

**CITY OF PULLMAN**  
**LAND USE HEARING EXAMINER**

<b>IN THE MATTER OF</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW, AND</b>
<b>VAR-23-02</b>	)	<b>DECISION</b>
<b>Mader RV Park Landscape Buffer</b>	)	
	)	

THIS MATTER came before the City of Pullman Hearing Examiner on April 15, 2024. The Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, and Decision:

**I. FINDINGS OF FACT**

1. This variance application involves a request to allow the reduction of a landscape buffer between a residential zone and the subject property, which is situated in a commercial zone, from the required 50 feet to no more than 25 feet on property located south of NW Albion Drive and east of NW Aspen Drive. The opinions expressed in the “Staff Analysis” section of this report represent the professional judgment of Planning Staff.
2. Applicant: Scott Sumner, on behalf of Steve Madder.
3. Property Location: South of NW Albion Drive and east of NW Aspen Drive on Military Hill (See Attachment A, Location and Zoning Map).
4. Property Size: 4.69 acres.
5. Applicant’s Request: Allow the reduction of a landscape buffer for the proposed Recreational Vehicle (RV) park between a residential zone and the subject property, which is situated in a commercial zone, from the required 50 feet to no more than 25 feet (See Exhibit B, Application No. VAR-23-02; Exhibit C, Applicant’s Proposed Findings of Fact; and Exhibit D, Applicant’s Project Site Schematic). Typically, a 50-foot Type I landscape buffer is required between residential and commercial uses. The applicant feels that, with a 50-foot access easement adjacent to the proposed location for the required buffer, this would effectively create a 100-foot buffer between the zoning districts, and would be excessive in this situation.
6. Applicable Zoning District Descriptions: **C3 General Commercial district**: provides for general commercial uses that are typically dependent upon convenient vehicular access.
7. Property Features: **Current Land Use**: vacant land;  
**Utilities**: city utilities exist in the vicinity of the subject property;  
**Topography**: rolling hills.
8. Adjacent Zoning and Land Use: **North**: C3 district and Whitman County; agriculture;  
**East**: C3 district; vacant land;  
**South**: R3 Medium Density Multi-Family Residential districts;  
vacant land and the Aspen Heights apartment complex;

West: C3 and I1 districts; vacant land.

9. Access: NW Albion Drive, designated as a major collector on Washington State Department of Transportation's Functional Classification Map.
10. Environmental Review: Environmental Checklist submitted 7/31/23 (See Exhibit E, Environmental Checklist); Mitigated Determination of Nonsignificance issued 1/30/24 (See Exhibit F).
11. Hearing Notification: Notice of Public Hearing mailed March 26, 2024; Notice of Public Hearing published April 3, 2024; Notice of Public Hearing posted March 27, 2024.
12. Comments of Affected Departments/Agencies: Notification of the applicant's request was distributed to affected governmental entities. These entities, and a summary of their responses to the notification, are presented below.
  - 12.1. Public Services Department: No response.
  - 12.2. Pullman Fire Department: No response.
  - 12.3. Pullman Police Department: No response.
  - 12.4. Pullman Public Works Department: No comments.
  - 12.5. Pullman Protective Inspections Division: no comments.
  - 12.6. Pullman School District: No response.
13. Review Criteria: In accordance with Pullman City Code (PCC) Section 17.130.020, a variance may be approved when all of the following findings can be made:
  - 13.1. Special Circumstances. That because of special circumstances relating to the property, the strict enforcement of the Zoning Code would deprive the owner of development rights and privileges permitted to other properties in the vicinity with the same zoning.
    - 13.1.1. Special circumstances include the size, shape, topography, location of the property and surrounding property, and environmental factors such as vegetation, streams, ponds, and wildlife habitats.
    - 13.1.2. Special circumstances should not be predicated upon any factor personal to the owner/applicant such as age or disability, extra expense which may be necessary to comply with the Zoning Code, the ability to secure a scenic view, the ability to make more profitable use of the property, or any factor resulting from the action of the owner/applicant.
  - 13.2. Special Privilege. That approval of the variance is not a grant of a special privilege to the property in comparison with the limitations upon other properties in the vicinity with the same zoning.
  - 13.3. Comprehensive Plan. That approval of the variance is consistent with the Comprehensive Plan.
  - 13.4. Zoning Code. That approval of the variance is consistent with the purposes of the Zoning Code and the zone district in which the property is located.
  - 13.5. Not Detrimental. That the variance as approved or conditionally approved will not be significantly detrimental to the public health, safety, and welfare, or injurious to the property or improvements in the vicinity and same zone.

- 13.6. Minimum Variance. That the approved variance is the minimum necessary to allow the owner the rights enjoyed by other properties in the vicinity with the same zoning.
14. The Applicant has failed to prove the existence of any special circumstances that relate to the property that would deprive the property owner of development rights and privileges permitted to other properties in the vicinity.
15. The Applicant is requesting a twenty-five-foot (25ft) reduction of a zoning buffer. The Applicant cites as a reason the existence of an access easement that also provides somewhat of a buffer. However, the Hearing Examiner finds that easements may be terminated and therefore this reason may not be applicable in the future. Additionally, there is absolutely nothing about this particular property that prevents it from being developed unless this variance is granted. This variance is requested because the Applicant would like less of a required landscape buffer. However, there is nothing about the Applicant's property including its size, shape, topography, and surrounding property that render it unable to be developed without this variance.
16. The adjacent easement is not a special circumstance as contemplated by the Pullman City Code.
17. Because there is no special circumstance, the granting of this variance would result in a special privilege being granted to this particular applicant.
18. The request may be consistent with the Pullman Comprehensive Plan, but it is not consistent with the purposes of the Pullman Zoning Code and the Zoning District in which this property is located.
19. Additionally, the Hearing Examiner cannot make a finding that the granting of this variance would not be detrimental as contemplated by the Pullman City Code. The Hearing Examiner understands that the City of Pullman, through its City Council, has established regulations which include landscape buffers. The Hearing Examiner finds that the requirement for landscape buffers is for the public health, safety and welfare of the citizens of Pullman, as determined by the Pullman City Council.
20. Finally, the Applicant has not demonstrated what, if any, would be the minimum variance necessary to achieve the Applicant's purposes. The Applicant has simply stated that they would like the buffer reduced from fifty (50) feet to twenty-five (25) feet.
21. The Hearing Examiner Finds that the Applicant has failed to submit proof that the criteria set forth in Pullman City Code 17.130.020 have been satisfied in each and every respect.
22. An open record public hearing after due legal notice was held on April 15, 2024. Admitted into the record at this hearing were the following exhibits:
- 22.1. Ex. A. Location and Zoning Map,
  - 22.2. Ex. B. Variance Application No. VAR-23-02,
  - 22.3. Ex. C. Applicant's Proposed Findings of Fact,
  - 22.4. Ex. D. Applicant's Site Schematic,
  - 22.5. Ex. E. Environmental Checklist,
  - 22.6. Ex. F. Mitigated Determination of Nonsignificance,
  - 22.7. Ex. G. Staff Findings of Fact and Conclusions,
  - 22.8. Ex. H. Staff Report.
23. Appearing and testifying on behalf of the Applicant was Scott Sumner. Mr. Sumner testified that he was an agent of the Applicant and property owner. He further testified that he agreed with all the

representations set forth within the Staff Report. He stated that there would be a future road in the designated easement area but indicated that even if there wasn't a road, the Applicant believes that there is sufficient buffer for landscaping between the applicant's property and the adjacent properties.

24. Also testifying on behalf of the Applicant was Steve Mader. Mr. Mader indicated that they hoped to put in a RV park on the subject property. He testified about the height difference between the applicant's property and adjacent residential property. He thought that this request was reasonable and that there had been no objection from any member of the public.
25. No member of the public testified at the hearing.
26. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

## II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. The Applicant has failed to satisfy its burden of proof to show that this variance request meets all the criteria set forth within Pullman City Code 17.130.020.
3. The Variance Request is inconsistent with the Pullman City Code
4. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

## III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Application VAR23-02 is hereby **DENIED**.

Dated this 19 day of April, 2024.

CITY OF PULLMAN HEARING EXAMINER



ANDREW L. KOTTKAMP

This decision is subject to appeal pursuant to the Pullman City Code.