

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
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ZONING HEARING EXAMINER NOTICE OF DECISION

Special Exception Number: VA-2026-00071

Project Number: PR-2026-000087

Hearing Date: 07-21-2026

Closing of Public Record: 07-21-2026

Date of Decision: 08-05-2026

Case Description: Jim Strozier, Consensus Planning, Inc. and Diane Jennifer Gutterrez Trustee, request a Variance of 20 feet to the minimum required 45-foot Major Public Open Space landscape buffer for Lot 26, Block 8, Volcano Cliffs Subdivision Unit 5, located at 6200 Marigold Ct NW, zoned R-1 [IDO § 4-16-5-2(J)(2)(a)(1)]

On July 21, 2026, Jim Strozier, Consensus Planning, Inc. and Diane Jennifer Gutterrez Trustee (“Applicant”) were scheduled to appear before the Zoning Hearing Examiner (“ZHE”) requesting a Variance to 45-foot Major Public Open Space landscape buffer (“Application”) upon the real property located at 6200 Marigold Ct NW (“Subject Property”). Below are the ZHE’s findings of fact and decision.

FINDINGS, VARIANCE - ZHE:

1. Applicant is requesting a Variance of 20 feet to the minimum required 45-foot Major Public Open Space landscape buffer in the rear yard setback area, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance (“IDO”) § 14-16-6-6(O).
2. Applicant has authority to pursue this Application, pursuant to IDO § 14-16-6-4(D).
3. Applicant has a duly authorized Agent to act on Applicant’s behalf regarding the Application.
4. The Subject Property is located at 6200 Marigold Court NW in a R-1D zone district.
5. The Planning Director’s delegee has determined that the Application is complete as of May 05, 2026, pursuant to IDO § 14-16-6-4(G).
6. The Application was referred to commenting agencies pursuant to IDO § 14-16-6-4(I).
7. The content of the public notice of the Application satisfies IDO Section 14-16-6-4(J)(1).

8. Applicant has sent an electronic mail notice to the email addresses on file with the Office of Neighborhood Coordination for Neighborhood Associations withing 660 feet as required by IDO § 14-16-6-4(J)(2).
9. Applicant has sent a mailed notice to all property owners within 100 feet of the subject property as required by IDO Section 14-16-6-4(J)(3).
10. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
11. A Variance of 20 feet to the minimum required 45-foot Major Public Open Space landscape buffer in the rear yard setback area request on the Subject Property requires a Variance Approval pursuant to IDO § 14-16-6-6(O).
12. Pursuant to § 14-16-6-6(O)(3) of the Integrated Development Ordinance, Review and Decision Criteria, "*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.*
12. 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).
13. 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).
14. 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, and 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, as required by Section 14-16-6-6(O)(3)(a)(1). Although the property is adjacent to the Petroglyph National Monument, visitors to the Monument are restricted to remain on designated trails. The trail that runs behind this property is 176 feet away. An additional 45' setback results in a loss of fifty-one percent (51) of the existing lot. The property owner has not received any compensation

for the loss of 6,904 square feet of their lot to adhere to this standard. In addition to the area encumbered by this setback, the property is an irregular shape. This limits the developable area for new construction on the property as it narrows along the northern portion of the lot. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic return on the property, and practical difficulties result from strict compliance with the minimum standards, which give rise to the need for the requested variance.

15. 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(O)(3)(a)(2). The Variance request will not pose a threat to the public's well-being as it will continue the established standards created by the existing homes within the subdivision. The existing single-family homes have not created a negative impact on the National Monument since their construction. Public access to the Petroglyph National Monument is restricted to the trail, which is over 170' from the property.
16. 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(O)(3)(a)(3). The variance does not cause adverse impacts on existing infrastructure that services all the residential properties along Marigold Drive. This request will only impact the location of the structure on the property. The requested variance is consistent with the existing character of the neighborhood and other homes adjacent to the Monument.
17. 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(O)(3)(a)(4). The variance will not materially undermine the intent and purpose of this IDO or the R1D zone district. The IDO's restriction on setbacks of structures within proximity of the Petroglyph National Monument is to protect the Open Space from bordering properties. The property will follow regulations set by the zone district, and the applicable Overlay Zone (Volcano Mesa – CPO-13) by adhering to the restrictions on building height and setbacks on all other sides of the property. The intent of the IDO will not be undermined through this Variance. The construction of this home will serve to reinforce other standards set by the IDO, strengthening the area through more appealing, uniform development. The property to the east of this site secured a sixteen-foot (16) variance to the required 45-foot rear yard setback (PR-2023-0096342) in December of 2023.
18. 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(O)(3)(a)(5). The application seeks a twenty-foot variance to the required forty-five-foot rear yard setback. This is the minimum necessary to avoid an extraordinary hardship that would result in the loss of 6,904 square feet of an existing parcel for no other reason of it being adjacent to major open space. The required forty-five-foot setback would reduce the overall lot size from 13,503 square feet to 6,599 square feet. This is compounded by the platted configuration of the lot (platted prior to this regulation) that narrows along the northern property line.
19. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of Project #: PR-2025-000087 / VA-2026-00071, a request for Variance of 20 feet to the minimum required 45-foot Major Public Open Space landscape buffer in the rear yard setback area, for Lot 26, Block 8, Volcano Cliffs Subdivision, located at 6200 Marigold Court NW, based on the preceding Findings.

APPEAL:

If you wish to appeal this decision, you must do so by August 20, 2026. Pursuant to IDO § 14-16-6-4-(U), you must demonstrate that you have legal standing to file an appeal.

PERIOD OF VALIDITY:

Approval of a Variance is valid for one (1) year from date of approval.

OTHER REQUIREMENTS:

THIS NOTICE OF DECISION DOES NOT CONSTITUTE APPROVAL OF PLANS FOR A BUILDING PERMIT.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. If your application is approved, submit this Notice of Decision when you apply for any related building permit or other necessary permit.



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Zoning Hearing Examiner

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CABQ Zoning Hearing Examiner

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ZHE File

Zoning Enforcement