



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

US Eagle Federal Credit Union (Agent, Consensus Planning) requests a variance of 32% to the required 30% transparent windows in an activity center for Lot B1, Rhodes Acres Addn, located at 5420 Academy RD NE, zoned MX-H [Section 14-16-5-11(E)(2)(b)]

Special Exception No:..... **VA-2022-00023**  
Project No: ..... **Project#2020-003360**  
Hearing Date: ..... 03-15-22  
Closing of Public Record: ..... 03-15-22  
Date of Decision: ..... 03-30-22

On the 15th day of March, 2022, Consensus Planning, agent for property owner US Eagle Federal Credit Union (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 32% to the required 30% transparent windows in an activity center (“Application”) upon the real property located at 5420 Academy RD NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 32% to the required 30% transparent windows in an activity center.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(O)(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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).

4. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. Agent appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-H.
8. 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's location as a corner lot in the MX-H zone and the Far North Activity Center would require the building to be at the street frontage with a substantial amount of glazing on the two sides of the building. To accommodate this IDO rule, the building would be required to have two street frontages and drive-through service windows at the far rear of the site. This would limit the locations for "back-of-the-house" functions, such as a cash room that supports the primary use of the building as a bank, and typically does not include windows, because of the need for security. The strict compliance to the IDO Standards for the location of the building creates an extraordinary hardship and a substantial limitation on the design of a safe and secure banking facility that meets the requirements for conducting US Eagle's credit union business under all other provisions of the IDO.
9. 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 variance will promote the public's safety, health, and welfare by accommodating the redevelopment of a blighted site into a high-quality development that meets the intent of the IDO. The building incorporates a sizable percentage of transparent windows and doors along the north and west façades that will provide attractive street frontages and contribute to pedestrian walkability the Applicant intends to construct the proposed project in a manner that is consistent with the IDO and the Development Process Manual (DPM).
10. 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 proposal is designed to create a positive change in the Far North Activity Center. The street frontage along Seagull Street will be improved with new landscaping and an aesthetically pleasing building. The reduction of the transparent windows and doors will have no impact on the streetscape. The Variance will help transform this vacant site, previously a Circle K convenience store, into a productive reuse project.
11. 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 purpose of the MX-H Zone District is to "provide for large-scale destination retail and high-intensity commercial" and "allow a higher-density infill development in appropriate locations." As stated in the ABC Comprehensive Plan, the purpose of an Activity Center is to "provide

convenient, day-to-day services at a neighborhood scale,” and it should incorporate a good pedestrian-friendly design. The Applicant is proposing an attractive, well-articulated building that incorporates a multitude of pedestrian features within the Far North Activity Center and that meet the MX-H Zone District’s intent by providing a commercial service use on an infill site. The building is situated close to both street edges, with no drive lanes between the street and the building, and glazing is provided on every building facade. In addition, the building design incorporates changes in massing with recesses and projections, changes in roof materials and design, and a variety of building materials and colors.

12. 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 transparent windows/doors are provided in areas of the building where it is appropriate, but it would cause unreasonable hardship and practical difficulties to require transparent windows/doors into a cash room of a bank. The site plan and building elevations illustrate the Applicant’s effort to incorporate the MX-H and Activity Center requirements into the design of the building to the maximum extent feasible without causing unnecessary hardship and practical difficulties. Thus, the applicant is not requesting more than what is minimally necessary for the requested variance.
13. City Transportation submitted a report stating no objection.
14. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
15. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 32% to the required 30% transparent windows in an activity center.

APPEAL:

If you wish to appeal this decision, you must do so by April 14, 2022 pursuant to Section 14-16-6-4(V), 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

Consensus Planning, [fishman@consensusplanning.com](mailto:fishman@consensusplanning.com)