



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

Alex Horton, B3 Development LLC
(Agent, Improve Group, Jared
Winchester) requests a variance of 10
ft to the required 15 ft edge buffer
landscaping for Lots 1-9, Block 4,
Esperanza Addn, located at 1000 San
Mateo Blvd SE, zoned MX-L [Section
14-16-5-6(E)(2)]

Special Exception No:..... **VA-2022-00286**
Project No: **Project#2022-006657**
Hearing Date: 11-15-22
Closing of Public Record: 11-15-22
Date of Decision: 11-30-22

On the 15th day of November, 2022, Improve Group, Jared Winchester, agent for property owners Alex Horton, B3 Development LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 10 ft to the required 15 ft edge buffer landscaping (“Application”) upon the real property located at 1000 San Mateo Blvd SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 10 ft to the required 15 ft edge buffer landscaping.
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. Jared Winchester, with Improve Group, authorized agent for property owner Alex Horton/B3 Development LLC 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. Parkland Hills Neighborhood Association, District 6 Coalition of Neighborhood Associations, and South San Pedro Neighborhood Association are the affected neighborhood associations.
7. There are no requests for meetings from any neighborhood associations.
8. The subject property consists of 9 previously separate lots, which are combined for the purpose of the proposed project and this hearing, and are collectively referred to as the "subject property."
9. The proposed development will be a mixed-use and affordable housing project constructed on the property as a single, re-platted lot.
10. The application for a replat is pending.
11. The address of the subject property is 1000 San Mateo Blvd. SE, Albuquerque, New Mexico 87108.
12. The subject property is currently zoned MX-L.
13. The subject property is located within an Airport Protection Overlay as defined and regulated by §14-16-3-3(B)(1)(a) Albuquerque International Sunport and §14-16-3-3(B)(1)(b) Kirtland Airforce Base.
14. A report was submitted by Hartwell Briggs, RA, Planning Manager for ABQ Sunport indicating no objection to the proposed request for a variance.
15. A report was submitted by Janet Cunningham, MCRP, for KAFB, indicating no objections to the requested variance, excepting a request that any lighting resulting from the request be shielded and focused.
16. The subject project and requested variance, are not impacted by the APO.
17. The subject property is located within a Major Transit Corridor, as defined by the ABC Comp. Plan, as amended.
18. A report was submitted by Matt Grush, P.E., Senior Engineer, Transportation Development Review Services Section indicating Transportation has no objection to the requested variance.
19. The subject property is located on IDO Zone Atlas Page: L-17-Z., Development Review The lots adjacent and to the east of the subject property are zoned R-1B and all contain existing rear yard walls separating the existing residential development from the proposed project.
20. The owner has already taken time to communicate with a number of neighborhood residents about the plans for this development and received positive support.
21. All 9 of the residents to the east of the proposed development have been contacted and voiced their support for this project.
22. Deborah Cooper appeared in the Zoom hearing, an made a statement in support of the request.
23. She testified she is an adjacent property owner and confirmed that her rear property wall was in the submitted panoramic photo in the record.
24. She questioned Applicant/Agent and verified that the Gabion wall would be next to the existing walls and would not provide any space for vagrants and homeless to hide or camp

between the existing walls and the proposed project walls and she verified that the walls would not be climbable.

25. At the point she expressed enthusiastic support for the project and request.
26. A Variance is requested for the extent of the Landscape Buffer to be applied in the construction of a mixed-use multifamily housing project adjacent to a lot containing a low-density residential development.
27. Edge Buffer Landscape for the subject property and project are regulated by IDO, Section 14-16-5-6(E)(2): Landscaping, Buffering and Screening.
28. The subject development is to be multi-family and mixed use and occurs on a lot abutting from a lot containing a low-density residential development and the edge buffering required is regulated by Table 5-6-4 and requires a minimum landscaped buffer area of 15 feet.
29. Applicant is requesting a variance of 10 feet to the required 15 foot edge buffer landscaping.
30. Applicant presented evidence the proposed development provides a landscape buffer that is narrower than the minimum buffer requirement of the IDO due to site constraints, but that the design goes to the fullest extent possible to create a functional and aesthetically pleasing vegetated wall and landscape buffer that still meets the design intent of the zoning code.
31. The subject lot proportions are long and narrow, (approximately 400 feet long with the width of the subject property ranging from approximately 90 feet on the southern boundary to approximately 115 feet on the northern boundary).
32. The full 15 foot buffer requirement, along with minimum requirements of and aesthetically pleasing vegetated wall and landscape buffer that still meets the design intent of the zoning parking and internal vehicular circulation, would make the proposed project almost impossible to achieve.
33. The proposed project will be an 8 foot Gabion Wall containing large fractured rock, topped by soft landscaping vegetation, irrigated by drip irrigation methods, and a varied landscaped buffer zone immediately next to the parking for the project.
34. There are planned tree plantings, which in their mature size and scale will provide a green canopy topping the Gabion wall providing a visual screen for the rear property lines of the abutting residential lots.
35. The vegetated wall and landscape created will create a beautiful edge that will still function to provide an appropriate buffer between the new development and residences whose back walls abut the east side of the property.
36. The edge of parking possible in the proposed development shall be no closer than 6.5 feet to the property line and all efforts will be made to set back the edge of the parking to be greater than 6.5 feet wherever possible.
37. The edge of the parking lot for the planned development will be within the 15 foot landscape buffer requirement along the east boundary of the property line.
38. The landscape buffer will also provide a pleasant visual boundary for the parking lot for the residents of the project.
39. 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).

40. The site of this proposed development has been vacant for over three decades and the empty lot has been a consistent source of crime and encampments; which has been a longstanding concern to the neighborhood.
41. This project is going to improve this condition and make a positive contribution to the greater neighborhood in the International District.
42. 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).
43. In lieu of the full landscape buffer, an 8 foot tall vegetated wall with closely spaced trees and landscape materials will be provided.
44. The existing edge condition of the back walls of the properties abutting the property line are inconsistent in geometry from lot to lot, with some existing walls extending slightly past the edge of the property line.
45. This new proposed vegetated wall and landscape will help clean up the edge of the property line in a pleasing way.
46. The existing adjacent businesses along San Mateo - the Acapulo restaurant to the north and the 7-Eleven to the south – do not have any current buffer between parking and the edge of their associated property lines.
47. 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).
48. The purpose of IDO Section 14-16-5-6 Landscaping, Buffering and Screening Standards is stated in **5-6(A): PURPOSE: in regulating landscaping to ensure visually attractive, sustainable desert landscapes that aid in creation of a quality public realm.**
49. The vegetated wall and the landscape screening buffer proposed with this variance request, while not meeting the full buffer distance of the IDO, will still create a good precedent for future developments in the area.
50. The requested variance will help establish a consistent, attractive streetscape that generates a sense of continuity and a strong, positive city image, which satisfies purpose 5-6-(A)(2).
51. The requested variance will improve the aesthetic appearance of commercial, industrial and multi-family residential development to protect and enhance public and private investments and property values.
52. 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).
53. 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).
54. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
55. The Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

The criteria required by §14-16-6-6(N)(3)(a) of the IDO are satisfied.

DECISION:

APPROVAL of a variance of 10 ft to the required 15 ft edge buffer landscaping

CONDITIONS:

Any lighting resulting from the variance request shall be shielded and focused to satisfy the request from KAFB pursuant to the APO §14-16-3-3(B)(1)(a).

APPEAL:

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

A handwritten signature in blue ink, appearing to read 'S. Harada', is centered on the page.

Stan Harada, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Jared Winchester, JaredWinchester@improvementgroup.net