



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

Montosa Ranch LP (Agent, Consensus Planning) requests a variance of 2 ft to allow for an 8 foot wall on a side- street yard for Lot 4B, Lafarge, located at 705 Carmony RD NE, zoned NR-LM [Section 14-16-5-7(D)(1)]

Special Exception No:..... **VA-2023-00010**  
Project No: ..... **Project#2023-008067**  
Hearing Date: ..... 02-21-23  
Closing of Public Record: ..... 02-21-23  
Date of Decision: ..... 03-08-23

On the 21st day of February, 2023, Consensus Planning, agent for property owner Montosa Ranch LP (“owner”) and TLC Plumbing, HVAC & Electrical (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 2 ft to allow for an 8’ solid wall on side-street yard (“Application”) upon the real property located at 705 Carmony RD NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 2 ft to allow an 8’ solid wall for a side-street yard.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6(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 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. Avery M. Frank and Jim Strozier, of Consensus Planning, Inc., as agents for Montosa Ranch, LP, property owner and TLC Plumbing, HVAC & Electrical, Applicant appeared and gave evidence in support of the application.
5. A letter of Authorization for Consensus Planning, Inc. has been filed in the record.
6. Applicant is requesting a variance to allow an additional 2' ("two feet") of wall height to allow for an 8' ("eight foot") wall on a side street.
7. The Application is to request approval of a Variance – ZHE for two properties legally described as:
  1. *Tract B-1, Lands of JR Nance*
  2. *Tract 4-B Plat of Tracts 4-A & 4-B Lands of LaFarge*
8. IDO Zone Atlas, May 2018, Page G-15-Z, is submitted with the Application and is filed in the record.
9. The site is a previously developed property located within the City of Albuquerque, and is bound to the east by Alexander Blvd. NE, to the south by Carmody Rd. NE, and to the north and west by developed commercial properties.
10. A site Plan showing the wall layout plan, and includes typical, wall elevation with the engineering certification for the proposed wall is submitted with the Application and is filed in the record.
11. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
12. There are no affected neighborhood associations. An e-mail from the Office of Neighborhood Coordination has been filed in the record.
13. The subject property is currently zoned NR-LM, which has been amended to NR-GM as stated below.
14. A Zoning Map Amendment application was approved by the EPC January 5, 2023, for the subject property that is legally described as *Tract 4-B Plat of Tracts 4-A & 4-B Lands of Lafarge*. The current zoning is NR-LM (non-residential light manufacturing) and the ZMA request is seeking to change the zoning to NR-GM (non-residential general manufacturing) to create consistency with the contiguous parcel to the east, which is legally described as *Tract B1, Lands of J.R. Nance*. The Applicant is seeking to improve the property with an asphalt hot plant and associated aggregate stockpile.
15. The maximum wall height is regulated by IDO Section **14-16-5-7(D): Walls and Fences, Table 5-7-1**, which shows a maximum wall height of 6' (six feet) for a wall on a street side yard in a zone category NR-LM.
16. All other variance requests for wall standards are pursuant to Subsection 14-16-6-6(O) (Variance – ZHE).
17. The subject properties combined create an irregular shape which abuts two streets as side streets.
18. The proposed project a hot asphalt plant is a permissive use, but requires additional visual screening as well as additional safety requirements to protect the public.
19. The current IDO standard create a practical difficulty for Applicant to use to subject property for a permissive use, while requiring protection of the community to the highest extent.
20. No one appeared to make statements either in support of or in opposition to the request.

21. Matt Grush, P.E., Senior Engineer for The Transportation Development Review Services, submitted comments for the record, stating that Transportation has no objection and the proposed request will not adversely impact the intersection or driveway sight distances.
22. 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).
23. The request will facilitate public protection from potential adverse impacts caused by the proposed use.
24. The subject sites are not located near any residential communities, making them an ideal location for the proposed use.
25. The subject sites abutting Alexander Blvd and Carmody Road have the potential to see pedestrian activity
26. The additional 2 feet of wall height will allow for extra buffering and visual screening along the street for pedestrians walking along Carmody Road and Alexander Blvd as well as increased security for the subject site.
27. 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).
28. The extra 2 feet requested will not affect any infrastructure or surrounding properties.
29. The subject sites are located in an established industrial area and the requested 8 -foot side-street wall height will not adversely impact any surrounding properties.
30. 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).
31. The subject properties are not part of any Overlay Zone and the proposed project will not significantly impact any regulation of the IDO.
32. The requested 2 additional feet of wall height will not have an adverse impact on any other regulation in the IDO relating to the NR-GM zone district.
33. The request is seeking to protect the health and quality of life of pedestrians and neighboring properties and there are no residential communities near the site that could be affected by the requested variance.
34. 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).
35. The requested 2 feet in wall height is the minimum necessary to provide adequate side street-side buffering and protect pedestrians and street users from any potential negative impacts caused by an asphalt hot plant.
36. 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).
37. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
38. The Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

Applicant has met the burden of providing substantial evidence in support of the Application and has satisfied all the criteria as required by City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(N) and Section 14-16-6-6(O)(a)(1) through (5).

DECISION:

APPROVAL of a variance of 2 ft to allow an 8 foot solid wall on a side-street property.

APPEAL:

If you wish to appeal this decision, you must do so by March 23, 2023 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.



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Stan Harada, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
Consensus Planning, [cp@consensusplanning.com](mailto:cp@consensusplanning.com), [frank@consensusplanning.com](mailto:frank@consensusplanning.com)



CITY OF ALBUQUERQUE  
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NOTIFICATION OF DECISION

Montosa Ranch LP (Agent, Consensus Planning) requests a variance of 2 ft to allow for an 8' solid wall on a side- street yard for Lot B1, Nance-JR, located at 99999 Alexander Blvd NE, zoned NR-LM [Section 14-16-5-7(D)(1)]

Special Exception No:..... **VA-2023-00011**  
Project No: ..... **Project#2023-008067**  
Hearing Date: ..... 02-21-23  
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FINDINGS:

1. Applicant is requesting a variance of 2 ft to allow an 8’ solid wall for a side-street yard.
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:
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CONCLUSIONS OF LAW:

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