



PLANNING AND DEVELOPMENT SERVICES

Board of Adjustment Report

PUBLIC HEARING

PZ-21-00117-06

DATE: February 4, 2022

MEETING DATE: March 23, 2022

REPORT BY: Tiffany Antol, AICP

REQUEST:

A request for a Zoning Code Variance from the minimum screening requirements of Section 10-50.50.050.A and the minimum landscape requirements of Division 10-50.60. The applicant proposes to develop a ground-based green waste recycling operation generating mulch and compost without screen walls or fences and without landscaping. The subject property is located at 2661 N El Paso Flagstaff Road and is zoned Highway Commercial (HC) but is proposed to be rezoned to Heavy Industrial (HI).

STAFF RECOMMENDATION:

Staff recommends that the Board of Adjustment finds that the criteria required for granting of a variance have been met, and approve the variance application subject to the following conditions:

1. As long as the proposed use operates under a Special Land Use Permit under the ownership of the Arizona State Land Department, the site will not be required to provide screening or landscaping as required by the Zoning Code.

OWNER

Arizona State Land Department

APPLICANT CONTACT

Restoration Soils, c/o David Hayward, Manager

NEIGHBORHOOD DEVELOPMENT:

North: Cemex facility, zoned Heavy Industrial Open (HI-O)

South: Vacant Land owned by Arizona State Land Department, zoned Highway Commercial (HC), East Route 66

East: Vacant land and the Wildcat Wastewater Treatment Plant, zoned Public Facility (PF)

West: Vacant land owned by Arizona State Land Department, zoned Highway Commercial (HC)

INTRODUCTION AND DISCUSSION:

The applicant is requesting a variance to remove the requirement for screening and landscaping. The property is owned by the Arizona State Land Department and the applicant has obtained a Special Land Use Permit (SLUP) to utilize the property as a ground-based green waste recycling operation generating mulch and compost. The SLUP prohibits permanent improvements on site and has been issued for a

term of two years with the possibility to extend. Proposed improvements to the site will be limited to grading, fire safety, and stormwater management.

The property subject to the Special Use Permit is limited to a total of 8.95 acres of a larger parcel which is currently zoned Highway Commercial (HC). The applicant is proposing to rezone the 8.95 acres to Heavy Industrial (HI) which allows for composting facilities. Composting Facility is defined by the Zoning Code as a facility in which controlled biological decomposition of organic solid waste, excluding restaurant grease and septage, derived primarily from off-site locations under in-vessel anaerobic or aerobic conditions, occurs for commercial purposes.

The subject property is in a remote area surrounded by other similar uses without the benefit of screening or landscaping. El Paso Flagstaff Road does provide direct access to the Picture Canyon Trailhead which is heavily used by the public.

ZONING CODE REQUIREMENTS:

Section 10-50.50.050 of the Zoning Code requires all outdoor storage areas for materials, mechanical equipment, or vehicles, and all loading/unloading areas or service bays to be screened from street view by a screen wall constructed to a minimum height of six feet and designed in compliance with the standards of the Zoning Code.

Division 10-50.60 of the Zoning Code requires all new developments (except single-family residential uses) to provide landscaping in accordance with the division. Section 10-50.60.040.B.1.b requires properties within the Industrial Zones to provide a minimum landscape buffer of at least five feet when a six-foot fence or wall is required or ten feet without a screen wall. No peripheral buffering or parking lot landscaping is required for this development.

VARIANCE CRITERIA AND ANALYSIS:

Pursuant to A.R.S. Section §9-462.06, the Board of Adjustment is authorized to consider and approve variances from the otherwise applicable provisions of the Zoning Code subject to specific standards or findings. Division 10-20.70 of the Zoning Code establishes the process for applying and the requirements to review and approve a variance application by the Board of Adjustment. The information to be considered by the Board in the approval or denial of a variance application is limited to four (4) criteria specified below. It should be noted that the Board of Adjustment may only consider and apply arguments pertaining to the findings.

A variance shall only be granted if the applicant demonstrates **all** of the following:

- 1. That, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of these regulations will deprive such property of privileges enjoyed by other property of the same classification in the same zone;**

Applicant Statement:

The special circumstances are that the parcel in question shall remain under the ownership of the Arizona State Land Department/Trust. Application of the requirement for the landscaping and screening necessarily requires that the applicant provide facilities for the benefit of the city/public that they do not have the ability to retain. Any other property not subject to these special circumstances enjoys the privilege of retaining their improvements to their property.

Staff Analysis:

There are only three development sites in the city currently zoned Heavy Industrial. One has an unscreened temporary use adjacent to a residential area, the second has an unscreened industrial use

adjacent to the subject site and the other does not have industrial uses nor is it likely to in the future (currently used as a police station, detention facility, and park). The subject site is located within the vicinity of other similar uses, one within the Heavy Industrial Zone, that do not provide screening or landscaping. The applicant is requesting to develop their use subject to the same privileges enjoyed by other properties in the immediate vicinity.

The subject site has a rolling terrain and is a large enough site that a six-foot screen fence or landscaping along the property frontage is unlikely to screen the proposed use which will consist of material stockpiles.

- 2. That a grant of a variance will be subject to conditions to ensure that the adjustment authorized is the minimum variation needed and that it will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located;**

Applicant Statement:

The applicant is not aware of any other properties zoned Heavy Industrial, subject to these requirements, that are also Arizona State Land Department land, and that would therefore be subject to these same limitations. The other properties in the vicinity, including the CEMEX storage facility and the City of Flagstaff wastewater treatment plan, are not compliant with *10-50.50.050 Screen Walls* or Division 10-50.60: Landscaping Standards.

Staff Analysis:

There are very few parcels within the City of Flagstaff that are currently zoned Heavy Industrial. This zoning category is intended to provide locations for the most intensive industrial uses possible within the city. As noted above, the property is located within the vicinity of other similar uses that currently do not provide screening or landscaping and are subject to the same conditions as the subject site.

- 3. The special circumstances applicable to the property are not self-imposed by any person having an interest in the property; and**

Applicant Statement:

The requirements of the Arizona State Land Department regarding Special Land Use Permits are determined by statutes not the department or the applicant.

Staff Analysis:

The site has unique topography which limits the ability for screen fencing or property frontage landscape to adequately screen the proposed use which will include large material stockpiles. The placement of the required screening and landscaping does little to preserve the aesthetic quality of an area that already serves several unscreened industrial uses.

- 4. The variance will not allow the establishment of a use which: (1) is not otherwise permitted in the zone, (2) would result in the extension of a nonconforming use or structure, or (3) would change the terms of the zone of any or all of the subject property.**

Applicant Statement:

The use as described in the project request is allowed in the zone, neither another use nor any use not permitted in the HI zone will be established, created, or facilitated by this variance. There is no existing nonconforming use or structure to be extended. The requested variance is not specific to the use or zone of the subject property, it relates to requirements that exist across all zones, so therefore does not change the terms of the HI zone of the property.

Staff Analysis:

The approval of a variance will not establish a use on the property that: 1) is not allowed in the Heavy Industrial (HI) zone; 2) would result in the extension of a nonconforming use or structure; or, 3) changes the terms of the Heavy Industrial (HI) zone of any or all the subject property.

NOTICE OF PUBLIC HEARING

The applicant has provided notice by mail of the Board of Adjustment hearing for this application to the property owners within 300 feet of the subject property and staff has placed a sign on the property. The notice and sign contain the date, time, and place of the hearing.

As of the date of this report, staff has not received any public comments regarding the proposed application.

ATTACHMENTS:

1. Application
2. Narrative
3. Vicinity and Context Aerial Map