



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

Carlisle & I40 LLC (Agent Modulus Architects & Land Use Planning, Inc) requests a VARIANCE of 1 to allow for 2 freestanding signs along Carlisle for Lot A & C, Block 0000, Indian Plaza, located at 2101 Carlisle Blvd NE, Zone MX-L 14-16-5-6(E), Table 5-6-5

Special Exception No:	VA-2024-00141
Project No:	PR-2024-010333
Hearing Date:	6-18-24
Closing of Public Record:	6-18-24
Date of Decision:	7-03-24

On the 18th day of June, 2024, Carlisle & I40 LLC (Agent Modulus Architects & Land Use Planning, Inc) (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a Variance of 1 to allow for 2 freestanding signs along Carlisle (“Application”) upon the real property located at 2101 Carlisle Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision

FINDINGS:

1. Applicant is requesting a Variance of 1 to allow for 2 freestanding signs along Carlisle Blvd.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. All property owners within 100 feet and affected neighborhood association(s) were notified.
4. The ZHE finds that the proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
5. The City of Albuquerque Integrated Development Ordinance (“IDO”), 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 a single lot that are not self-imposed and that do not apply generally to other property in the same zone district and vicinity, including but not limited to size, shape, topography, location, surroundings, physical characteristics, natural forces, or by government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic 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 this IDO, the applicable zone district, or any applicable Overlay Zone.*
5. *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.”*
6. 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).
7. 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).
8. 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).
9. Applicant appeared and gave evidence in support of the application.
10. The subject property is currently zoned MX-L.
11. 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, the unique layout of the property in relation to existing structures and infrastructure creates special circumstances that result in practical difficulties in complying strictly with IDO requirements without the requested variance.
12. 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, Applicant stated that no negative impacts would result.
13. 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, Applicant stated that the proposed variance would cause no negative visual or other negative impact.
14. 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). Applicant intends to comply with all IDO requirements.
15. Based on evidence submitted by or on behalf of Applicant, the variance 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 testified that any lesser variance would be impracticable to allow sufficient signage.
16. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a Variance of 1 to allow for 2 freestanding signs along Carlisle Blvd.

APPEAL:

If you wish to appeal this decision you must do so by July 18, 2024 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
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NOTIFICATION OF DECISION

Carlisle & I40 LLC (Agent Modulus Architects & Land Use Planning, Inc) requests a VARIANCE of 15 feet to the required 15 ft landscape buffer for Lot A & C, Block 0000, Indian Plaza, located at 2101 Carlisle Blvd NE, Zone MX-L 14-16-5-6(E), Table 5-6-5

Special Exception No:	VA-2024-00142
Project No:	PR-2024-010333
Hearing Date:	6-18-24
Closing of Public Record:	6-18-24
Date of Decision:	7-03-24

On the 18th day of June, 2024, Carlisle & I40 LLC (Agent Modulus Architects & Land Use Planning, Inc) (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a Variance of 15 feet to the required 15 ft landscape buffer (“Application”) upon the real property located at 2101 Carlisle Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision

FINDINGS:

1. Applicant is requesting a Variance of 15 feet to the required 15 ft landscape buffer.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. All property owners within 100 feet and affected neighborhood association(s) were notified.
4. The ZHE finds that the proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
5. The City of Albuquerque Integrated Development Ordinance (“IDO”), 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 a single lot that are not self-imposed and that do not apply generally to other property in the same zone district and vicinity, including but not limited to size, shape, topography, location, surroundings, physical characteristics, natural forces, or by government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic 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 this IDO, the applicable zone district, or any applicable Overlay Zone.*

5. *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.*”
6. 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).
 7. 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).
 8. 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).
 9. Applicant appeared and gave evidence in support of the application.
 10. The subject property is currently zoned MX-L.
 11. 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, the unique layout of the property in relation to existing structures and infrastructure creates special circumstances that result in practical difficulties in complying strictly with IDO requirements without the requested variance. Essentially, requiring the landscape buffer would impede access by vehicular traffic, including emergency vehicles. Allowing the variance would maintain the status quo as the zero-buffer where located, while Applicant would provide additional landscaping in other areas.
 12. 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, Applicant stated that no negative impacts would result. Although certain neighbors expressed questions as to the traffic outline and potential drive through, those matters were not before the ZHE for approval in the Application. Applicant submitted evidence that the requested landscape buffer variance would allow for greater flexibility in routing traffic on, off, and through the Subject Property.
 13. 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, Applicant stated that the proposed variance would cause no negative visual or other negative impact, and Applicant would provide additional landscaping in areas of the Subject Property outside the requested variance area.
 14. 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). Applicant intends to comply with all IDO requirements.
 15. Based on evidence submitted by or on behalf of Applicant, the variance 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 testified that any lesser variance would be impracticable to allow efficient site design.
 16. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a Variance of 15 feet to the required 15 ft landscape buffer.

APPEAL:

If you wish to appeal this decision, you must do so by July 18, 2024 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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