



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

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St for Lot 16, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00163**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30-inch windowsill height requirement to allow a 36-inch windowsill height on upper facades facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade-glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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:

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Zoning Enforcement
Consensus Planning, cp@consensusplanning.com



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ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave for Lot 2, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00166**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.
 - f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was

not included, the project would meet the upper façade-glazing requirement of 20% for a strictly multi-family residential development.

- g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
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 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy

goals under the proposed variance, given the large number of windows and the overall design of the project.

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12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave for Lot 3, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00167**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.
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:
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goals under the proposed variance, given the large number of windows and the overall design of the project.

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13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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.

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ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave for Lot 4, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00168**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.
 - f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was

not included, the project would meet the upper façade-glazing requirement of 20% for a strictly multi-family residential development.

- g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
 10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
 11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy

goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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
Consensus Planning, cp@consensusplanning.com



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

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave for Lot 5, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00170**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.
 - f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was

not included, the project would meet the upper façade-glazing requirement of 20% for a strictly multi-family residential development.

- g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
 10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
 11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy

goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave for Lot 6, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00171**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.
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.*
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 - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.”*

3. The 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).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
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goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
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13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave for Lot 7, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00172**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.
 - f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was

not included, the project would meet the upper façade-glazing requirement of 20% for a strictly multi-family residential development.

- g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
 10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
 11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy

goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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
Consensus Planning, cp@consensusplanning.com



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

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave for Lot 8, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00173**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.
 - f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was

not included, the project would meet the upper façade-glazing requirement of 20% for a strictly multi-family residential development.

- g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
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 10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
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 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy

goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave for Lot 9, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00175**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.
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:
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 - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*
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6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
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goals under the proposed variance, given the large number of windows and the overall design of the project.

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13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave for Lot 10, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00176**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.
 - f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was

not included, the project would meet the upper façade-glazing requirement of 20% for a strictly multi-family residential development.

- g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
 10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
 11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy

goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave for Lot 1, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00178**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade-glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave for Lot 2, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00179**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
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- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade-glazing requirement of 20% for a strictly multi-family residential development.
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activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

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13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave for Lot 3, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00180**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade-glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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
Consensus Planning, cp@consensusplanning.com



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

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave for Lot 4, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00181**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade-glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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ZHE File
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave for Lot 5, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00182**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade-glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
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11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave for Lot 6, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00183**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave for Lot 7, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00184**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave for Lot 8, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00185**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
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11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave for Lot 9, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00186**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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Zoning Hearing Examiner

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ZHE File
Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave for Lot 10, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00187**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave for Lot 1, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00188**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
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11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

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12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave for Lot 2, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00189**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave for Lot 3, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00190**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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Zoning Hearing Examiner

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

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave for Lot 4, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00191**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
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9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
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11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave for Lot 5, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00192**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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Zoning Hearing Examiner

cc:

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

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave for Lot 6, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00193**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave for Lot 7, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00194**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.
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.*
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(5) The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.”

3. The 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).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
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activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

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12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
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NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave for Lot 8, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00195**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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 black ink, appearing to read "Robert Lucero".

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Consensus Planning, cp@consensusplanning.com



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

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave for Lot 9, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00196**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
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 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
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9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

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12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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

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ZHE File
Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave for Lot 10, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00197**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.
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:
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 - (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.*
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3. The 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).
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5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
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13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Central Ave.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch ground floor window sill height requirement to allow a 36 inch window sill height on the ground floor facing Jackson St. for Lot 10, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00198**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch ground floor window sill height requirement to allow a 36 inch window sill height on the ground floor facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch ground floor window sill height requirement to allow a 36 inch window sill height on the ground floor facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch ground floor window sill height requirement to allow a 36 inch window sill height on the ground floor facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch ground floor window sill height requirement to allow a 36 inch window sill height on the ground floor facing Jackson St. for Lot 11, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00199**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch ground floor window sill height requirement to allow a 36 inch window sill height on the ground floor facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch ground floor window sill height requirement to allow a 36 inch window sill height on the ground floor facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch ground floor window sill height requirement to allow a 36 inch window sill height on the ground floor facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Jackson St. for Lot 10, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00200**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
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not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.

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goals under the proposed variance, given the large number of windows and the overall design of the project.

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13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Jackson St. for Lot 11, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00201**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.
 - f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was

not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.

- g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
 10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
 11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy

goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 60% transparent window requirement on the ground floor façade facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St. for Lot 10, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00202**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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Zoning Hearing Examiner

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

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St. for Lot 11, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00203**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St. for Lot 12, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00204**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St. for Lot 13, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00205**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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Zoning Hearing Examiner

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ZHE File
Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St. for Lot 14, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00206**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St. for Lot 15, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00207**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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
Consensus Planning, cp@consensusplanning.com



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

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St. for Lot 16, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00208**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 20% to the 40% mixed-use development transparent window requirement on upper facades facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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ZHE File
Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St. for Lot 10, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00209**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St. for Lot 11, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00210**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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
Consensus Planning, cp@consensusplanning.com



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

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St. for Lot 12, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00211**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St. for Lot 13, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00212**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St. for Lot 14, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00213**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St. for Lot 15, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00214**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St.
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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
 - d. Without the requested variances, this project would not be feasible.
 - e. The 60% glazing requirement for the ground floors is designed for a fully commercial storefront and creates practical difficulties for this project, which includes only a small proportion of commercial uses and is primarily a multi-family residential use. The ground floor has been configured to maximize the number of windows facing Central Avenue through the placement of the commercial space, leasing office, and amenity areas. However, the residential units along Jackson Street require fewer windows for privacy and security concerns, as well as structural design reasons. Changing the glazing and structural system has an enormous cost that creates a substantial and unjustified limitation on the economic return of this affordable housing project and would be in excess of the public funding provided for this project by the City of Albuquerque and the New Mexico Mortgage Finance Authority.

- f. The upper floor requirement is based on the project being a mixed-use development due to the inclusion of the commercial space on the ground floor. If this space was not included, the project would meet the upper façade glazing requirement of 20% for a strictly multi-family residential development.
 - g. Besides privacy and security concerns arising from additional windows, changing the glazing to meet the mixed-use requirements also require changes to the structural design of the building, which results in the project becoming financially unfeasible as described above.
 - h. The sill height requirements similarly create issues for the ground floor residential units along Jackson Street and the upper floor units, which require a higher sill height to meet the building code for safety concerns. Adding lower windows require additional safety features, which compounds the hardship by adding additional costs to this affordable housing project.
9. 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). Rather, the variances will further the public safety, health, and welfare by leading to the redevelopment of a currently vacant and blighted property with a new affordable housing project that meets a critical housing need in the community. The project will provide 92 new dwelling units, 85% of which are available for those individuals and families making at or below 60% AMI. The building and site design was discussed at the facilitated meeting on April 21st and the response from the participants was positive.
10. 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). The subject site is in a highly developed area of Albuquerque with access to streets, water and sewer infrastructure, and public transit service, including the Albuquerque Rapid Transit Premium Transit service. The requested variances to building design standards only involve the aesthetics of the development and will not cause any material adverse impacts on neighboring properties or the infrastructure that is being used by this proposed development.
11. 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). The purpose of the MX-M Zone District as stated in the IDO is to “provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Center and Corridors.” The Applicants are proposing a 4-story building within a Main Street Corridor and Premium Transit Area that will meet the purpose of the MX-M Zone District by providing affordable housing and a walkable streetscape that is safe and aesthetically interesting for pedestrians through the provision of new storefronts, residential entrances along the sidewalk, planters and other landscaping, and a visually attractive building with a variety of wall plane projections and recesses. The project meets the requirements of the IDO to place the building along the Central Avenue (front) property line and along the side street as well. No vehicular access is provided to either of these streets. The parking will be accessed at the rear from Silver Avenue. Furthermore:
 - a. Regarding glazing requirements – By providing 40% and 20% glazing on the ground floor and upper facades, respectively, the Applicants are striving to meet the general intent of the IDO to provide appropriate glazing for a residential development and are only limited by the hardship created by the specific CPO-8 requirements as they apply to this site. Agent testified that the policy behind the glazing requirements is to

activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

- b. Regarding sill height requirements – The purpose of the sill height requirement is to allow for visual connection and interaction into commercial and mixed-use spaces. While the proposed project includes a small amount of commercial space, it is primarily a multifamily residential development and additional sill height is necessary to provide adequate safety and security for the residents. The project meets the sill height requirement along Central Avenue where the commercial spaces are located on the ground floor, which meets the intent of the regulation, but the variance is necessary for the upper floor residential units and along Jackson Street where there are residential units located within the first 150 feet away from Central Avenue. The commercial and amenity spaces in this area along Jackson Street meet the requirement but they do not extend far enough down Jackson Street to avoid requiring a variance. The project architect testified that the IDO requirement of a 30” sill height triggers building code requirements of guardrails, which would render the project unworkable and financially impossible. The proposed 36” sill height achieves the intent and purpose of the IDO, applicable zone district, and use specific standards with minimal variance to these applicable standards.
12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Greater Albuquerque Housing Partnership – Felipe Rael (Agent, Consensus Planning, Jacqueline Fishman) requests a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St. for Lot 16, Block 34, Valley View Addn, located at 5000 Central AVE SE, zoned MX-M [Section 14-16-3-4(l)(5)(b)]

Special Exception No:..... **VA-2021-00215**
Project No: **Project#2021-005535**
Hearing Date: 07-20-21
Closing of Public Record: 07-20-21
Date of Decision: 08-04-21

On the 20th day of July, 2021, Consensus Planning, agent for property owner Greater Albuquerque Housing Partnership – Felipe Rael (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St. (“Application”) upon the real property located at 5000 Central AVE SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St.
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:
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 - (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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. 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).
5. Agent for Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. 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). In particular, Application submitted evidence that
 - a. The subject property consists of 22 individual platted properties that are too small to be developed to current standards individually and will be combined into a single property for the proposed development.
 - b. The project site is bounded on three sides by public streets; Central Avenue to the north, Jackson Street to the west, and Silver Avenue to the south.
 - c. The requested variances are to the building design standards for street-facing facades that are defined by the IDO as being within 30 feet of a property line abutting a street. To meet other IDO standards, the building is required to be placed near the property lines along Central Avenue and Jackson Street and cover over 50% of the lot width, which is over 230 feet long along the Central Avenue frontage. Adding the additional requirements for a significant amount of extra glazing that is not otherwise required if the building was located elsewhere on the property or of a different configuration where less building frontage was facing the surrounding streets creates an extraordinary hardship and practical difficulties for construction of this affordable housing project. The inclusion of a small, 2,500 square foot commercial space makes this building mixed-use, which requires a significantly higher percentage of glazing on the upper floors.
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activate the pedestrian realm along streetscapes by creating visual interest and transparent structures along sidewalks. The proposed project achieves these policy goals under the proposed variance, given the large number of windows and the overall design of the project.

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12. 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). As discussed more fully above, Agent testified and Applicant submitted evidence that any lesser variance request would make the proposed project unfeasible.
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 inches to the 30 inch window sill height requirement to allow a 36 inch window sill height on upper facades facing Jackson St.

APPEAL:

If you wish to appeal this decision, you must do so by August 19, 2021 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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