



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

Cooperative Educational Services requests a variance of 6 ft to the required 6 ft sidewalk on the north side of proposed structure for buildings greater than 4,000 square feet per Sandia Science & Technology Park Master Development Plan for Lot F2B, Sandia Science & Technology Park, located at 10601 Research RD SE, zoned NR-BP [Section 14-16-1-10(A)]

Special Exception No:..... **VA-2019-00262**  
Project No: ..... **Project#2019-002702**  
Hearing Date: ..... 09-17-19  
Closing of Public Record: ..... 09-17-19  
Date of Decision: ..... 10-02-19

On the 17th day of September, 2019, property owner Cooperative Educational Services (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 ft to the required 6 ft sidewalk on the north side of proposed structure for buildings greater than 4,000 square feet per Sandia Science & Technology Park Master Development Plan (“Application”) upon the real property located at 10601 Research RD SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 ft to the required 6 ft sidewalk on the north side of proposed structure for buildings greater than 4,000 square feet per Sandia Science & Technology Park Master Development Plan.
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. Jacqueline Fishman at Consensus Planning, Inc., agent for Cooperative Educational Services, property owner appeared and gave evidence in support of the application.
5. The address of the subject property is 10601 Research Rd. SE.
6. The site is located on the north side of Research Road SE between Innovation Parkway and Britt Street.
7. The property is legally described as Tract F-2B, Sandia Science & Technology Park (***SS&TP***).
8. The subject property is currently zoned NR-BP and is governed by the ***SS&TP Master Development Plan (MDP)***.
9. The request is for 3 variances to the ***SS&TP MDP***, Section 5: Design Standards as follows:
  1. Minimum parking requirement (the MDP standard is per the old Zoning Code);
  2. Parking area setback from western property line; and
  3. Waive requirement for sidewalk adjacent to the rear of building (rear of building will not have an access door).
10. The ***SS&TP MDP*** was originally approved by the City Environmental Planning Commission (EPC) on March 22, 2001.
11. A 2010 amendment added additional land to the MDP.
12. The MDP was previously zoned IP (industrial park) under the old Zoning Code., which required review and approval of a master development plan.
13. The MDP is the controlling document for all development at the ***SS&TP***.
14. An Architectural Control Committee (ACC) provides review and approval of projects prior to their submittal for review and approval by the City of Albuquerque.
15. This current project proposed by Applicant was reviewed and approved by the ACC, including the proposed amendments to the MDP.
16. The ***SS&TP*** is a major employment center/high technology park that is strategically located in proximity to Sandia National Laboratories (SNL) to capitalize on the commercialization of technology ventures sponsored by SNL.
17. The MDP is the result of a Memorandum of Understanding (MOU) that included the Mayor of the City of Albuquerque; President of the Board of Education for Albuquerque Public Schools; Assistant Commissioner for the New Mexico State Land Office; General Partner for the Shaw, Mitchell, Mallory Limited Partnership; a Vice-President of Sandia National Laboratories; and an Officer of the Science and Technology Park Development Corporation.
18. The MDP was approved with an expedited City review and approval process, which allowed for administrative approval by the Director of the City Planning Department.
19. With the adoption of the IDO on May 17, 2018, the zoning for the ***SS&TP*** was converted from IP to NR-BP.
20. The land uses and development standards remain in place; the approval process is now governed by the IDO.
21. The ZHE has jurisdiction over the Applications.
22. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.

23. East Gateway Coalition of Neighborhood Associations is the affected neighborhood association.
24. The neighborhood association was notified by e-mail dated July 30, 2019.
25. No response nor request for meeting has been submitted.
26. The subject site had previously been [part of the adjacent Tract F-1 (to the east) and was subdivided by the previous property owner.
27. The drainage for Tract F-1 flows into the subject site, which limits the developable area.
28. This drainage condition was approved by City Hydrology without having a cross drainage easement in place at the time.
29. Applicant now owns both parcels and is in the process of creating a blanket drainage easement for the subject property, which was submitted for approval August 7, 2019.
30. The site area devoted to drainage ponds severely limits the developable area that can be used for parking and the parking area setback, which creates the request for variance to the minimum parking and parking area setbacks.
31. The primary building design proposed for the site does not include access to the rear of the building, resulting in a variance from a required a north side sidewalk.
32. There are special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(N)(3)(a)(1).
33. The subject site is located within the SS&TP, which does not include any residential development and contains only office and light manufacturing uses.
34. The adjacent site to the east is also owned by Applicant.
35. The SS&TP Architectural Control Committee reviewed and approved the three variances to the MDP.
36. The proposed building does not include access into the building from the north side.
37. Installing a sidewalk along the entire length of the building would be superfluous.
38. The site plan shows an 18-inch concrete mow strip along this side, and for a short section of the building on the east end.
39. The site plan shows a 6-foot sidewalk that leads from the fire access road on the north to the patio on the east side of the building, and further to the front entry of the building that faces south.
40. 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).
41. The uses on the surrounding properties are office to the east (owned by Applicant), west, and south, and vacant to the northwest and north.
42. Applicant is proposing an office building that falls within an existing office park, and will be consistent with the uses allowed by the SS&TP.
43. Since there is a short section of sidewalk to accommodate fire access to the building, 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).
44. The SS&TP is wholly governed by the MDP (with the exception of the approval process), which was approved by the Environmental Planning Commission in 2001 and was found consistent with the goals, policies, and zoning regulations in place at that time.

45. The proposed office building and the variance[s] requested will not materially undermine the intent and purpose of the IDO or the NR-BP zone district as required by Section 14-16-6-6(N)(3)(a)(4).
46. A continuous sidewalk on the northside of the building is superfluous since the building is designed with no exterior door on that side.
47. 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).
48. Because of the drainage ponds required on the site, and the site accommodates 20 spaces along this edge of the property, 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).
49. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
50. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 ft to the required 6 ft sidewalk on the north side of proposed structure for buildings greater than 4,000 square feet per Sandia Science & Technology Park Master Development Plan.

APPEAL:

If you wish to appeal this decision, you must do so by October 17, 2019 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.



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Stan Harada, Esq.  
Zoning Hearing Examiner

cc: ZHE File  
Zoning Enforcement  
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