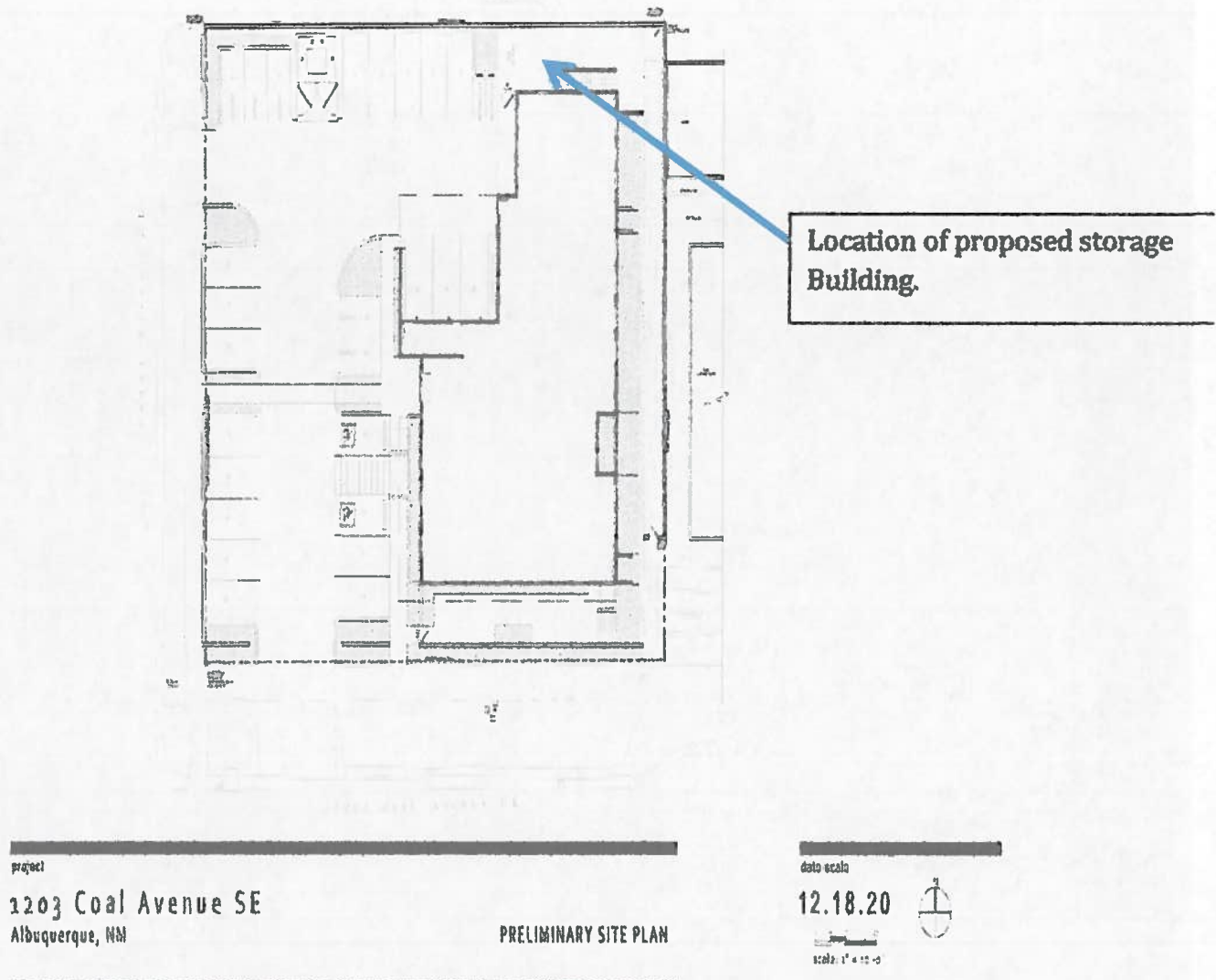


Figure 2: Area of encroachment

IDO Section 14-16-6-6(N)(3)(a) (Variance-Review and Decision Criteria):

"...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.”

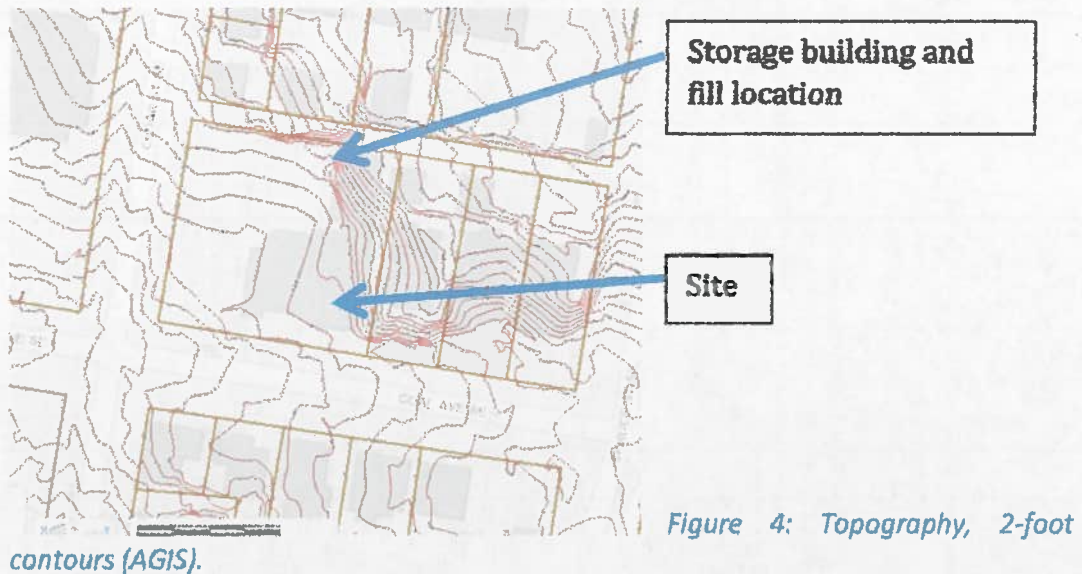
Justifications

1. There are special circumstances applicable to this property that are not self-imposed and that do not generally apply to other property in the same zone district and vicinity. The Property in question meets the criteria for a variance in **IDO Section 14-16-6-6(N)(3)(a) (Variance-Review and Decision Criteria)** of the Integrated Development Ordinance for the following reasons:

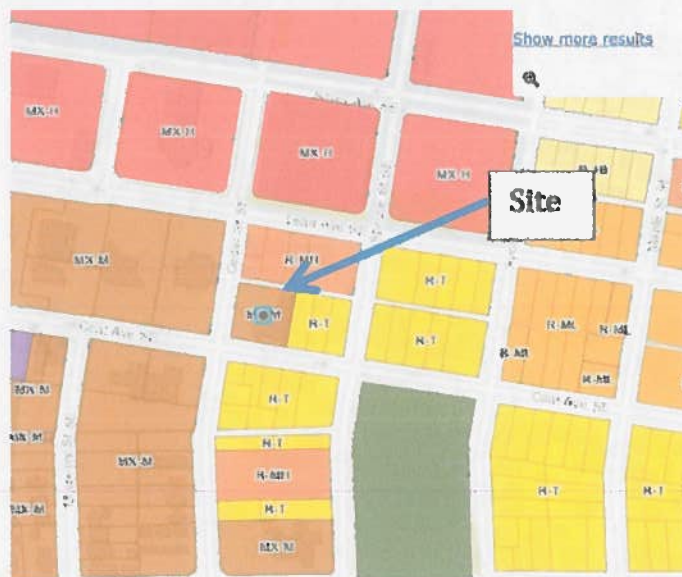


Figure 3: 2018 Aerial

- a. The Topography of the neighborhood consists of hills and valleys. 1203 Coal SE has an elevation change of 18 feet across the property. There is a 15' drop in elevation between the adjacent property to the east and proposed building first floor level, (Figure 4). There is an approximately 10' difference in grade in the north eastern corner of the site. In order to prevent ponding in this area behind the proposed building, the owner is proposing to raise the grade to a similar elevation to the existing eastern elevation. As part of this effort, the owner is requesting to be permitted to construct a small storage building underneath and to the west of this area of fill. The storage building would be incorporated as a portion of the retaining wall and in lieu of fill for a portion of the north eastern portion of the site.



- b. The subject site is located in a portion of the city which was platted and developed prior to the adoption of the zoning code. The previous building, which was demolished in April of 2020, encroached into the rear setback. Three different zones exist on the block where the site is located which have similar setback requirements. The majority of the adjacent and abutting properties have a building which encroaches in the rear setback, (Figure 5, Land Use and Figure 3, 2018 Aerial). This is a typical development pattern for the block where access to parking garages and buildings from the alley is common.



2. This variance will not be materially contrary to the public safety, health, or welfare of the adjacent properties or the neighborhood as required by Section 14-16-6-6(N)(3)(a)(2). If granted approval, the Applicant intends to construct a small storage building below a proposed terrace in the rear yard setback. Figure 6, below, shows a photo of the rear portion of the site prior to the demolition of the former medical building (Figure 6). The image shows a portion of the previous building existed in this area and the portion of the previous building in that location was primarily below the grade of the rear alley. This variance is requested in order to allow for a small storage building for use by the property tenants to be constructed in this location. By locating the storage building in this location, it will not be visible from either the rear or eastern properties which will contribute to the enhancement of the community.

The photo also shows the buildings located in the rear setback in the adjacent properties to the north and east.



Figure 6: View of northeast corner of property showing former building location.

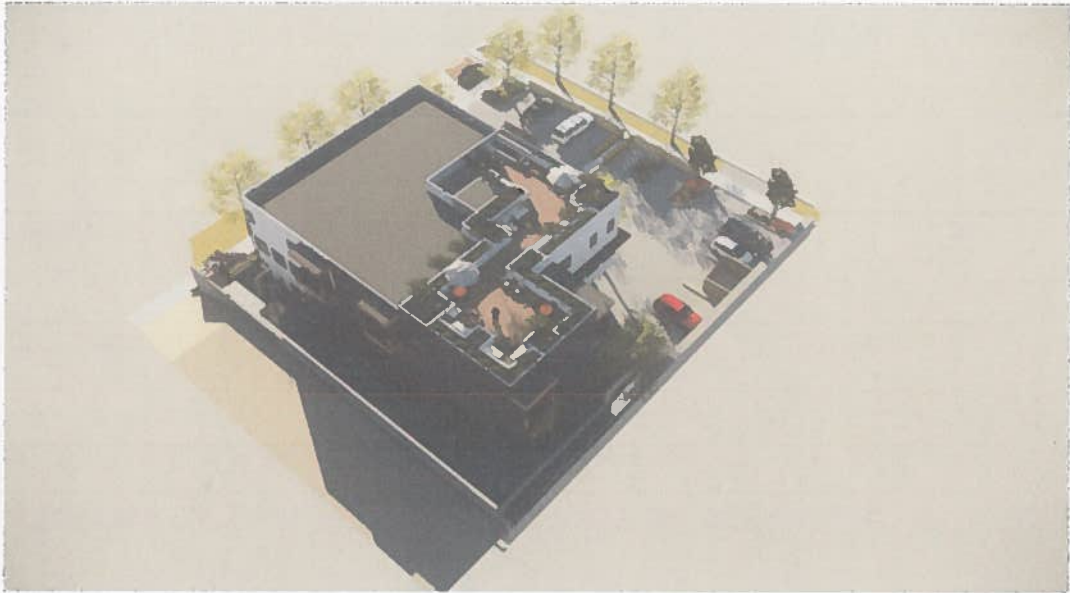


Figure 7: View of proposed development from the northeast.



Figure 8: view of proposed development from the west.

3. The variance will not cause significant adverse material impacts on surrounding properties or infrastructure improvements in the vicinity. The lot abutting the property to the east consists of an existing residential building which is located approximately 15 feet above the street grade and separated from the street by a series of terraced retaining walls (Figure 9). The storage building would not be visible from the eastern property. The properties to the north are located at a considerably higher elevation. The storage building would be essentially located below the grade of the rear alley and not be visible from the rear properties. Additionally, location of the storage building in the rear setback reduces the need for bringing in fill to raise this area to prevent ponding reducing potential for dust migration.



Figure 9: Property to the east.



Figure 10: View of adjacent property to the north

4. The proposed storage building will be located below a rear yard landscaped terrace. Due to the topographical conditions of the area and development prior to the zoning code, other properties on the block to the north and east are located approximately 10 feet above the proposed storage building location. The area above the storage building will be developed as a landscaped terrace, and will appear visually comply from the abutting and adjacent properties with the intent of the IDO for a rear yard setback. Therefore, the variance will not deviate the physical development pattern and character of the neighborhood and will not materially undermine the intent and purpose of the IDO or the applicable zone district. (Figure 11).




Figure 11: View of rear setback above proposed storage building.

5. The Variance requested is the minimum necessary to avoid extra ordinary hardship or practical difficulties. The encroachment of 15' to the 15' rear setback to one lot on the site is the minimum necessary allow for the construction of a storage building below the terrace grade. The construction of the storage building in this area minimizes the need for adding fill to the site in this area to deal with ponding issues due to site topography.

As a result of the above exceptional physical constraints, the existing development conditions of the adjacent and abutting properties and the proposed use of the parcel, the Dimensional Standards, Table 5-1-2: Mixed-use Zone District Dimensional Standards, poses unnecessary hardship to the redevelopment of the site. On behalf of my client, I respectfully request that you consider the unnecessary hardship these regulations impose and grant my client a variance of 15' to the required 15' rear setback to allow for construction of a small storage building below the rear yard terrace.

Please feel free to contact me, or my client with any questions regarding this matter. Thank you for your time and consideration.

Sincerely,



Michelle Negrette, NCARB, LEED AP
Strata Design, LLC
505.710.4221

SIGN POSTING AGREEMENT

REQUIREMENTS

POSTING SIGNS ANNOUNCING PUBLIC HEARINGS

All persons making application to the City under the requirements and procedures established by the Integrated Development Ordinance are responsible for the posting and maintaining of one or more signs on the property which is subject to the application, as shown in Table 6-1-1. Vacations of public rights-of-way (if the way has been in use) also require signs. Waterproof signs are provided at the time of application for a \$10 fee per sign. If the application is mailed, you must still stop at the Development Services Front Counter to pick up the sign(s).

The applicant is responsible for ensuring that the signs remain posted throughout the 15-day period prior to any public meeting or hearing. Failure to maintain the signs during this entire period may be cause for deferral or denial of the application. Replacement signs for those lost or damaged are available from the Development Services Front Counter.

1. LOCATION

- A. The sign shall be conspicuously located. It shall be located within twenty feet of the public sidewalk (or edge of public street). Staff may indicate a specific location.
- B. The face of the sign shall be parallel to the street, and the bottom of the sign shall be at least two feet from the ground.
- C. No barrier shall prevent a person from coming within five feet of the sign to read it.

2. NUMBER

- A. One sign shall be posted on each paved street frontage. Signs may be required on unpaved street frontages.
- B. If the land does not abut a public street, then, in addition to a sign placed on the property, a sign shall be placed on and at the edge of the public right-of-way of the nearest paved City street. Such a sign must direct readers toward the subject property by an arrow and an indication of distance.

3. PHYSICAL POSTING

- A. A heavy stake with two crossbars or a full plywood backing works best to keep the sign in place, especially during high winds.
- B. Large headed nails or staples are best for attaching signs to a post or backing; the sign tears out less easily.

4. TIME

Signs must be posted from MARCH 01, 2021 To MARCH 16, 2021

5. REMOVAL

- A. The sign is not to be removed before the initial hearing on the request.
- B. The sign should be removed within five (5) days after the initial hearing.

I have read this sheet and discussed it with the Development Services Front Counter Staff. I understand (A) my obligation to keep the sign(s) posted for (15) days and (B) where the sign(s) are to be located. I am being given a copy of this sheet.

MA
(Applicant or Agent)

FEB 8, 2021
(Date)

I issued 4 signs for this application, 02/09/2021, MARCELO IBARRA
(Date) (Staff Member)

PROJECT NUMBER: PR - 005037



CITY OF ALBUQUERQUE INVOICE

STRATA DESIGN, LLC TIM NISLY

711 AMHERST SE

Reference NO: VA-2021-00032

Customer NO: CU-81464652

Date	Description	Amount
2/04/21	Application Fee	\$210.00

Due Date: 2/04/21

Total due for this invoice:

\$210.00

Options to pay your Invoice:

1. Online with a credit card: <http://posse.cabq.gov/posse/pub/lms/Default.aspx>
2. In person: Plaza Del Sol, 600 2nd St. NW, Albuquerque, NM 87102

1 LOT

PLEASE RETURN THE BOTTOM PORTION OF THIS INVOICE NOTICE WITH PAYMENT



City of Albuquerque
PO Box 1293
Albuquerque, NM 87103

Date: 2/04/21
Amount Due: \$210.00
Reference NO: VA-2021-00032
Payment Code: 130
Customer NO: CU-81464652

STRATA DESIGN, LLC TIM NISLY
711 AMHERST SE
ALBUQUERQUE, NM 87106



130 0000VA202100032001025467128294330000000000000210000CU81464652



Date: 2/16/2021
Office: ANNEX Cashier: e43322
Batch: 11682 Tran #: 2

=====

Building Permits
10:27 AM Station ID
Office ANNEX
Receipt #: 00657811
Reference VA-2021-00032
Trans Amt: \$1,260.00

130 Building Permit \$210.00
Payment Total: \$210.00

Building Permits
10:27 AM Station ID
Office ANNEX
Receipt #: 00657812
Reference VA-2021-00036
Trans Amt: \$1,260.00

130 Building Permit \$420.00
Payment Total: \$420.00

Building Permits
10:27 AM Station ID
Office ANNEX
Receipt #: 00657813
Reference VA-2021-00037
Trans Amt: \$1,260.00

130 Building Permit \$630.00
Payment Total: \$630.00

=====

Transaction Total: \$1,260.00
Cash Tendered : \$1,300.00
Change Tendered : (\$40.00)

Thank you for your payment.
Have a nice day!

City of Albuquerque ZHE – March 16, 2021

Agenda Item #18

VA-2021-00032

PR-2021-005037

Joe Grady (Agent, Strata Design, LLC) request a variance of 15ft to the required 15ft rear setback for Lot 9, Block 32, Terrace Addn, located at 1203 Coal Ave SE, zoned MX-M [Section 14-16-5-1]

Ownership: **Owner:** D & S ONE INC

Zone District/Purpose: MX-M/The purpose of the MX-M zone district is to provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Centers and Corridors

Allowable Use: n/a

Applicable Comp Plan Designation(s): Area of Change, PTS Buffer, MS Buffer

Applicable Overlay Zones: None listed

Applicable Use-Specific Standard(s): n/a

Applicable Dimensional/Development Standards:

Rear, minimum	15 ft. UC-MS-PT: 0 ft. where rear lot line abuts a street or alley
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Traffic Recommendations: No objection

Planning Recommendation: This matter should proceed to a public hearing where the Zoning Hearing Examiner will hear additional evidence and make a written decision pursuant to applicable provisions of Section 14-16-6-4.



CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
INTER-OFFICE MEMORANDUM

March 5, 2021

To: Lorena Patten-Quintana, ZHE Planner

From: Matt Grush, P.E. Senior Engineer

Subject: COMMENTS FOR THE ZHE HEARING OF March 16, **2021**

The Transportation Development Review Services Section has reviewed the zone hearing requests, and submits the attached comments.

VA-2021-00032

PR-2021-005037

Address: 1203 Coal Ave SE

Transportation Review: **No objections**

After review of the provided application, Transportation has no objection to the variance request reducing distance required for rear yard setback.

Sycamore Neighborhood Association

411 Maple Street NE
Albuquerque, New Mexico 87106
mg411@q.com

March 10, 2021

Mr. Robert Lucero
Zoning Hearing Examiner
City of Albuquerque
600 2nd. Street NW 87102
Albuquerque, New Mexico

Reference: Variance applications for 1203 Coal Ave. SE
00032 a variance of 15 feet to the required 15 foot rear yard setback.
00036, a variance to the required maximum 30 foot height regulation within 100 feet of a Protected Lot.
00037, a variance of 3 feet to the maximum 3 foot wall height.
00038, a variance of 20 feet to the required 20 foot edge buffer.

Dear Mr. Lucero:

The parcels that are the subject of these requests are within the boundaries of Sycamore Neighborhood Association. Therefore the association has standing in the case.

There are two preliminary issues that pertain to the applications before you:

1. The recognized neighborhood organizations were not notified of the filing of these requests, and they were not notified of the hearing date. There was only a video meeting with some neighborhood members on January 19, 2021
2. The file for the application of a variance of 3 feet to the 3 foot variance requirement does not have an explanation of the reason for or location of the request.

Albuquerque, east of the Rio Grande is built on an alluvial plane outflowing from the Sandia Mountains. The mostly residential property in the vicinity of these requests was developed primarily between the 1930's and 1950's and development followed the fluctuations of that plane. Only a few lots in the immediate area are now, or were when they were developed, anywhere near flat. This block is consistent with the historic platting in the neighborhood.

The site for these requests is three separate lots. Each lot is approximately 50 feet wide and 142 feet deep. The property is adjacent to an alley on the north, Cedar Street on the west, Coal Avenue on the south and property zoned R-T on the east.

The previous development at this site cut into an existing hill and brought the property down to street level in order to accommodate parking and driveways necessary for an office building. This leveling created the need for retaining walls on the north and east sides of the site. The east retaining wall may be as much as ten feet west of the eastern property line. There are no measurements in these files to verify that distance. Currently the lots are vacant with the exception of the retaining walls, the remnant of a partial building wall along Coal Avenue and a perimeter wall on the west and south sides of the lots. In general, the previously developed portion of the site is slightly sloped from the northeast corner to the southwest corner.

We would like to address these variance requests out of order of their case numbers.

00036

Variance to the 30 Foot Maximum Height Requirement:

The agent for applicant's justification for this variance and the others refers to "an elevation change of 18 feet across the property." That measurement is from the strip of land that is between the east property line and the east retaining wall. The east retaining wall is not on the property line. While this edge strip is the highest elevation on the property, it is not part of the proposed development area. The description in the request indicates that the retaining walls are to remain in place. The pictures show that the property is not greatly sloped on the western side of the retaining wall. There is no information in the request about the grade change on the area being considered for new construction. However,

the applicant's letter requesting a 15 foot variance to the rear yard setback states, "There is a 15 foot drop in elevation between the adjacent property to the east and proposed building first floor level." This would indicate no more than a 3 foot elevation difference on the buildable area of the lot ($18-15=3$). The file does not contain any more specific information about the grade change on the buildable area than this. The diagram labeled preliminary site plan, (Figure 2), does not show measurements. It is difficult, therefore, to determine exactly where the proposed building would be located in relationship to the property lines.

The Building Stepdown requirements, 5-9(C)(1), state: "On Regulated Lots, any portion of a primary or accessory building within 100 feet of the nearest protected lot shall step down to a maximum height of 30 feet" (emphasis added).

The applicant states, "The location of the proposed building adjacent to the retaining edge of the site mitigates the height impact on the adjacent Protected Lot. As a result, the proposed building height will meet the intent of the Building Height Stepdown as perceived by the Protected Lot to the east."

The first statement is illogical. The closer you are to something the larger it appears. This location of the building on the lots does not mitigate its perceived height. It emphasizes the height. Even the included IDO graphic for the Building Height Stepdown, (Figure 1), shows the stepped down portion of the tall building on the left to be a considerable distance from the Protected Lot on the right.

The Building Height Stepdown requirement does not say that the step down is only for the portion of a building adjacent to a Protected Lot. The IDO states that any portion of a primary building shall step down. The intent of this IDO requirement is to insure that a Protected Lot have a less intense impact from all of the adjacent development than normally would be allowed on the MX-M zoned lot. A taller building would contain more square footage and, therefore, have a greater impact on the Protected Lot. Contrary to applicant's argument, it is not just the "perceived height" that would inflict harm on the Protected Lot. In actuality it is both the increased overall size of the building and excessive height that the IDO recognizes as harmful. The height restrictions, along with the required setback buffer, are compulsory in order to mitigate the zoning

differences between the more intense uses allowed on this MX-M site and the Protected Lot R-T lot to the east. We believe that a western most location on the lots would help to mitigate the perceived height of any building at this site. However, it is the increased overall size of the building that makes this height variance inappropriate.

The applicant argues that, "The proposed building meets the Building Stepdown Requirement when measured from the Protected Lot elevation. However, it exceeds the 30 foot height limit when measured from the grade at the western side of the building by approximately 15 feet."

The requested height variance of 15 feet would be at least the height of a building floor. The file does not have measurements indicating by how many more square feet this variance would increase the floor space of the building. However, even as only a portion of the proposed development, this is not an insignificant size deviation from the regulations. This request is not "a minimum necessary to avoid extraordinary hardship or practical difficulties." A building taller than the required 30 feet from grade would "cause significant material adverse impacts on surrounding properties in the vicinity," because of its size. Approval of this variance would undermine the intent and purpose of the IDO by allowing significantly more intense development on the site than was envisioned or allowed.

This request does not meet at least four of the criteria required for granting a variance. There is no documented "extensive grade change" on the buildable portion of the property. This request is not a minimal change to the IDO requirement. Building within the IDO height requirements does not create a hardship that limits all use of the property. This request undermines the intent of the IDO to reduce the MX-M zone impact on the Protected Lot.

00032

Variance of 15 Feet to the Required 15 Foot Rear Yard Setback:

The applicant states, "There is a 15' drop in elevation between the adjacent property to the east and proposed building first floor level, (Figure 4). There is an approximately 10' difference in grade in the north eastern corner of the site. In order to prevent ponding in this area behind the building, the owner is proposing to raise the grade to a similar elevation to the existing eastern

elevation. As part of this effort, the owner is requesting to be permitted to construct a small storage building underneath and to the west of the area of fill.”

A slope or grade differential cannot "create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic return on the property, or practical difficulties result from strict compliance with the minimum standards" in this instance. We believe an accessory building can legally be built in a setback area without a variance. If our assessment is incorrect, we would still oppose this variance because it is in excess of any minimum requirements to overcome any alleged hardship.

In support of this variance, the applicant states, "due to the extensive grade change and surrounding development pattern, this lot has special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other properties in the same zone or vicinity."

Photographs in the file do not show an excessive grade change on the proposed building site. New construction would ordinarily require some regrading of any lot. The surrounding development pattern has not has not changed substantially for many years, and it was reaffirmed by the adoption of the IDO. This site has the same zoning requirements as the newer two story buildings across Cedar St. The remaining lots on block 32 are zoned for residential uses and are developed with residential uses. The surrounding development pattern does not negatively impact development on these three lots.

The proposal "to provide a storage area below the rear yard terrace," does not overcome a hardship as it has been defined by the courts.

There is no evidence in the record that there is any extraordinary hardship, nor is there a "limitation on the reasonable use or return on the property, or difficulties that result from strict compliance with the minimum standards." If granted, this variance would be contrary to the public health, safety and welfare by allowing overdevelopment on the property. Overdevelopment of this property will have "significant adverse impacts on surrounding properties in the vicinity", and it "will undermine the intent and purpose of the IDO" by allowing development in excess of that intended by the IDO. This variance is not necessary for its stated purpose. The applicant makes no argument supporting a position that filling in the area to avoid ponding would require a variance.

What is most concerning about this request is that, because a variance cannot be conditioned to a specific use, if it were approved, the variance of 15 feet to the required 15 foot rear yard setback would create the potential for any owner of the parcel to build from the south setback on Coal Ave. to the rear property line. We do not believe that is the intent of the IDO.

This variance from the regular zoning requirements for the site is not the minimum to avoid any alleged hardship. The request is for the maximum amount possible. This variance request does not meet the test for hardship because the owner is not denied all reasonable use of the land. This variance would allow overdevelopment of the site. This variance does not meet at least three of the criteria to approve a variance.

00038

Variance of 20 Feet to the Required 20 Foot Edge Buffer

This variance applies to part of the north boundary of the property. The applicant proposes to have parking in this area.

5-6(E)(3)(a) states, "An edge buffer at least 20 feet wide shall be provided on the subject property along the property line between the two properties."

This required 20 foot buffer is meant to protect the lower intensity zone of the R-MH property to the north from the more intense uses of this MX-M zone. The applicant cites the sloping topography of the property as justification for this variance. However, the pictures show that this area is not greatly sloped. This variance will negate the intent of the buffering requirement, and that will have a detrimental impact on the adjacent property by putting more intense uses closer than allowed.

The intent of this requirement is to buffer the older apartments to the north by both landscaping and distance.

Older buildings are not as well insulated from nearby noise as new development is. The proposed office use would be expected to increase vehicle traffic on the 1203 Coal Ave. site. It is not merely the view of the proposed parking that is being buffered by this requirement. The Edge Buffering requirement would also buffer noise and air pollution from cars coming and going on the

site. Approval of this variance would be "contrary to the public safety, health or welfare."

Ms. Negrette's letter states that, "in order to retain the current parking location which is necessary to meet the parking requirements for the proposed development, parking spaces will need to be located in the required Edge Buffering area."

Redevelopment of a property does not guarantee the previous uses on the site will apply to an entirely new development. The parking requirements for a development are a restraint on overdevelopment of the parcel. In other words, any new development must meet the constraints of its site so that its uses cannot spill out into the surrounding area. The applicant is not denied all reasonable use of the land by complying with IDO regulations.

The requested variance must be the "minimum necessary to avoid the alleged extraordinary hardship or practical difficulties." The application is for a variance of 20 feet to the required 20 foot buffer. This request would eliminate the entire buffer. This request does not meet at least three of the criteria for granting a variance.

00037

Variance of 3 Feet to the required 3 foot maximum wall height:

The agent has submitted an application for wall height variance. The file attached to the application has the IDO chart showing wall height requirements. Nothing else in reference to a wall height variance appears in the file. The letter in file 00037 pertains to the variance for the maximum 30 foot building height. There is no indication as to where on the site or why this variance is wanted. There is no argument supporting the request. Because the application does not comply with the Variance Justification Letter Guidelines, we cannot comment on the merits of the request.

In 1989 the Court of Appeals for the State of New Mexico, in Downtown Neighborhoods Association vs. City of Albuquerque states, "variances should be granted sparingly, only under exceptional circumstances. To do otherwise would encourage destruction of planned zoning." Whitehouse p.7

In addressing the term "unnecessary hardship" the court states, "It ordinarily refers to circumstances in which no reasonable use can otherwise be made of the land" (emphasis added). The decision also states, "The purpose of a variance is to prevent zoning regulation from operating to deprive a property owner of all beneficial use of his property"(emphasis added). Whitehouse p.9

This decision, known as the Whitehouse case, resulted in the revision of the Albuquerque variance ordinance.

The requests before you are not consistent with the Whitehouse decision. The site can be developed without these special exceptions. The owner is not denied all reasonable use of the land. To allow this site to be overdeveloped is not in the best interest of the immediate property owners or the neighborhood, and it would undermine City of Albuquerque planning for the area.

The applicant has not met all the criteria for approval of a variance in any of the requests. A development must be designed to fit within the restrictions of the property on which it is to be built. To do otherwise would create a burden on the community. The variance ordinance is not intended to allow an applicant to build whatever they wish. A variance should only be the last resort, when nothing else can be done with a property, and only used under extraordinary circumstances. Requesting four variances for a single modest project far exceeds the language of the court that "variances are extraordinary exceptions and are granted sparingly, only under peculiar and exceptional circumstances." Whitehouse p. 4

There is no substantial evidence in these files of any special circumstances applying to these lots that they are exceptional as compared to other property in the vicinity. There is no documentation to support an extraordinary hardship as that term is used by the court, nor is there supported argument of an "unjustified limitation on the reasonable use or economic return on the property or practical difficulties that would result from a strict compliance with the minimum standards."

Three of these variances, individually and collectively, would greatly increase the intensity of development that the IDO allows on this site. The proposed project, because it is in excess of what the regulations allow, would be contrary to the public safety, health, and welfare. Overdevelopment of the site would

cause "significant material adverse impacts on the surrounding properties and infrastructure improvements in the vicinity." Approval of these variances would "materially undermine the intent and purpose of the IDO and the zone district." Additionally, these requests are far in excess of "the minimum necessary to avoid any alleged extraordinary hardship or practical difficulties."

For the stated reasons, we ask that each of these variance requests be denied.

For Sycamore Neighborhood Association

Mardon Gardella

Enclosures:

Photograph of 1203 Coal Ave, SE from south driveway to northeast:

Photograph of 1203 Coal Ave. SE from Cedar St. driveway toward Coal Ave.:

Photograph of buildings to west of 1203 Coal



Property from south driveway toward northwest corner of property:



Photo from Cedar St. driveway of 1203 Coal Ave. SE looking south.



Buildings to west of 1203 Coal Ave. SE:

To: Zoning Hearing Examiner Robert Romero
 City of Albuquerque
 600 2nd Street NW
 Albuquerque, NM 87102

Re: Applications VA 2012 – 00032, 00037, 00038, 00039
 PR# 2021 –005037
 Address: 1203 Coal Ave SE
 Owner: Joe Grady
 UPC # 101505616619831508
 Agent: Strata Design – Michelle Negrette

Dear Mr. Lucero,

As a neighbor of the proposed project, I have read the application packets and wish to share the following comments.

Regarding VA 2012 – 00032, which requests a variance of 15’ to the 15’ rear setback requirement.

This is listed as applying to Lot 9. (Among the 4 applications, uniform numbering of lots cannot be identified.)

Page 16: The reproduced e-mails from the Neighborhood Association President show a request to see a site plan with dimensions. This was not available at the time of the Zoom meeting, and is not part of this application.

Page 23: At the meeting with neighborhood members and at least one other attendee, each of the four variances to be requested was described by Ms Negrette, as follows. She further stated that justification for the variances did not need to be shared at that time.

A variance to the back yard setback would allow adequate parking on the property. This area has historically been used for parking. The lot backs up to an alley, and the parking area is lower than the alley.

While the proposed building would meet the 30’ height requirement at the east side of the property, which is adjacent to a one story building, the height at the west end along Coal Ave. would exceed the 30’ height limit by three feet. In order to build the desired building, a variance would be needed.

In order to build a stairwell adjacent to the north side of the building, a variance to the 20’ back yard buffer, at the back of the property, was needed.

At the east end of the front of the property, a 3’ variance to the 3’ fence specification would better block entrance to the space between the building and the retaining wall.

Pages 27 – 28: Recipients of Notice, which consisted of pages 24, 25, and 26, do not include representatives of either Sycamore Neighborhood Association or Silver Hill Neighborhood Association. They are specified at the bottom of page 3, with contact details on page 11. The ZHE Administrative Assistant was informed of this situation, and has made no response.

Page 29: Photo taken at the SW corner of the property shows the now-demolished building.

Page 30: Photo taken from west of the property shows now-demolished building, and beyond that, a duplex on the adjacent property to the east. The left side of the photo shows fencing along the top of a retaining wall on the north side of the property. Adjacent to it, the slope of the northern section of the lot is visible.

Page 31: Photo taken from Coal Avenue shows slope of parking areas on west side, and probably midsection, of the property.

Page 35: The letter from the agent discusses site walls remaining on the property. These walls are the south walls of the previous building, along Coal Ave., and appear on the left side of the page 32 site drawing. The larger section of the pre-existing wall, which extends from the SE corner about 40' along the frontage on Coal Avenue, does not meet the front yard 5' setback requirement. These walls seem to have nothing to do with the variance to the rear setback. I have been informed that such pre-existing walls are allowed to remain in use.

Page 38, Paragraph 1. a.: The referenced 18' change in grade is illustrated in the topographic map at the top of page 39. This contour no longer exists, this map was created prior to the 1950's development of the lot, and it is misleading to include it. Viewed from the drive pad at Coal Ave, the highest point on the buildable section of the property (which excludes about 10' along the eastern border) appears to be slightly over 5 feet above the lowest area.

The agent states that the retaining wall built in the 1950s creates a 15' drop. (Other references to wall height, in 00036 – page 41 – item 4 and in 00037 - page 41 – item 4, report the retaining wall to be 10' high. Observation suggests that the wall itself drops by 16" from north to south.) The statement implies that the remaining grade on the lot is 3'. This would be an incorrect conclusion, because the entire lot was not leveled to the base of the east retaining wall.

Following demolition of the previous building, the old floor has been left in place. It appears to have at least three different levels, differing among themselves by what I estimate, from a distance, to be at least 2'. This remaining floor extends along the entire east side of the lot, where the former building was built against the east retaining wall or against a large footing that extends perhaps 2' away from the east retaining wall in the north portion. At the north retaining wall, this level of the floor extends west from the east retaining wall about 25' out at north floor level. At this point, there is a wedge shaped ledge – a step up to the sloped ground visible from the west side, shown in the

page 30 photo. This step, at the north retaining wall, might be 2' high. This is probably the high point on the buildable portion of the property.

I have to guess at the intended meaning of the sentence, "There is an approximately 10' difference in grade in the northeastern corner of the site."

If it refers to the drop from the NE corner corner of the property to the floor level, it implies an additional grade change of 8' across the rest of the lot, which I believe is now closer to 5 feet. The drop may be more than 14 feet across that unbuildable area bounded on its west by the retaining wall at the east side of the property. Another reference stated that the retaining wall height is 15', so it's useful to recognize that we are working with imprecise numbers.

Were the sentence referring to the drop between the height at the north end of the east lot line and the highest part of the buildable eastern lot - at the wedge shaped ledge - my estimate is about 13 feet.

It cannot refer to grade within the northeastern and previously developed corner of the lot. The wedge shaped ledge in this area is estimated to be 2' above the floor level. There may be an additional slight drop west of the floor edge, south of the tip of the wedge.

It does not refer to the change from the floor level in the northeastern corner to the lowest part of the lot, at the Coal Ave. drivepad. I guess that difference to be about 3'.

The change in grade from the top of the wedge shaped ledge (which I believe is within the easternmost of the three lots) to the lowest part of the property, I estimate to be a change in elevation a little over 5'.

Filling the area north of the proposed building makes perfect sense. Removal of some existing floor will likely be desirable. Contouring of a lot is a normal requirement for development, and should not require a variance.

By not providing a site drawing with dimensions, the applicant has made it easier to overlook aspects of the proposal which might be of relevance. Extrapolating from the drawing provided on P 32, it appears that the stairway shown at the rear of the proposed building intrudes into the 15' rear setback. This difficulty was discussed with the neighborhood parties as a reason for desiring a variance. No difficulty posed by the property has been identified that necessitates a variance.

Page 39, paragraph b.: Nothing in this paragraph identifies features of this lot that interfere with developing it in accord with its current zoning requirements. The eastern strip of about 10' cannot be developed because it is within the side lot buffer. It does not pose a hardship.

While this lot used to be remarkable, I believe it presently is not. To demonstrate that it is, the applicant could have submitted a current topological rendering.

No aspect of the property has been identified that prevents development in accord with current Zoning Code. Therefore I believe this variance is unwarranted.

Regarding VA 2012 – 00036, which requests a variance to the 30' height limitation:

This is listed on page 1 of the request as applying to Lots 7 and 8.

This request applies to the building itself, which appears on drawings on the eastern and middle lots comprising the site. The listed lot numbers in this request (7 & 8) conflict with information listed on VA 2021-00032, which lists lot 9 and discusses development at the north end of the easternmost lot.

Page 12: The application requests a variance to the 30' height limit, but does not specify how much additional elevation is requested.

Page 23: At the meeting with neighborhood members, this variance request was described.

While the proposed building would meet the 30' height requirement at the east side of the property which is adjacent to a one story duplex, the height at the west end along Coal Ave would exceed the 30' height limit by three feet. In order to build the desired building, a variance would be needed.

Page 24: The Public Meeting Notice does not specify the amount of variance requested.

Page 38: The elevations of the site illustrated by submission of the map on page 39 no longer exist. If the elevation change from NE to SW corners indicated on this map used to be 18 feet, even that total variation has now changed, due to contouring at the SW corner.

Subsequent to creation of that map, retaining walls were installed along both the entire east and north sides of the site. At the buildable level, all quadrants of the original site have been altered. Clearly the building of retaining walls along two walls has accomplished part of this. The SE quadrant was regraded enough to accommodate an office floor. The SW quadrant was regraded to allow drainage to the current lowest area at the drive pad at Coal Ave. The exact current elevation change of the buildable site is unknown to us. Sidewalk observation of the site suggests the total elevation change of the buildable area is a little over 5'.

Zoning Code specifies that building height is measured from the lot line. A three foot change in elevation along a lot line, such as discussed at the meeting with neighbors, is a widespread condition in Albuquerque. The zoning code has not chosen to provide accommodation for this common condition.

Page 39: The Justification claims that the height of the adjacent property to the east is an unusual circumstance.

The height of the adjacent property does not impair development of the subject site within the dimensions specified in the zoning code.

Justification 1.a., in the last sentence, claims that the elevation change on the site would cause the west side of their proposed building to exceed the 30' limit by 15 feet. This is

preposterous, but raises the specter that the agent would like an open-ended variance that would allow a 4 story building.

It is interesting to contrast this claim of height difference with that given to neighbors, referenced above in comments about page 23, as a three foot difference.

Page 41, item 4: The elevation of the adjacent property is not an impediment to development of this site in accord with the zoning code. While this accident of elevation amounts to a gift to that property in this case, it does not transform into a disadvantage to the subject property that requires remediation.

Item 4,second paragraph: It is a dubious claim that housing built on hills is perceived as being two story buildings. They are likely seen as distant buildings, the mass of which does not appear to enlarge and may instead decrease.

The height of a building has an effect on the character of a street. A 30' wall will definitely alter the character of a street filled almost entirely with one story buildings. In the neighborhood of this site, one story structures predominate to the north, east, and south, and are typically set back from the sidewalk by several, if not numerous, yards. The MX-M site buildings to the west are also located far from the lot lines. Unfortunately for the single-story sites, the zoning code now allows a 30' building located 5' from the sidewalk, and by using a pre-existing wall as a barrier to the street, that ground floor setback could be just 3.5'.

For whatever reason the 30' height limit was chosen, this standard applies to this zone citywide. Building height specifications are protections for the neighborhood as a whole, and should be maintained.

People generally do not like large buildings looming over their yards. Since the zoning code has provided this 30' consideration for a neighboring lot, I urge that it be preserved. Visual and sound considerations, as well as sunlight access, all are quality of life issues, and they benefit from honoring the current height limitation.

Page 42, item 5: The height limitation imposed at this site applies to this zone all over town, and does not derive from any peculiarity of this site.

The subsequent paragraph: The allegation of "exceptional physical constraints" is factually unfounded. None have been identified. The applicant has not identified any circumstance that blocks normal development of the site in accord with the zoning code. I request that this variance be denied.

Regarding VA 2012 – 00037, which is confused about what it is requesting:

Page 1 requests a variance of 3' to a 3' maximum wall height. It lists the affected lots as 7, 8, and 9. Wall Permit – Major is listed on this page and also listed on the posted yellow Public Hearing signs.

Neither the 3' variance nor the Wall Permit – Major appear to have been discussed in this application. At the very least, the meaning is unclear to this reader.

Page 35: Beginning at this page, the page footers read “1203 Coal SE. – Variance to construct a building taller than 30 ft within 100 ft of a protected lot.”, ending at page 42. Variance to building height is the subject of 00036 .

The listed subject of this letter is to request ” a variance to construct a building taller than 30ft within 100ft of a protected lot.“ Surprisingly, this is the subject of VA 2012 – 00036, page 35. This letter appears to be that exact letter.

In this letter, the applicant has not presented a request for a variance to the 3' limit to a wall height.

Page 38: Justifications, item 1. claims that there are special circumstances applicable to the subject property.

Justification, 1. a, discusses building height greater than 30', and claims, as a hardship, a change in elevation on the site. This change of elevation is no longer of consequence. The unusual feature that does remain is located at the east edge of the property in the form of the retaining wall and a drainage channel next to the east property line. Construction here is impossible. Nor is construction allowed here, due to side yard setback requirements. However, this unbuildable 10 feet does qualify as buffer, so it does not impose any impediment to normal development.

The arguments on this page appear to apply to request 00036 for a building height variance.

Page 39: The text appears to continue the argument for the Variance to building height, not to wall height limits. The same applies to Pages 40, and 41.

Page 42: Item 5 contains a sentence referring to the variance to the 20' buffer, applying to two lots. (The entry on the first page of this variance describes it as pertaining to three lots.) This does not appear relevant to wall height limits.

No explanation of the location or proposed use of the requested variance is seen here. No peculiarity of the site that would prevent development in compliance with the zoning code has been presented. I request that the request be denied.

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Regarding VA 2012 – 00038, which requests a variance of 20' to the required 20' edge buffer: This applies to Lots 7, 8, and 9. Curiously, the site drawing shows parking on only two of the lots.

Page 36: This variance deals with parking spaces. The letter repeats the misleading claim that the site is burdened by extreme grade changes. That burden was eliminated in the 1950s with the building of retaining walls.

Page 39: Item 1 invokes a specter of special circumstances. Item 1.a. discusses differences in elevation between the alley and some part of the site. The importance of this circumstance is not apparent. The north retaining wall is doing a good job. It is visible in the photo on page 31, also on page 41.

Item 1.b.: The same areas projected as parking areas are those that have been in use for 60+ years. The zoning, or at least the chance of enforcement of it, may have changed. This, as perhaps a facet of former development, does not constitute a special circumstance.

Page 40: Item c. discusses the impossibility of access to the site from the alley due to a height difference. The relevance of this is unclear. Perhaps it is to imply a constraint. There is a retaining wall across the entire back of the property. This is shown in figure 6 on page 41. The site is accessed by two entrances – one on Coal Ave at the south, and one at Cedar Street, on the west.

The circumstances at this lot in the form of entrances on two streets do not appear to be serious constraints on development.

Page 43: It is important that any variance to edge setbacks does not relieve the applicant of maintaining the 15' setback from the property to the east.

The rear yard setback provides protection from noise, exhaust, and visual intrusion for the property to the north, for both present and potential future developments at that property. Removing those protections is not in the community's interest.

Given that a variance to the edge buffer, which is requested for all three lots, would seem to enable an owner to build almost anything in that area, I advocate against granting of this variance.

General thoughts:

Because a variance applies to the zoning of a site in perpetuity, more is at stake than the current project. The future consequences of a variance at a given site need consideration. I object to vague language and requests in excess of demonstrated need.

Prior granting of variances is frequently used as support in requests for variances at other properties. If granted without legitimate cause, this can degrade qualities originally supported by the zoning code, as well as making extra work for those attending to the quality of the built environment.

A variance may be granted if a property has some exceptional features which pose a barrier to fulfilling the intention inherent in the zoning code. Granting unjustified variances seems to disadvantage those owners whose projects conform to existing code.

This amounts to unequal treatment by the government, which generates resentment and would seem to be a hallmark of poor government.

The environments in which people live have impact on their relationship to the community at large. Preservation of available protections provided by the zoning codes have widespread, if difficult to quantify, benefits.

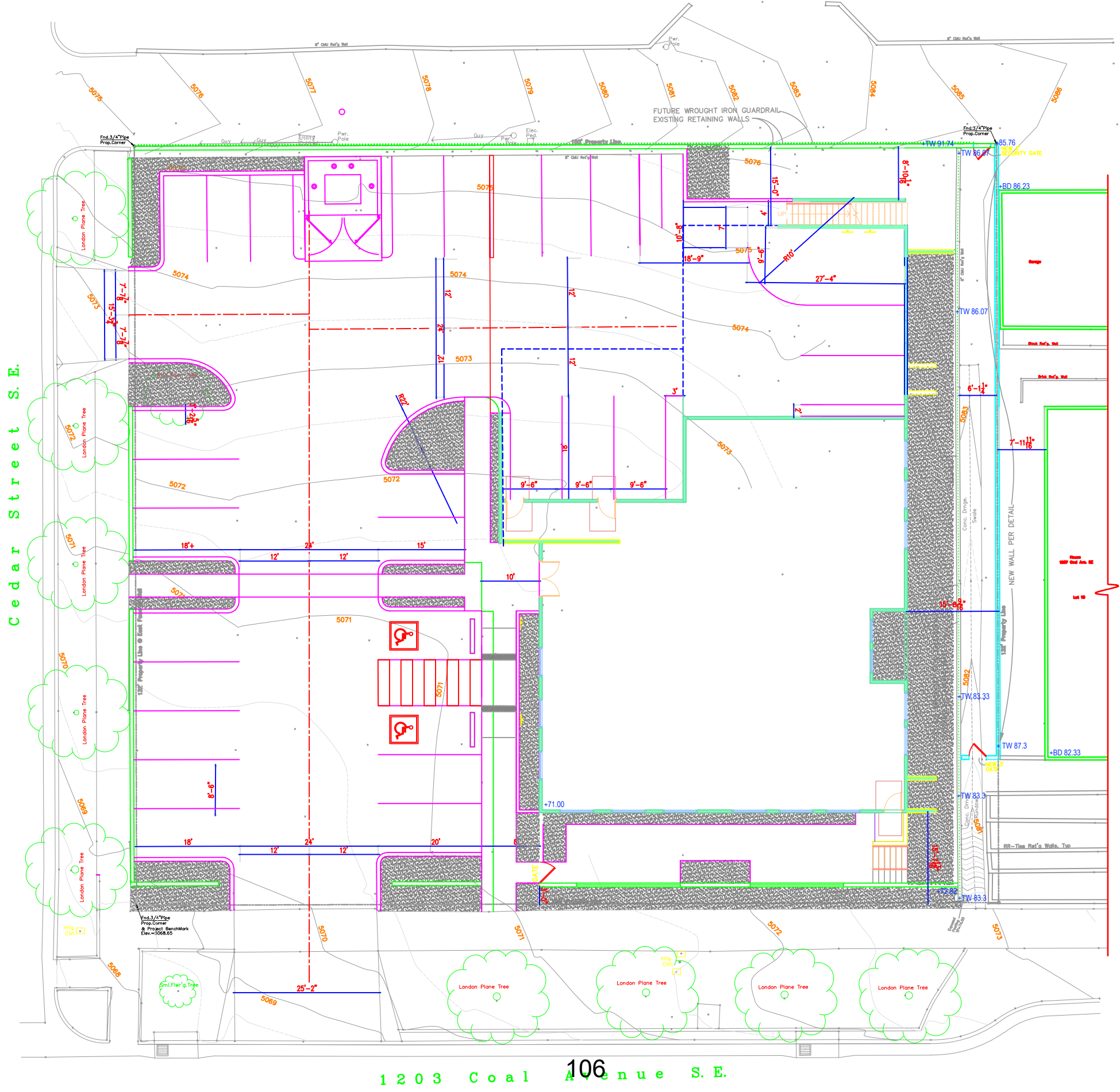
I have not been convinced that any barrier to normal development of the subject lot exists. I don't think that any lot of this size and zoning would accommodate a development as intensive as the one proposed in this case. I encourage you deny these requests.

Thank you for your consideration.

Laurel Schillke

1217 Coal Ave, SE

March 9, 2021





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

Joe Grady (Agent, Strata Design, LLC) request a variance of 15ft to the required 15ft rear setback for Lot 9, Block 32, Terrace Addn, located at 1203 Coal Ave SE, zoned MX-M [Section 14-16-5-1]

Special Exception No:..... **VA-2021-00032**
Project No: **Project#2021-005037**
Hearing Date: 03-16-21
Closing of Public Record: 03-16-21
Date of Decision: 03-31-21

On the 16th day of March, 2021, Strata Design, LLC, agent for property owner Joe Grady (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 15ft to the required 15ft rear setback (“Application”) upon the real property located at 1203 Coal Ave SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 15ft to the required 15ft rear setback.
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. Applicant 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. Based on evidence submitted by or on behalf of Applicant, it appears that 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, Applicant testified and provided written evidence that, the Subject Property has unique topography irregular shape and platting, which give rise to the need for this request.
7. 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 develop the Subject Property as described in the Application in a manner that is consistent with the IDO and the Development Process Manual (DPM).
8. 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 proposed development is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by photographic evidence and oral testimony. The Application would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and its surroundings.
9. 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 and the proposed variance would merely add to the safety and usability of the site.
10. 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, Applicant submitted evidence that any smaller setback variance would be ineffective to provide for the safety and usability of the site. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
11. City Transportation submitted a report stating no objection.
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 15ft to the required 15ft rear setback.

APPEAL:

If you wish to appeal this decision, you must do so by April 15, 2021 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.

A handwritten signature in dark ink, appearing to read "Robert Lucero".

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Michelle Negrette, stratadesign.nm@gmail.com



**Hearing on Special Exceptions
to the Integrated Development Ordinance**

MINUTES

March 16, 2021

600 2nd St NW, Albuquerque, NM 87102

CITY STAFF PRESENT:

Robert Lucero – Zoning Hearing Examiner

Lorena Patten-Quintana – ZHE Planner, Planning Department

Suzie Sanchez – Hearing Monitor

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Applicant: Joe Grady
Agent: Michelle Negrette, Strata Design

ZHE: Next are four items that we'll hear all together. It's agenda items 18, 19, 20 and 21. They're VA-2021-00032-00036-00037 and 00038. All listed under project number, PR-2021-005037, Joe Grady through agent, Strata Design, LLC requests a variance of 15 feet to the required 15-foot rear setback for Lot 9, Block 32, Terrace Addition, located at 1203 Coal Avenue Southeast, zoned MX-M. Same applicant and agent requesting a variance to construct a building taller than 30 feet within 100 feet of a residential protected lot for the same property - - oh, I'm sorry, for Lot 7 and 8, Block 32, with the same address. Same applicant and agent requesting a wall-permit major for Lot 7, 8 and 9, Block 32 with the same address. And, the same applicant and agent requesting a variance of 20 feet to the required 20-foot edge buffer for Lots 7, 8 and 9, Block 32, with the same address. I see Ms. Negrette is here and I'll just note for the record that she's already been sworn in.

MICHELLE NEGRETTE: Hi.

ZHE: And, is the applicant is with us as well?

MICHELLE NEGRETTE: Yes, Joe Grady is with us.

JOE GRADY: Yes, I'm here.

ZHE: Oh good. And, Mr. Grady were you going to provide testimony? We can get you sworn in if you'd like to speak.

JOE GRADY: Just in case. I was gonna leave it up to Michelle but in case you need me, I will, I can be sworn in.

ZHE: Okay, very good, sir. Would you please state your full name and mailing address for the record?

JOE GRADY: Joseph P. Grady, P.O. Box 30801, Albuquerque 87190.

ZHE: Thank you, sir and please raise your right hand. And, do you affirm under penalty of perjury that your testimony will be true?

JOE GRADY: Yes, sir.

ZHE: Thank you. So, Ms. Negrette, I'll leave it up to you in terms of how you wanna proceed through the four separate applications or if you want to do them all together.

MICHELLE NEGRETTE: I was thinking of doing them separately just because they're a little confusing but the presentations might be a little tedious because they repeat so I will do my best to go through them quickly.

ZHE: Okay. Very good.

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MICHELLE NEGRETTE: I need to have the screen sharing enabled though, if possible.

ZHE: Sure thing. Suzie, would you mind activating that?

HEARING MONITOR: Yes, of course, go ahead.

MICHELLE NEGRETTE: Okay. Is there a preference as to which I start with?

ZHE: No, it's up, it's up to you.

MICHELLE NEGRETTE: Okay. All right, are you seeing my screen?

ZHE: Yes.

MICHELLE NEGRETTE: Okay, so I'm gonna kind of do the overview from the building height perspective first because I think it gives kind of a broader overview of the project and what we're trying to kind of accomplish. So, the concept is that it's going to be a mixed-use, medical offices and housing with the top floor being residential, the second floor being a mix of residential and offices and the ground floor, medical offices. This is a view of the front of the building from Coal and a couple of the things that we are all asking variances for are visible here. First, is the height of the building. As you can see, the building to the right, here, in our view but it's to East, is a residential structure and the topography here is such that, that building is higher than the street level of Coal considerably. And, from that side, the property, the first 8 feet of the property is at the same grade or very close to, of that property. And then, about 8 or 9 feet in, it drops down with a retaining wall and that retaining wall is currently in place. So, measured from that property line height, the building is underneath the 30-foot height limit that our zone must adhere to being next to a residential structure. On the other side, however, because the topography changes, we will be about 14 feet higher than that 30-foot requirement. All of the properties around on that side are not low density residential. We've got a variety of different zones, I think there are five zones within 300 feet of our property, but it's mostly medical offices and multi-family housing. So, we are asking for this variance so that our building can have a higher height on the side that faces the more commercial and higher density uses. So, this is a view if you were standing looking east and so you can see that the building appearing three stories from that side but it's, there's a considerable buffer from that building to anything because there's a parking lot and a street. This is a site plan of the building showing how the parking is configured where the building sits. It's important to note that the building and is sitting in a very similar footprint to the previous medical building that was sitting there that was built in the 50's. That building was taken down last year. So, the idea is to keep the parking located where it was and to have the building sit where the building was. These are some early elevations of the building showing kind of the heights and how the building is configured on the site. You can see some of the topography. This is the topography that goes across the site. What you see here, in gray on the site is the original building footprint. The new building sits pretty close to that area. This is standing on the portion of the property that is higher, you can see on the left here it drops down considerably, and there's another wall and then the property to the east. This is standing at the back of the property looking toward Coal, same site condition. You can see that, that we are

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standing on the property at the higher point and it drops down to the right. This is looking from Coal at the house that is to the east and you can see the front wall that is still remaining from the building.

ZHE: Okay.

MICHELLE NEGRETTE: This is just looking directly across the street, at the, at three of the buildings that are along the block to the east of the property. This is a rendering of what the building would look like in, next to those existing buildings. This is a cross-section that shows kind of how the topography is working. This is a rendering, if you were kind of a birds-eye view looking down at the property on that eastern façade. And, this is a view standing on the corner of Coal so, that's kind of a quick overview of how the building heights work and I'm gonna kind of switch to the wall now. So again, the first couple slides will be repetitive so I'll quickly go through that. But this is the site plan and the wall is right here, located along Coal. The wall is existing and was part of the previous building and it was left in the demo and it's acting, in this area here, as a retaining wall and so it needs to be in place to hold that earth that we were kind of looking at earlier. So, the client proposing to leave the wall but, to make it more aesthetically interesting and so you can see sort of in this rendering there are some metal screens that will be put in the wall that will allow more transparency into a courtyard in front of the building but it will provide some, some noise and buffering, just physical buffering from that traffic on Coal. And here, again, you can kind of see that wall in the front with some landscaping in front. And, I'm going to scroll through really quickly the rest of these pictures but I think they're pretty much the same. You can kind of see the context, there's already some retaining walls on the property next-door. This is another view of the existing wall as it is now. And then, if you see here on the right, that structure there at the end of the block also has a retaining wall. Looking back down the block. And then, there's one more across the street. There's another wall that is in front of two properties. So, the wall is very much in context with the area and because of the retaining conditions of this area, is needed. Let's see, I'm gonna quickly go through the setback and the buffering. Okay, again, same photos in the front. Here's looking east, you can kind of see in the back that we have a portion of the building that comes to about here and then there's a stair and then there's a terrace and underneath the terrace, we are asking for a 15, a variance to the 15 foot setback to put in a storage unit and that storage unit is going to be technically underneath the grade of this terrace but since it is in that 15 foot setback area, we are asking for the variance because it does touch the building.

ZHE: Ms. Negrette, can I interrupt?

MICHELLE NEGRETTE: Yes, go ahead.

ZHE: Your screen is not changing.

MICHELLE NEGRETTE: Oh.

ZHE: What's on my - - what I'm seeing is Coal. I don't see any storage unit.

MICHELLE NEGRETTE: Okay, let me see.

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ZHE: You might have to click the share screen.

MICHELLE NEGRETTE: Did that work?

ZHE: Oh yes there it is.

MICHELLE NEGRETTE: Okay, my apologies. I don't think I switched there.

ZHE: The building looking - -

MICHELLE NEGRETTE: Yeah, so we're looking east and this is the rear portion of the building. So, the building stops here and this, this is within the 15-foot setback. Below this area, which, there's a big topographic shift, we would need to bring in a bunch of dirt in order to deal with drainage but instead of doing that we'd like to put some storage down there that would be accessible from this underground parking area and since it's touching the building, we need to have the variance for that but it will be under ground essentially because of the under the terrace of that second level. I can sort of show you (if it switches here). Did you see a new, a new image here?

ZHE: Yes, it's color?

MICHELLE NEGRETTE: Yes. So, we're now kind of this right here is in a covered parking. And this right here is that storage area. So, you'd come down the stairs here. These are exterior stairs and then there would be an access to sort of these storage, little storage buildings but they would be underneath this terrace that you could access from the level up here.

ZHE: Okay.

MICHELLE NEGRETTE: So, you can kind of see from this picture kind of how the alley behind steps up and so by the time you get into that rear corner, it's pretty below grade. This is an image of the previous building and that's a one-story building that if you kind of looked where the alley is, it's completely below the alley level. So, I think that's pretty much what's not redundant. This is kind of looking - - a photo of that now - - that corner - - so, you can see that that area is considerably lower than both the adjacent property and the alley. Okay, so now I'm gonna try and share this one which is just on the edge buffering. Let's see, did it switch?

ZHE: It did, but I see only sort of the top half of the window.

MICHELLE NEGRETTE: Okay, are you seeing it now?

ZHE: Yes, there it is.

MICHELLE NEGRETTE: Okay so this is where we're asking for an encroachment into the 20-foot edge buffer. That's to accommodate the existing parking that's there now. We'd like to keep it there because of the way the topography on the site works. The parking needs to be situated

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Agent: Michelle Negrette, Strata Design

where it currently is. We are going to be putting as much landscaping as we can into that area and like I said, there will be a kind of a terrace here in this portion that is covering that storage building. And, you can kind of see here, some of the trees that will be in that area. (Let's see, that's not gonna help you). And then, back here, this is kind of that terrace in the back that will be a landscaped area. And then, over here, there will be trees. This is looking from that alley toward the back. So, I think with that, I will conclude my presentation and if you have any questions, I'm happy to address them.

ZHE: Okay, you know, - - did you receive - -

MICHELLE NEGRETTE: We received one letter from, let's see, Laurel Schillke.

ZHE: Okay, yes, I got a March 9th letter and then let me just double check. I thought there was another from, bear with me one second. Here it is. No, it looks like I just for some reason, I have two different file names, but it looks like the same letter.

MICHELLE NEGRETTE: Okay.

ZHE: Okay. No, I just wanted to make sure you're aware of that and give you the opportunity to address any of those, any of the matters asserted in that letter.

MICHELLE NEGRETTE: Sure, I think the two things that we can address are, one, she had commented on not having a dimension site plan. We provided a site plan a time of the meeting but I think she wanted something with more detail so, I do have one in this presentation that I can share with you. I kind of - - that was the colored drawing that we kind of looked at. I'm happy to submit that for the record if the site plan that we submitted in the application isn't sufficient.

ZHE: Okay. Yeah.

MICHELLE NEGRETTE: And her other comment was, I think that we can address is with respect to the topography. That site plan that I can provide you also has the topography included in it so, you can see that our measurements are based on that.

ZHE: Okay, okay. All right. Okay - - no that was it for now. I guess we ought to see if there's public comment and then, if so, we can have you respond.

MICHELLE NEGRETTE: Okay.

ZHE: Again, these are agenda items 18, 19, 20 and 21, Joe Grady requesting variances and a wall permit at 1203 Cole Ave. SE. Please raise your hand if you'd like to speak on that, on any of those items 18, 19, 20 and 21. I'm scrolling through the participant list and I don't see anyone raising their hand. Again, these are agenda items 18, 19, 20 and 21. Last call for agenda items 18, 19, 20 and 21. Okay, it doesn't appear that there's any public comment, was there anything else that you would like to add before we close the record Ms. Negrette or Mr. Grady?

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MICHELLE NEGRETTE: Sure, one more thing I'd forgotten to add about the letter. I think there was mention that the neighborhood associations weren't properly notified and I'm not really sure where that comment was coming from. I went back and I checked my email and it was sent out to all of the neighborhood associations that were required.

ZHE: Thank you and I'll note we do have a copy - -
ZHE PLANNER: Pardon me, Robert?

ZHE: Yes?

ZHE PLANNER: This is Lorena. Suzie can confirm she has copies that the neighborhood associations were notified.

ZHE: Thank you. Very good. Okay. Anything further Ms. Negrette or Mr. Grady?

JOE GRADY: No.

ZHE: All right, well thank you very much. I appreciate the thorough submittals and if you would, please send that document that you showed on the screen to Suzie by Friday, we'll make sure it's included in the record. And with that, we'll go ahead and close the record for the testimony and take it all under consideration and we'll issue the written decision in 15 days.

MICHELLE NEGRETTE: Okay, great, thank you so much.

JOE GRADY: Thank you.

ZHE: Thank you. Have a good day.

Planning Department
Brennon Williams, Planning Director
Development Review Division
600 2nd Street NW – 3rd Floor
Albuquerque, NM 87102

NOTICE OF APPEAL

April 13, 2021

TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on April 13, 2021. You will receive a Notice of Hearing as to when the appeal will be heard by the **Land Use Hearing Officer**. If you have any questions regarding the appeal please contact Alfredo Salas, Planning Administrative Assistant at (505) 924-3370.

Please refer to the enclosed excerpt from the City Council Rules of Procedure for Land Use Hearing Officer Rules of Procedure and Qualifications for any questions you may have regarding the Land Use Hearing Officer rules of procedure.

Any questions you might have regarding Land Use Hearing Officer policy or procedures that are not answered in the enclosed rules can be answered by Crystal Ortega, Clerk to the Council, (505) 768-3100.

CITY COUNCIL APPEAL NUMBER: AC-21-6_ & _7

PLANNING DEPARTMENT CASE FILE NUMBER:

PR-2021-005037/VA-2021-00032 & VA-2021-00036, VA-2021-00099, VA-2021-00100

**APPLICANT: Sycamore
Neighborhood Assoc.
411 Maple St. NE
Albuquerque NM, 87106**

cc: Crystal Ortega, City Council, City county bldg. 9th floor
Kevin Morrow/Legal Department, City Hall, 4th Floor-
ZHE file
Michelle Negrette, Stratadesign.nm@gmail.com
Joe Grady, Joegrady6@hotmail.com
Mardon Gardella, Sycamore Neighborhood Association
mg411@q.com
Laurel Schillke, lschillke@gmail.com



ZONING HEARING EXAMINER'S AGENDA

TUESDAY, March 16, 2021 9:00 A.M.

Join Zoom Meeting

<https://cabq.zoom.us/j/7044490999>

Meeting ID: 704 449 0999

One tap mobile

+16699006833,,7044490999# US (San Jose)

+12532158782,,7044490999# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

Meeting ID: 704 449 0999

Find your local number: <https://cabq.zoom.us/u/a2s7T1dnA>

Robert Lucero, Esq., Zoning Hearing Examiner

Lorena Patten-Quintana, ZHE Planner

Suzie Sanchez, ZHE Administrative Assistant

For Inquiries Regarding This Agenda, Please Call The Planning Dept. at (505) 924-3894.

PLEASE ADDRESS ALL CORRESPONDENCE TO:

Robert Lucero, Esq., Zoning Hearing Examiner at suzannasanchez@cabq.gov

NOTICE TO PEOPLE WITH DISABILITIES: If you have a disability and you require special assistance to participate in this hearing, please contact Planning Information at (505) 924-3860.

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OLD BUSINESS:

- | | | | |
|----|---------------|--------------------------------|---|
| 1. | VA-2020-00239 | Project#
PR-2020-
004158 | Helen Bachicha requests a variance of 3 feet to the 3 feet maximum wall height for Lot 2-P1, Block 8, Las Marcadas 2, located at 4908 Sherry Ann RD NW, zoned R-1C [Section 14-16-5-7(D)] |
|----|---------------|--------------------------------|---|

NEW BUSINESS:

- | | | | |
|----|---------------|--------------------------------|--|
| 2. | VA-2020-00462 | Project#
PR-2020-
004813 | Joshua and Jacqueline C Rodgers request a Permit-Wall or Fence-Major for Lot 7, Block 66, University Heights, located at 507 Princeton Dr SE, zoned R-1B [Section 14-16-5-7-D] |
|----|---------------|--------------------------------|--|

3.	VA-2021-00011	Project# PR-2021-004986	Todd Evans (Agent, Cesar Marquez) requests a Permit-Wall or Fence-Major for Lot 57, Block 4, Glenwood Hills North Unit 1, located at 5000 Glenwood Hills DR NE, zoned R-A [Section 14-16-5-7-D]
4.	VA-2021-00013	Project# PR-2021-004987	Timothy Scully (Agent, Ken Duck) requests a conditional use to allow an accessory dwelling unit without a kitchen for Lot 37, Block 19, Candlelight Hills Unit 1, located at 9616 Candle LN NE, zoned R-1C [Section 14-16-4-2]
5.	VA-2021-00014	Project# PR-2021-004988	Patricia Roberts requests a Permit-Wall or Fence-Major for Lot 38, Block 6, Katherine Nichole Addn, located at 6723 Everitt Ct NW, zoned R-T [Section 14-16-5-7-D]
6.	VA-2021-00018	Project# PR-2021-004991	Kacee Jo Ramos (Agent, Christopher Wilson) requests a variance of 2ft 6in to allow an accessory building to be able to exceed the height of the primary structure up to 15 feet for Lot 46, Block 8, Loma Del Norte, located at 7712 Krista Dr NE, zoned R-1C [Section 14-16-5-11(C)(4)(b)]
7.	VA-2021-00019	Project# PR-2021-004998	Magdalena Sims & Seth Grant request a conditional use to allow an accessory dwelling unit without a kitchen for Lot 10, Block 45, University Heights, located at 422 Wellesley Dr SE, zoned R-1C [Section 14-16-4-2]
8.	VA-2021-00020	Project# PR-2021-004998	Magdalena Sims & Seth Grant request a conditional use to allow an accessory dwelling unit without a kitchen for Lot 11, Block 45, University Heights, located at 424 Wellesley Dr SE, zoned R-1C [Section 14-16-4-2]
9.	VA-2021-00021	Project# PR-2021-005007	Grace Montoya (Agent, Rachel Cadena) requests a conditional use to allow an accessory dwelling unit without a kitchen for Lot 4A, Block 1, El Rancho Atrisco Unit 2, located at 7308 Mesa De Arena NW, zoned R-1C [Section 14-16-4-2]
10.	VA-2021-00022	Project# PR-2021-005020	Gabe & Janice Portillo (Agent, Rob Baines) requests a variance of 7 ft to the required 25 ft rear yard setback for Lot 40C1, Alvarado Gardens Addn Unit 2 , located at 2539 Campbell Rd NW, zoned R-A [Section 14-16-5-1]
11.	VA-2021-00023	Project# PR-2021-005022	Jerry Dasalla (Agent, Leo Pallares) requests a conditional use to allow an accessory dwelling unit without a kitchen for Lot 21-P1, Block 3, Parkwest Unit 1, located at 8001 Stonecreek Ave NW, zoned R-1B [Section 14-16-4-2]
12.	VA-2021-00025	Project# PR-2019-002677	Carlisle /Rose Associates - Whole Foods (Agent, Modulus Architects) requests a conditional use to allow liquor retail within 500 feet of a residential zone for Lot A, Block 17, Carlisle & Indian School, located at 2100 Carlisle Blvd NE, zoned MX-M [Section 14-16-4-3(D)(38)(c)]
13.	VA-2021-00026	Project# PR-2019-002677	Carlisle /Rose Associates - Whole Foods (Agent, Modulus Architects) requests a variance of 1 freestanding sign to the 1 allowed per street frontage for Lot A, Block 17, Carlisle & Indian School, located at 2100 Carlisle Blvd NE, zoned MX-M [Section 14-16-5-12(F)]
14.	VA-2021-00028	Project# PR-2021-005032	Freda Marquez (Agent, Gilbert Austin) requests a permit to allow a carport within the front and side setback for Lot 6, Block 1, Glennway Park Addn, located at 1900 Prospect Ave SW, zoned R-1B [Section 14-16-5-5-F-2]
15.	VA-2021-00029	Project# PR-2021-005033	Andrew Skarsgard requests a variance of 5 feet to the 10 feet required side yard setback for Lot 1, Block 40, Parkland Hills Addn, located at 1100 Ridgecrest Dr SE, zoned R-1D [Section 14-16-5-1]

16.	VA-2021-00030	Project# PR-2021-005034	Adam Delu and Sonlee West (Agent, Strata Design, LLC) requests a Permit-Wall or Fence-Major for Lot K1, Block 1, Coopers W T/Country, located at 411 Cedar ST NE, zoned R-ML [Section 14-16-5-7-D]
17.	VA-2021-00031	Project# PR-2019-002672	Tim & Stacey Apodaca (Agent, Cory Collins) requests a variance of 3 feet to the 3 feet required distance from a lot line for a shade structure for Lot 23-P1, Tiburon Heights, located at 7905 Tiburon Hills Dr NW, zoned R-1B [Section 14-16-5-1(G)]
18.	VA-2021-00032	Project# PR-2021-005037	Joe Grady (Agent, Strata Design, LLC) request a variance of 15ft to the required 15ft rear setback for Lot 9, Block 32, Terrace Addn, located at 1203 Coal Ave SE, zoned MX-M [Section 14-16-5-1]
19.	VA-2021-00036	Project# PR-2021-005037	Joe Grady (Agent, Strata Design, LLC) request a variance to construct a building taller than 30ft within 100ft of a residential protected lot for Lot 7 and 8, Block 32, Terrace Addn, located at 1203 Coal Ave SE, zoned MX-M [Section 14-16-5-9-C]
20.	VA-2021-00037	Project# PR-2021-005037	Joe Grady (Agent, Strata Design, LLC) request a Wall-Permit Major for Lot 7, 8 and 9, Block 32, Terrace Addn, located at 1203 Coal Ave SE, zoned MX-M [Section 14-16-5-7-D]
21.	VA-2021-00038	Project# PR-2021-005037	Joe Grady (Agent, Strata Design, LLC) request a variance of 20ft to the required 20ft edge buffer for Lot 7, 8 and 9, Block 32, Terrace Addn located at 1203 Coal Ave SE, zoned MX-M [Section 14-16-5-6-E]
22.	VA-2021-00035	Project# PR-2021-005048	Arturo Fernandez (Agent, Jennie Stonesifer) request a Wall-Permit Major for Lot 15, Block 4, Montgomery Heights, located at 4012 Wellesley DR NE, zoned R-1C [Section 14-16-5-7-D]
23.	VA-2021-00039	Project# PR-2021-005061	Sagrario Anaya (Agent, Sandy Anaya) requests a Wall-Permit Major for Lot 16, Lavaland Addn, located at 202 Yucca DR NW, zoned R-1D [Section 14-16-5-7-D]
24.	VA-2021-00044	Project# PR-2021-005109c	Graham Bass & Christine Tally request a Wall-Permit Major for Lot 1A, Block 42, Broad Acres, located at 3129 Dallas St NE, zoned R-T [Section 14-16-5-7-D]