
ZBA-23-39

Hearing Date: 10/24/2023

TO: City of Pueblo Zoning Board of Appeals
FROM: Mikaylin Hackley, Planner
THROUGH: Scott Hobson, Land Use Administrative Official
LOCATION: **3107 Bonaventure Ct.**
APPLICANT: **Rob Whitson**
PROPERTY OWNER: Kaiser Foundation Healthplan of Colorado
YEAR BUILT: N/A
LEGAL DESCRIPTION: LOT 2 PARK WEST BUSINESS CAMPUS FILING NO 7 FORMERLY #05-220-42-011
ZONE DISTRICT: Highway and Arterial Business (B-3) Zone District
PARCEL ID: **522042014**
LOT SIZE: **168,225 sq. ft.**

REQUEST:	A variance to omit the required six-foot opaque fence within the landscape buffer between the residential use to the north and the proposed outpatient medical office building in a Highway and Arterial Business (B-3) Zone District
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DESCRIPTION OF REQUEST

The applicant, on behalf of Kaiser Foundation Health plan of Colorado, is seeking a variance to exclude a six-foot opaque screening fence along their northern property line, which abuts the Bonaventure Senior Living multifamily residential complex, located in an R-5 residential zone district. Chapter 17-4-7 (3) (d) (1&2) of the Municipal Code states that landscape buffers are required between residential and commercial uses and shall include "at least one tree for every twenty feet of length of the property line and an approved opaque fence or structure at least six feet in height." The applicant intends to plant the required trees in the buffer zone and is seeking the variance to omit only the fence.

This variance was requested on August 31st of this year concurrent with a Commercial Site Plan Review, C-23-24. The commercial review is still in progress, and final approval of the landscaping plans without the six-foot fence or structure is contingent on the ruling of this case.

ANALYSIS

The purpose of the landscaping buffer between commercial and residential use is to promote the general cohesion, character, and value of any given neighborhood. The buffer provides a visual and physical barrier to ensure that the commercial use of a property does not negatively impact the residents nearby. The applicant attests that the trees along the northern property line will provide an adequate visual barrier, and that service yards and equipment, which are located approximately 20-feet from the property line, will be screened by masonry walls outside of the required 10-foot buffer. All parking and traffic circulation for the medical office will be located south of the building; therefore, no negative externalities are anticipated to stem from vehicles coming and going from the site. Finally, the neighboring assisted living facility with apartment-style dwelling units is located approximately 65-feet from the property line, so no residential yards will be affected.

From their request justification, the applicant's main concern seems to be regarding sight lines and reducing visibility to their property. As seen in the site photos, the building site sits more than 160-feet from the high-211 E D Street | Pueblo, Colorado 81003 | Tel: (719) 553-2259 | Fax: (719) 553-2611 | www.pueblo.us

trafficked Pueblo Blvd. The applicant attests that while Kaiser is not an emergency medical facility, patients often arrive under duress, so high visibility is important. However, the fence would only be required on the north property line adjacent to the residential zone, which runs perpendicular to Pueblo Blvd. Based on the view of the property from Pueblo Blvd, the placement of a fence is unlikely to meaningfully obscure visibility. While staff agrees that omitting the opaque fence will most likely not have a negative impact to the neighboring property, omitting the opaque screening fence would do little to improve the visibility that the applicant is concerned with.

ZONING DISTRICT AND LAND USE

Zone:		Developed with:
North	Multiple Residential and Office (R-5) District	Bonaventure Senior Living Facility
East	Highway and Arterial Business (B-3) District	Vacant Lot
South	Multiple Residential and Office (R-5) District	Vacant Lot (Pueblo Springs Apartments in Development)
West	Planned Unit Development (PUD) District	Vacant Lot

PUBLIC NOTICE

The property was publicly noticed in accordance with Title 17 Section 17-5-33(2) of the City of Pueblo Municipal Code. Specifically, the hearing was published in the Pueblo Chieftain, surrounding property owners within 100 feet of the property were notified by mail, and a sign was placed on the site (See Attachment E). These notices occurred at least 10 days prior to the hearing.

OTHER AGENCIES

Pueblo City/County Health	No comment
City Transportation	No comment
Pueblo Regional Building Department	No comment
Fire Department	No comment
City Public Works Department	No comment
City Stormwater Department	No comment
City Code Enforcement	No comment
Pueblo Board of Water Works	No comment
City Wastewater Department	No comment
City Parks and Recreation Department	No comment

CONDITIONS REQUIRED FOR VARIANCE

1. The variance will not: reduce the required light and air to adjacent properties; constitute a nuisance to the properties within one hundred (100) feet of the property for which the variance is requested; or substantially reduce the monetary value of properties within one hundred (100) feet of the property for which the variance is requested.

Comments: Affirmative finding. The applicant still intends to include the required plants and trees within the northern landscape buffer, so there will be visual separation between the commercial and residential uses for aesthetics. Also, the neighboring residential property is an assisted living facility with apartment-style dwelling units, so no residential yards or large lots would be affected.

2. The variance will not affect general planning of the city with respect to land use and the location of streets and highways will not be jeopardized.

Comments: Affirmative finding. Omitting the fence would not impact current or future land use or streets.

3. Strict adherence to this Title would not secure appropriate development of the property for which the variance is requested.

Comments: Neutral finding. While the applicant suggests some potential challenges that could arise from the opaque buffer fence, the property could still be properly developed as a medical office with the fence requirement still enforced.

4. The property for which the variance is requested suffers a unique or singular disadvantage, not common to other property in the district, through the operation of this Title.

Comments: Negative finding. The applicant suggests that the opaque fence, in addition to the existing topography would decrease visibility from the high-trafficked Pueblo Blvd. However, the 16-foot slope from Pueblo Blvd. to the development site appears to obscure the building site from the street regardless of site fencing.

PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION

If the Board chooses to approve this variance, staff recommends only Standard Permit Conditions 1 through 13.

ATTACHMENTS

- A. Standard Permit Conditions
- B. Aerial Map
- C. Zoning Map
- D. Comprehensive Plan Map
- E. Public Notice Photo
- F. Site Photographs
- G. Application
- H. Supporting Documents

Exhibit A. Standard Permit Conditions

Standard Permit Conditions Date of Issuance of Permit: 10/24/2023	
1.	Time Limits Zoning permit shall become invalid unless work or action authorized by permit is fully executed by 10/24/2024
2.	Required Revisions Any revisions or additions to plans required as a result of approval must be submitted and stamped “approved” prior to the sign-off of the building permit routing slip or business license.
3.	Changes The project shall be completed as shown on the plans, which have been stamped “approved” and dated by the Department of Planning and Community Development. The project shall not deviate from the approved plans without prior written approval from the Department of Planning and Community Development.
4.	Property Inspection By acceptance of this permit, Permit holder authorizes City Officials and/or their authorized representatives, access to the subject property for purpose of observing work in progress, inspecting and/or measuring the property or improvements as long as the use authorized by this permit remains in effect.
5.	Certificate of Occupancy A certificate of occupancy must be issued by Regional Building <u>PRIOR</u> to use and/or occupancy of the subject premises. Prior to issuance, the Department of Planning and Community Development must certify that work has been completed in accordance with approved plans and that applicable conditions have been met. The Permit holder may be required to provide a Letter of Credit to obtain a Certificate of Occupancy prior to completion of all required improvements.
6.	Completion and Maintenance of Improvements and Landscaping Permit holder or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Permit holder agrees to maintain all improvements in a satisfactory condition. Any landscaping installed according to the approved plan which becomes diseased, or dies shall be replaced by similar species and size no later than the first available planting season.
7.	Building Permit; Other Permits Permit holder is solely responsible for obtaining <u>BUILDING PERMIT</u> and all other applicable local, state, and federal permits.
8.	Off-Site Drainage Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties.
9.	Appeals of a decision of the Land Use Administrator can occur up to thirty (30) days following such decision. Appeals of Zoning Board of Appeals decisions can occur up to thirty (30) days following final decision. Any work done in connection with this permit prior to the expiration of all applicable appeal periods is done <u>SOLELY</u> at the risk of the Permit holder.
10.	Errors Permit holder is solely responsible for the accuracy of all information contained in the Zoning Permit form and in accompanying documentation. Any errors contained therein may invalidate the Zoning Permit and may result in issuance of a code violation citation and prosecution.
11.	Transfer of Ownership In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become Permit holder and subject to compliance with the terms and conditions of this permit.
12.	Violations/Penalties A violation of any of the conditions of this permit or of any provision of the Pueblo Municipal Code may result in a penalty of up to three hundred dollars (\$300) per day.
13.	Incorporation and Reference of All Plans Presented to the Zoning Board of Appeals. This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant at Zoning Board of Appeals meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions or regulations.

Exhibit B. Aerial Map



Exhibit C. Zoning Map

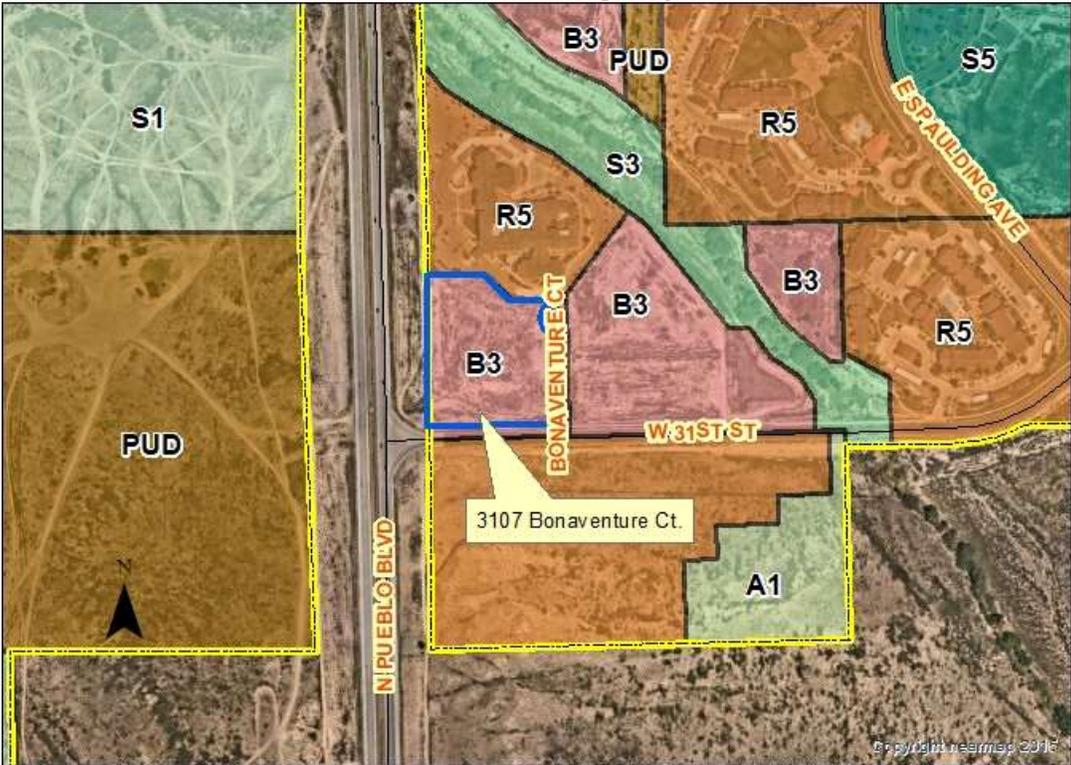


Exhibit D. Comprehensive Plan Map

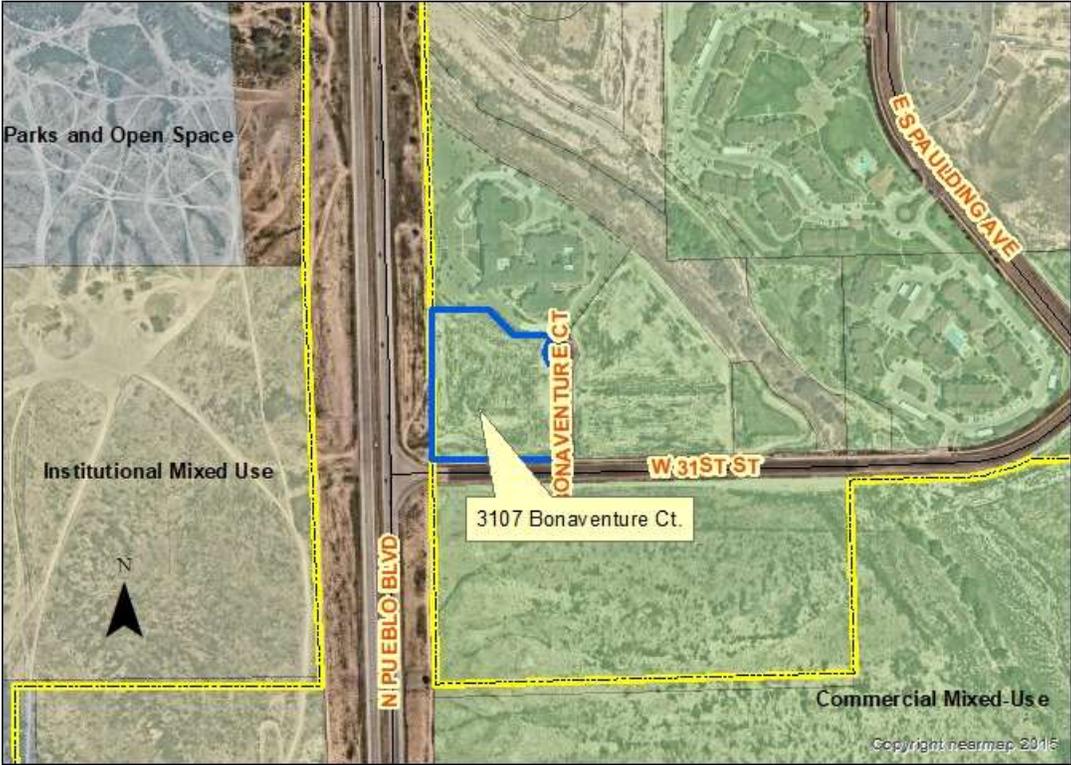


Exhibit E. Public Notice



Exhibit F. Site Photos



Image 1: North Property Line Looking East



Image 2: North Property Line Looking West



Image 3: North Property Line Looking East from Cul de Sac



Image 4: Looking Northwest from Middle of Kaiser Property at Bonaventure Court



From Pueblo Blvd looking at west side of site

Exhibit G. Application



City of Pueblo PLACE

9/5/2023

23-173

Zoning Board of Appeals -
Special Use Permit &
Variances

Status: Active

Submitted On: 8/31/2023

Primary Location

3107 BONAVENTURE CT
PUEBLO, CO 81008

Owner

KAISER FOUNDATION
HEALTHPLAN OF COL
10350 E DAKOTA AVE
DENVER , CO 80247-1314

Applicant

Amber HENSON
 615-770-8116
amber.henson@greshamsmith.com
 222 Second Ave. S, Suite
1400
Nashville, TN 37201

Internal

ZBA Case Number

ZBA-23-39

Planner Assigned

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Address Validation by GIS?

ZBA



KAISER PERMANENTE



Gresham Smith

ARCHITECTURE, INTERIOR DESIGN, GRAPHIC DESIGN
MECHANICAL, ELECTRICAL AND PLUMBING ENGINEERING
STRUCTURAL ENGINEERING (PARKING GARAGE),
CIVIL ENGINEERING, LANDSCAPE ARCH

This document is the property of the Owner and is not to be used without their written permission.

NOT FOR CONSTRUCTION

ISSUE PROGRAM AGGREGATION AND VALIDATION

FACILITY KASIER PERMANENTE

PROJECT PUEBLO COLORADO

SHEET TITLE DETAILED LANDSCAPE PLAN

Fac No: Bldg No: Floor Lev: Section:
Scale: As Noted DCA No: Permit No: Sheet

Issue Date: Gresham Smith Project No: 45095.02

L201

PLANT SCHEDULE

TREES	BOTANICAL NAME	COMMON NAME	ROOT	MIN SIZE	QTY	REMARKS	
ACE GRA	Acer grandidentatum	Bigtooth Maple	B & B	1.5" Cal	6	6' Clear Trunk, Strong Central Leader, Full and Matched, Free of Disease and Insects	
AME ARB	Amelanchier arborea	Downy Serviceberry	B & B	1.5" Cal	12	Tree form, multi-trunk, 3-5 canes max, one cane shall be minimum 1.5" caliper	
JUN SCO	Gymnocladus dioica 'Espresso'	Kentucky Coffeetree	B & B	1.5" Cal	10	6' Clear Trunk, Strong Central Leader, Full and Matched, Free of Disease and Insects	
JUN SCO	Juniperus scopulorum	Rocky Mountain Juniper	B & B	5' ht	16	Full to ground, strong central leader, free of disease and insects	
PIN FLE	Pinus flexilis 'Vanderwolf's Pyramid'	Vanderwolf's Pyramid Limber Pine	B & B	1.5" Cal	5	Full to ground, Strong Central Leader, Full and Matched, Free of Disease and Insects	
PLA ACE	Platanus x acerifolia	London Plane Tree	B & B	1.5" Cal	2	6' Clear Trunk, Strong Central Leader, Full and Matched, Free of Disease and Insects	
PSE DOU	Pseudotsuga menziesii	Douglas Fir	B & B	1.5" Cal	10	Full to ground, strong central leader, free of disease and insects	
QUE GAM	Quercus gambelii	Gambel Oak	B & B	1.5" Cal	9	Tree form, Single trunk, Strong Central Leader, Full and Matched, Free of Disease and Insects	
QUE MAC	Quercus macrocarpa	Burr Oak	B & B	1.5" Cal	3	6' Clear Trunk, Strong Central Leader, Full and Matched, Free of Disease and Insects	
TIL COR	Tilia cordata	Littleleaf Linden	B & B	1.5" Cal	3	6' Clear Trunk, Strong Central Leader, Full and Matched, Free of Disease and Insects	
ULM SAP	Ulmus x 'Sapporo Autumn Gold'	Sapporo Autumn Elm	B & B	1.5" Cal	11	6' Clear Trunk, Strong Central Leader, Full and Matched, Free of Disease and Insects	
SHRUBS	BOTANICAL NAME	COMMON NAME	ROOT	MIN SIZE	QTY	REMARKS	
FAL PAR	Fallugia paradoxa	Apache Plume	container	5 gal	84	Full container	
JUN TAB	Juniperus scopulorum 'Table Top Blue'	Table Top Blue Juniper	container	5 gal	76	Full container	
PIC NID	Picea abies 'Nidiformis'	Bird's Nest Norway Spruce	container	5 gal	24	Full container	
PIN PUM	Pinus mugo 'Pumilio'	Dwarf Mugo Pine	container	5 gal	30	Full container	
RHU TRI	Rhus trilobata	Skunkbush Sumac	container	5 gal	33	Full container	
SYM ALB	Symphoricarpos albus	Common White Snowberry	container	5 gal	74	Full container	
VIB LAN	Viburnum lantana 'Mohican'	Mohican Wayfaring Tree	container	5 gal	24	Full container	
GROUND COVERS	BOTANICAL NAME	COMMON NAME	ROOT	SIZE	SPACING	QTY	REMARKS
ASC TUB	Asclepias tuberosa	Butterfly Milkweed	4" pot	18" o.c.	35	18" o.c.	Triangulate Spacing
CAM QUA	Camassia quamash	Small Camas	4" pot	18" o.c.	42	18" o.c.	Triangulate Spacing
ERI HER	Eriogonum heracleoides	Parsnip Flower Buckwheat	4" pot	24" o.c.	88	24" o.c.	Triangulate Spacing
MUH PFM	Muhlenbergia x 'Pink Flamingo'	Pink Flamingo Muhly	#1	36" o.c.	90	36" o.c.	Triangulate spacing
SCH LIT	Schizachyium scoparium	Little Bluestem	#1	24" o.c.	509	24" o.c.	Triangulate Spacing

LANDSCAPE SITE DATA

ACREAGE:	3.86± AC
ZONING:	B-3
LANDSCAPE BUFFER:	420 LF
REQUIRED:	21 TREES (1 PER 20 LF)
PROVIDED:	21 TREES
PARKING LOT SCREENING:	470 LF
REQUIRED:	16 TREES (1 PER 30 LF)
PROVIDED:	157 SHRUBS (10 PER 30 LF)
LANDSCAPE SETBACK:	1,150 LF
REQUIRED:	38 TREES (1 PER 30 LF)
PROVIDED:	192 SHRUBS (5 PER 30 LF)
	38 TREES
	192 SHRUBS

LEGEND

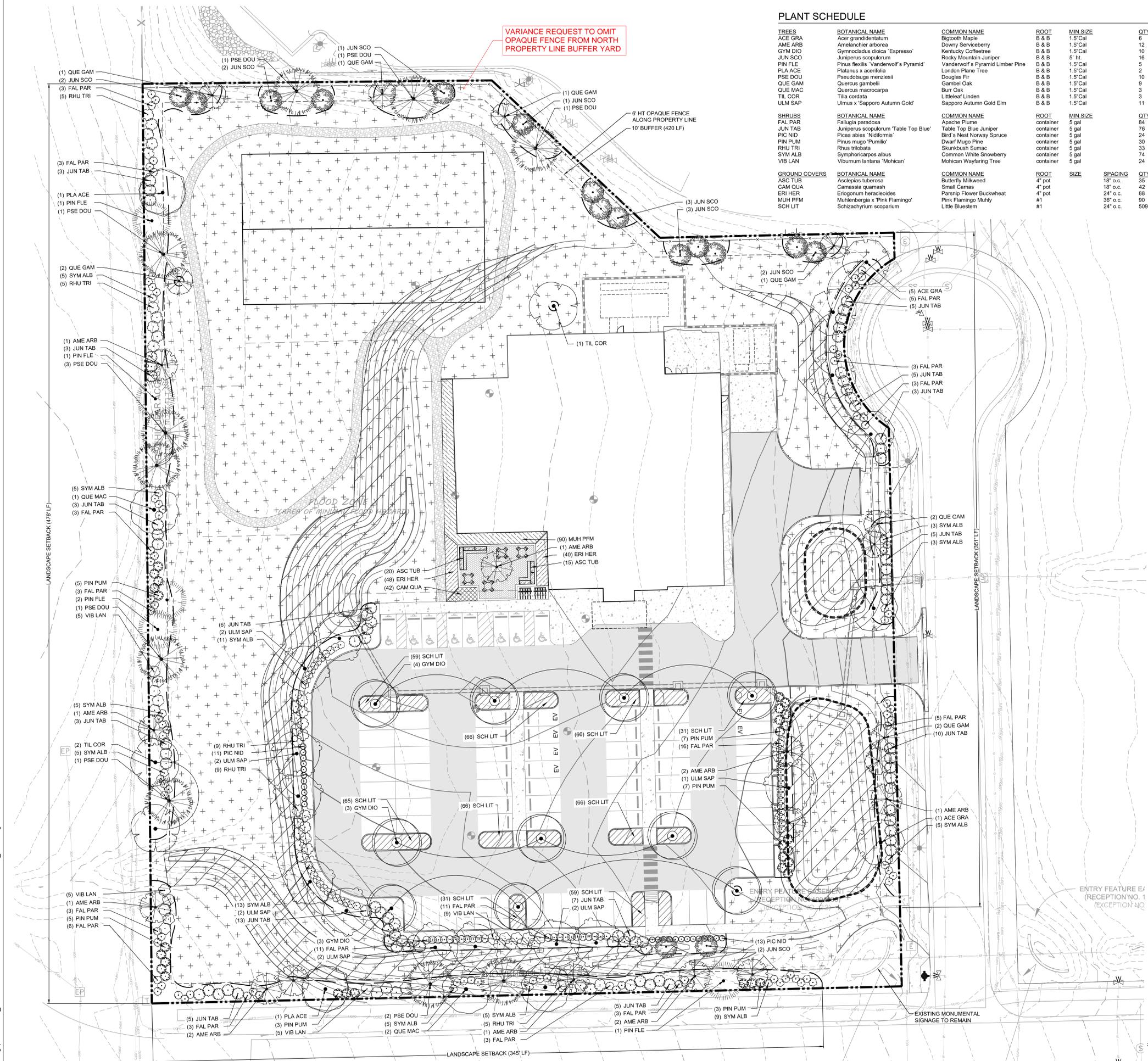
AREA TO BE STABILIZED WITH NORTH AMERICAN GREEN S-75 EROSION CONTROL FABRIC IN ADDITION TO SEEDING

BED EDGE

AREA TO BE SEEDDED WITH 'BOWIE' BUFFALO GRASS AT THE RATE OF 4LBS PER 1,000 SF. MULCH SEEDDED AREAS WITH 1.5 BALES OF STRAW PER 1,000 SF

LANDSCAPE NOTES

- WHEN APPLICABLE, IT IS THE CONTRACTOR'S RESPONSIBILITY TO PROTECT EXISTING TREES TO REMAIN. NO HEAVY EQUIPMENT SHOULD BE PERMITTED TO OPERATE OR BE STORED, NOR ANY MATERIALS TO BE HANDLED OR STORED, WITHIN THE SPACES OF TREES OUTSIDE THE LIMIT OF GRADING.
- THE QUANTITIES INDICATED ON THE PLANT LIST AND PLAN ARE PROVIDED FOR THE BENEFIT OF THE CONTRACTOR. THE CONTRACTOR SHALL BE RESPONSIBLE FOR HIS OWN QUANTITY CALCULATIONS AND THE LIABILITY WHICH PERTAINS TO THOSE QUANTITIES AND TO ANY RELATED CONTRACT DOCUMENTS AND/OR PRICE QUOTATIONS. QUESTIONS SHOULD BE DIRECTED TO THE LANDSCAPE ARCHITECT.
- ALL PLANT MATERIALS SHALL BE NURSERY GROWN, UNLESS OTHERWISE NOTED AND SHALL COMPLY WITH THE AMERICAN STANDARD FOR NURSERY STOCK: ANSI Z60.1; LATEST EDITION, FOR SIZE AND QUALITY.
- NO SUBSTITUTIONS AS TO TYPE, SIZE, OR SPACING OF PLANT MATERIALS SPECIFIED ON THIS PLAN MAY BE MADE WITHOUT THE APPROVAL OF THE LANDSCAPE ARCHITECT.
- THE CONTRACTOR IS TO VERIFY THE EXACT LOCATION OF ALL EXISTING UTILITIES AND TO PROTECT UTILITIES THAT ARE TO REMAIN. THE CONTRACTOR SHALL REPAIR ANY DAMAGE ACCORDING TO LOCAL STANDARDS AT THE CONTRACTOR'S EXPENSE. COORDINATE ALL CONSTRUCTION WITH THE APPROPRIATE UTILITY COMPANY.
- ALL AREAS DISTURBED BY UTILITY TRENCHING, SITE AND BUILDING CONSTRUCTION SHALL BE STABILIZED PER THIS PLAN.
- SOIL USED FOR PLANTING SHALL CONSIST OF 5 PARTS TOPSOIL, 1 PART SAND AND 2 PARTS ORGANIC MATTER MIXED WITH 1 POUND OF FERTILIZER PER CUBIC YARD. A. SAND SHALL BE CLEAN MASONRY SAND. B. ORGANIC MATTER SHALL BE PEAT MOSS, OR WELL COMPOSTED PINE BARK, OR APPROVED EQUAL, AND SHALL BE FINELY GROUND AND FREE OF WEEDS. C. ALL FERTILIZER SHALL BE 10-10-10 WITH MINOR ELEMENTS. FERTILIZER SHALL HAVE 40-50% OF ITS TOTAL NITROGEN IN A WATER INSOLUBLE FORM.
- PRE-EMERGENT HERBICIDE SHALL BE APPLIED TO ALL PLANT BEDS AND SOO AREAS PRIOR TO INSTALLATION. (THE PLAN OR AN APPROVED EQUAL SHALL BE USED).
- ALL PLANT BEDS SHALL HAVE A MINIMUM OF 3" DEEP MULCH. MULCH SHALL BE SHREDDED CEDAR.
- IT IS THE LANDSCAPE CONTRACTOR'S RESPONSIBILITY TO CONFIRM MATERIAL QUANTITIES. IN THE EVENT OF A DISCREPANCY, THE QUANTITIES SHOWN ON THE PLAN SHALL TAKE PRECEDENCE OVER QUANTITIES SHOWN ON THE PLANT LIST. PRIOR TO FINAL PAYMENT, THE LANDSCAPE CONTRACTOR SHALL PROVIDE THE OWNER WITH COMPLETE WRITTEN INSTRUCTIONS ON PROPER CARE OF ALL SPECIFIED PLANT MATERIALS.
- THE LANDSCAPE INSTALLATION SHALL BE COORDINATED WITH THE IRRIGATION INSTALLATION WHEN APPLICABLE.
- THE LANDSCAPE CONTRACTOR SHALL MAINTAIN POSITIVE DRAINAGE AWAY FROM STRUCTURES AND TAKE SPECIAL CARE TO INSURE THAT BED PREPARATION DOES NOT INHIBIT DRAINAGE.
- ALL LAWN AREAS SHALL BE CULTIVATED TO A DEPTH OF 4" PRIOR TO SEEDING. PREPARED SEED BEDS SHALL BE FREE FROM STONES OVER 2" DIAMETER AND OTHER DELETERIOUS MATERIAL.
- THE LANDSCAPE CONTRACTOR SHALL RAKE SMOOTH ALL SEED AREAS PRIOR TO INSTALLATION.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR BACKFILLING BEHIND THE CURB SO GRADE IS LEVEL WITH TOP OF CURB.
- SEEDDED AREAS SHALL BE CONSIDERED ACCEPTABLE WHEN FULL COVERAGE OF THE PERMANENT TURFGRASS SPECIES IS ESTABLISHED. CUT AWAY ROOTS OR WIRES FROM BED PLANTS. PULL BACK BURLAP FROM TOP OF ROOT BALL. DO NOT ALLOW BURLAP TO BE EXPOSED AT SURFACE. TOTALLY REMOVE BURLAP IF IT IS SYNTHETIC.
- IF CONTAINER GROWN PLANTS SHOW SIGNS OF BEING ROOT BOUND, SCORE ROOTS VERTICALLY.
- ALL PLANT MATERIAL SHALL BE GUARANTEED FOR ONE YEAR FROM DATE OF FINAL ACCEPTANCE.
- ALL REPLACEMENTS SHALL BE OF THE SAME TYPE, SIZE, AND QUALITY AS SPECIFIED ON THE PLANT LIST, UNLESS APPROVED OTHERWISE IN WRITING BY THE LANDSCAPE ARCHITECT.
- ANY MATERIAL THAT IS DEEMED TO BE 25% DEAD OR MORE SHALL BE CONSIDERED DEAD, AND MUST BE REPLACED AT NO CHARGE. A TREE IS CONSIDERED DEAD WHEN THE MAIN LEADER HAS DIED BACK OR MORE THAN 25% OF THE CROWN IS DEAD. REPLACEMENTS SHALL BE MADE DURING THE NEXT PLANTING SEASON UNLESS THE LANDSCAPE CONTRACTOR AGREES TO AN EARLIER DATE.
- PLANTING DATES:
SPRING: APRIL 15 - JUNE 15
FALL: SEPTEMBER 1 - NOVEMBER 1
- THE LANDSCAPE CONTRACTOR WILL NOT BE RESPONSIBLE FOR PLANT MATERIAL THAT HAS BEEN DAMAGED BY WIND, HAIL, FIRE, RELOCATION, WILDLIFE, THEFT, OR OTHER ACTIVITIES BEYOND THE LANDSCAPE CONTRACTOR'S CONTROL.



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