



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

Titan Development, LLC (Agent, Dustin Vigil) requests a variance of 1 sign to the required 2 illuminated signs in an R-MH Zone for Lot 1, The Foothills, located at 6701 Tennyson ST NE, zoned R-MH [Section 14-16-5-12(E)(5)(b)(2)]	Special Exception No:.....	VA-2023-00112
	Project No:	Project#2020-004086
	Hearing Date:	05-16-23
	Closing of Public Record:	05-16-23
	Date of Decision:	05-31-23

On the 16th day of May, 2023, Dustin Vigil, agent for property owner Titan Development, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 1 sign to allow 2 illuminated signs in an R-MH zone (“Application”) upon the real property located at 6701 Tennyson ST NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 1 sign to allow 2 illuminated signs in an R-MH zone.
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. Dustin Vigil, Designer, at Century Sign Builders, agent for property owner appeared and gave evidence in support of the application.

5. Ian Robinson, Project Manager for Owner Titan Development, LLC, also appeared and gave testimony in support of the request.
6. A Letter of Authorization signed by Josh Rogers for Titan Development LLC, subject property owner was submitted and is part of this record.
7. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
8. North Albuquerque Acres Community Association, Antelope Run Neighborhood Association, District 8 Coalition of Neighborhood Associations and District 4 Coalition of Neighborhood Associations are the affected neighborhood associations.
9. No request for a meeting from any NA has been submitted and no written statement either in support or opposition to the request has been submitted.
10. The subject property is currently zoned R-MH.
11. Zone Atlas Page E-22-Z is part of this record.
12. A report was submitted to the record by Matt Grush, P.E. Senior Engineer stating "No Objection" to the request after evaluation by the Transportation Development Review Services Section,
13. The request for variance is a part of the Allaso High Desert, a multi-family, high density residential project nearing completion of construction.
14. The subject project property location is the corner of Academy NE and Tramway Blvd. NE.
15. A summary of the project request, for a Sign Permit to install an Illuminated Wall Sign on Building 5 along Tramway Blvd. NE; and installation of an Illuminated Wall Sign on the Southeast side of Building 18 facing Tennyson NE.
16. The purpose of the request is to allow a second sign that faces a minor street with no single family residences with the nearest neighbor over 250 feet from the location of the variance sign.
17. The sign would promote easy identification of the project from the main entrance.
18. The proposed building signage requested will be the best design for an infill site and existing AMAFCA and other requirements.
19. The AMAFCA drainage system located to the west of the subject property is a water catchment which required grading modifications to the subject property that created a greater elevation change, which rendered a Monument style sign to be not visible.
20. The proposed sign will satisfy the intent of the current standard to prevent excessive branding materials facing main roads and preventing creation of ugly visual clutter generally creating a nuisance to nearby single family areas.
21. The proposed signs are to be natural/adobe colored and only the letters will be illuminated.
22. The illumination is programed to go off from 11:00 pm to sunrise every day.
23. No one appeared or requested time to comment either in support of or in opposition to the request.
24. 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).
25. The proposed signage does not face any major single family residential area and is set back over 250 feet from the nearest apartment unit.

26. The sign identifying the community name will be more visible to police, fire department and ambulance from the front (main) entrance and will aid first responders in locating the subject property from the front gate.
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 proposed sign is located over 250 feet from the nearest apartments and these apartments have minimal windows facing the proposed sign location.
29. Numerous large trees are located between the apartments and the proposed sign location.
30. The color of the sign was chosen as an earth-tone to provide minimal impact during the day and the illumination is required so that the community can be identified in the evening.
31. 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).
32. The proposed sign is located below grade of Tramway and will not be visible from this major thoroughfare and does not impact this road.
33. The proposed sign will provide greater nighttime visibility to the main entrance that will benefit residents, guests and emergency responders and therefore enhances the public safety by clearly identifying the subject community.
34. The proposed sign complies with all existing IDO requirements.
35. The proposed sign satisfies the intent and purpose of the IDO signage restrictions and prevents it from becoming an overwhelming branded presence.
36. 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).
37. The project is not visible from Academy Rd. NE and Tramway's view is slightly obscured due to its higher elevation.
38. Wall signs are the most practical option for visibility to the main entrances.
39. 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).
40. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
41. The Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

The Applicant has provided substantial evidence and has satisfied the criteria required under Section 14-16-6-6(N)(3)(a)(1) through (5) and satisfies Section 14-16-6-4(N)(1).

DECISION:

APPROVAL of a variance of 1 sign to allow 2 illuminated signs to the subject property in an R-MH zone.

APPEAL:

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



Stan Harada, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
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