

**PLANNING DEPARTMENT
DEVELOPMENT SERVICES DIVISION
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OFFICIAL NOTIFICATION OF DECISION

October 26, 2018

Mark 3S INC
6501 Wyoming Blvd. NE Building G
ABQ, NM 87109

Project# PR-2018-001632
Application# VA-2018-00158 (Variance)

LEGAL DESCRIPTION:

for all or a portion of for all or a portion of TRACTS C & D VACATION REQUEST AND PLAT OF TRACTS A-1, C AND D, MARK 3S HOLLY DEVELOPMENT, zoned MX-L, located on HOLLY AVE. NE between VENTURA ST NE and HOLBROOK ST NE, containing approximately 1.9 acres. (C-20)

On October 24, 2018, the Development Review Board (DRB) held a Public Hearing concerning the above referenced application and approved the request, based on the following Findings:

1. This is a request to allow a reduction to the sidewalk width along the front façade of the proposed building.
2. This request complies with the applicable standards of the IDO and the DPM.
3. 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 district and vicinity, including but not limited to size, shape, topography, location, surroundings, and physical characteristics, and such special circumstances were created either by natural forces or by government eminent domain actions 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.

The site is undeveloped. However, there are changes in grade, drainage easements, existing infrastructure and adjacent sidewalks that are significantly more narrow

than the required sidewalk. There are existing developments on either side of the site.

4. There are pre-existing obstructions that cannot be easily or economically relocated or should not be altered, such as grades, fills, water courses, natural topographic features, man-made obstructions, or utility lines.

The project street-facing façade is a portion of the structure along Holly Ave that houses the Activity Room and will provide space for seniors and students from the neighboring Montessori school to meet and interact. The access from Holly Ave to the Activity Room is indicated as one (1) on the accompanying graphic as an accessible sidewalk with a width of eight (8) feet. This access will be mainly used by students to reach the Activity Room. There is a secondary pedestrian access point indicated as two (2), with a width of six (6) feet. to access the site.

Between Holly Ave and the project site along the northern boundary there are grade changes of up to three (3) feet as well as a ten (10) feet utility easement, indicated as (4) on the accompanying graphic, and a fire line.

5. Varying from the normal requirements and standards will encourage flexibility, economy, effective use of open space, or ingenuity in design of a subdivision, in accordance with accepted principles of site planning.
6. The Variance will not be materially contrary to the public safety, health, or welfare.

Two pedestrian access routes are provided as well as walkways connecting the building and public sidewalk. While the width is reduced, routes and access points are accessible and provide unobstructed access. Therefore, the intent of pedestrian connectivity is met and public safety, health, or welfare are not affected.

7. The Variance does not cause significant material adverse impacts on surrounding properties.

The pedestrian access walkways from public right-of-way are provided and the intent of accessibility is met. No significant material adverse impacts on surrounding properties will be created

8. The Variance will not hinder future planning, public right-of-way acquisition, or the financing or building of public infrastructure improvements.

The site design is respectful of public easements, while also providing pedestrian access to the building. This allows any future planning, public right-of-way acquisition, and/or the financing or building of public infrastructure improvements to proceed unhindered.

9. The Variance will not conflict significantly with the goals and provisions of any city, county, or AMAFCA adopted plan or policy, this IDO, or any other City code or

ordinance.

10. The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.

The proposed sidewalks will taper to match the existing sidewalks- the applicant proposes between 6 and 8 foot wide sidewalks, along with a 6 foot wide crusher fine path.

11. A request for a Variance to sidewalk requirements, shall be approved if it meets all of the applicable criteria in Subsection (a) above and all of the following criteria:
- a. The area is of low-intensity land use to an extent that the normal installation of sidewalks will not contribute to the public welfare, and the absence of a sidewalk will not create a gap in an existing sidewalk system extended to 1 or more sides of the subject property or area.

The project is going to be an assisted living and memory care facility with a total of 72 expected residents. There are no commercial activities and pedestrian traffic will only be limited. A sidewalk with X feet will be provided, as per the requirements of the IDO. In addition, walkways will connect the public right-of-way and the building of sufficient size, ADA compliant and unobstructed.

- b. The City's right-of-way is insufficient in width to permit the construction of a sidewalk of standard dimension and placement, but there is sufficient right-of-way to meet minimum ADA or PROWAG guidance.

Walkways described are mostly not within the public right-of-way.

However, their installation is restricted by easements, slope and a fire line as described above in the respond to 14-16-6-6(L)(3)(a) (1)(8).

- c. The adjoining sidewalks are non-standard as to width and/or location, and the Variance would enable the new and existing sidewalks to match in width and/or location, or could create a smooth transition between areas of different width and/or character.

A sidewalk with 6-8 feet width will be provided, and connect to the existing sidewalk and provide a smooth transition to the existing sidewalks.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the DRB's decision or by **NOVEMBER 8, 2018**. The date of the DRB's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-6-4(U) of the Integrated

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Development Ordinance (IDO). A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed.

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Applicants submitting for building permit prior to the completion of the appeal period do so at their own risk. Successful applicants are reminded that there may be other City regulations of the IDO that must be complied with, even after approval of the referenced application(s).

Sincerely,



Kym Dicome
DRB Chair

KD/mg

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