CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Planning Department

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM **March 24, 2020**

TO: **Patrick Davis, President, City Council**

FROM: **Brennon Williams, Director, Planning Department** BW

SUBJECT: **AC-20-6, Project PR-2019-002811 SD-2019-00158 VA-2019-00288: Richard Chavez** appeals the decision of the Environmental Planning Commission (EPC) to deny an appeal for a variance for all or a portion of Lots 7-10, Block 44, Perea Addition, zoned R-1A, located at the northeast corner of 15th Street NW and Granite Ave. NW, containing approximately 0.32 acre(s). (J-13)

OVERVIEW

An application for a Preliminary/Final Plat and Sidewalk Variance was filed by the applicant on August 30, 2019. The Development Review Board (DRB) found that granting a variance to the sidewalk installation requirement would not promote the public welfare and would be contrary to the criteria for a sidewalk variance. The subject site is in a residential area of Old Town that has pedestrian activity. The lack of sidewalks around the perimeter of the site is a gap in the sidewalk system which makes it more difficult to have good pedestrian connectivity throughout the neighborhood. The vast majority of parcels in the immediate area have a public sidewalk. The DRB denied the sidewalk variance on October 30, 2019.

The applicant appealed this decision on November 12, 2019; the appeal was filed in a timely manner. The appeal was heard by the Environmental Planning Commission[1] on February 13, 2020. The EPC voted unanimously to deny the appeal. The applicant filed a timely appeal of the determination of the EPC.

Section 14-16-6-4(U) of the Integrated Development Ordinance (IDO) outlines the applicable decision

[1]The current, in effect, DPM states that "The decision of the Development Review Board is final unless appealed to the EPC within fifteen (15) days." (DPM, Chapter 12, Sidewalk Variance procedure, Step 2). The appeal of the DRB decision was originally routed to the LUHO due to an oversight. The appeal was then redirected by the LUHO and City Council to the EPC for an appeal hearing.

criteria, and centers on whether the DRB or the EPC made one of the following mistakes:

1. The decision-making body or the prior appeal body acted fraudulently, arbitrarily, or capriciously.
2. The decision being appealed is not supported by substantial evidence.
3. The decision-making body or the prior appeal body erred in applying the requirements of this IDO (or a plan, policy, or regulation referenced in the review and decision-making criteria for the type of decision being appealed).

HISTORY

A thorough review of the case history is in the memo prepared to the Environmental Planning Commission and is attached as Exhibit 1 to this memo.

APPEAL

1. **Appellant: A lot line adjustment should not be processed through the DRB because it does not meet the State's Statutory definition of development under NMSA 1978 Section 3-20-8 and therefore, the City's sidewalk requirements do not apply.**

   Staff Response: The City of Albuquerque is a home-rule municipality. Under the State of New Mexico Constitution, municipalities that adopt a charter may exercise the legislative powers and perform all functions not expressly denied by general law or charter. N.M. Const. art. 10, § 6, subd. D. Planning authorities of a municipality are required to adopt regulations governing the planning and platting of land within the its municipal boundary. NMSA 1978, § 3-19-5. Pursuant to planning and platting authority, municipalities must also adopt regulations that govern the subdivision of land within the municipal jurisdiction. NMSA 1978, § 3-19-6. The City created such regulations, as required by state statute, by adopting the IDO and the Development Process Manual (DPM) to govern the subdivision of land. Therefore, the IDO and the DPM control the process for subdividing property within the City.

   Appellant contends that an alternative summary procedure should be used to approve his subdivision pursuant to NMSA 1978, § 3-20-8. While that procedure may be applicable, NMSA Section 3-20-8(2) is ignored, which says, "any subdivision approved as authorized in this section shall be in substantial conformity with the subdivision regulations of the planning authority."

   The City Sidewalk Ordinance requires all properties within the City to have a sidewalk, with few exceptions. Albuquerque, N.M., Rev. Ordinances (ROA) ch. 6, art. V, § 6-5-5-3 (1974, amended 2017). None of the sidewalk requirement exceptions apply to the appellant's proposal. Property owners abutting the sidewalk are responsible for the cost of installing the sidewalk. *Id.* Therefore, the appellant is required to install a sidewalk, at his expense, to comply with the City Sidewalk Ordinance. To exempt the subject property would not be in substantial conformity with the subdivision regulations of the City.

2. **Appellant: The DRB staff confused the applicaton as to whether is was a sidewalk waiver or a sidewalk variance.**

   Staff Response: The request was processed correctly, even though the terminology provided to the applicant was first described as a 'waiver' and then was corrected to be a 'variance.'

   In May 2019, the City Council adopted R-19-150 "Interim Procedures for the Development Review Board until the First Annual Update of the Integrated Development Ordinance has been completed." The legislation is highly detailed. Page 4 of "Exhibit A, Item Page 406, 6-6(L) states "Delete subsection 6-6(L)(3)(b) Sidewalk Variance, as this procedure is covered by the DPM." DRB Board members were previously unaware of that R-19-150 had deleted the sidewalk variance process within the IDO. Nonetheless, the DRB Transportation Engineer evaluated the request using both the IDO and the DPM decision criteria and the outcome is the same. The decision criteria are similar between the previous provision that was in the IDO and the current DPM. [2]

   Staff prepared a document that was presented to the EPC that compared the Design Process Manual-Chapter 12 "Sidewalk Variance" to the IDO 6-6(L)(3) "Variance to DRB" (p. 406) and to IDO Section 6-6-3(L)(b) "Variance to Sidewalk Requirements" (page 409—which was eliminated by R-19-150). This document is attached as Exhibit 2 and shows the similarities in the criteria. Until the Annual Update of the IDO is complete, the practice of the Traffic Engineer is to review all the criteria together. The core criterion is whether or not the sidewalk would contribute to the public welfare. In their review, the DRB determined that the sidewalk would contribute to the public welfare by improving connectivity and working toward filling in gaps in the existing sidewalk system.

3. **Appellant: The sidewalk would not benefit pedestrians or pedestrian safety in the area. There is not a high degree of pedestrian activity. There is a lack of sidewalk in the immediate area.**

   Staff Response: None of the DPM criteria were met to allow a sidewalk variance. In particular, the neighborhood does not meet the criteria #4:

   > The are is of low intensity land use to an extent that the normal installation of sidewalks will not contribute to the public welfare…

   Much of the neighborhood has sidewalk and is within the Old Town area where pedestrian traffic is considerable enough for a residential neighborhood. Where other sidewalk variances have been allowed by the DRB, the variances pertained to well-developed cul de sacs with low pedestrian use and no existing sidewalks. Exhibit 3 was prepared for the Environmental Planning Commission to show where sidewalk exists in the immediate area of the subject parcel and the greater neighborhood. Exhibit 3 shows that there is a substantial network of sidewalks in the

[2] The Annual Update of the IDO has an amendment that makes the review of a sidewalk installation a "sidewalk waiver" and restores the review criteria that was originally in the IDO before the May 2019 Interim Procedure. The IDO Annual Update would make the DRB decision on a sidewalk 'waiver' appealable to the LUHO. The EPC would then no longer be involved. The Annual Update of the IDO is pending before the City Council.

neighborhood and that the addition of sidewalks would contribute to the public welfare.

The City Traffic Engineer also found that the sidwalk would contribute to compliance with ADA regulations as well as providing a clear, defined path for pedestrians.

4. **Appellant: Even the construction of a three foot sidewalk would require a revocable permit.**

   Staff Response: A revocable permit applies to the private use of the public right-of-way. The applicant has a fence that is in the public right-of-way. The request to replat the property requires compliance with existing rules for new development (IDO Section 1-7(A)(1)). When the sidewalk is constructed, the fence will continue to be located within that same right-of-way. The City requires either the removal of the fence or that the property owner obtain a revocable permit. The revocable permit requires an annual payment, as well as sufficient insurance to indemnify the City for potential accidents.

5. **Appellant: The sidewalk will create a tripping hazard because of the transition to the alleyway.**

   Staff Response: The construction of the sidewalk would include review of the sidewalk design. That design would require that the sidewalk transition to any adjoining surfaces that are of differing heights or surfaces.

   All property owners within the City are responsible to comply with the Sidewalk Ordinance. (ROA Section 6-5-5-3). Before sidewalk installation, the property owner is required to secure a City maintenance bond to protect the construction of a sidewalk from defects or improper construction for one year from the date of construction (ROA Section 6-5-5-8). The bonded contractor or the property owner has a duty to repair or replace a defective sidewalk within one year of construction (ROA Section 6-5-5-9). If there are any defects in the transition from the sidewalk to the alleyway, the property owner and contractor have a duty to repair or replace the sidewalk.

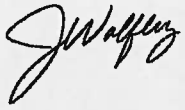
6. **The City installed sidewalks on Broadway and Lomas, but not on the applicants's streets which are 15th and Granite.**

   Staff Response: Both the IDO and the City Code require all properties to have sidewalks. The City Council creates the Capital Improvements Program (CIP) to allocate funding for improvements. This process is outside the purview of the DRB, which is solely charged with implementing the DPM and IDO in situations like this.

CONCLUSION

The applicant's request did not meet the criteria for the granting of a sidewalk variance in accordance with the DPM, Chapter 12. Consequently, the DRB denied the proposed variance. In the appeal, the appellant has not offered evidence that contradicts the findings or action of the DRB and the EPC. The

appeal fails to demonstrate that the criteria for the granting of an appeal as outlined in Section 14-16-6-4(U)(4) of the IDO has been met. Neither the DRB nor the EPC acted fraudulently, arbitrarily, or capriciously; the decision was adequately supported with substantial evidence in the form of Findings listed in the Official Notice of Decision; and the DRB did act within its authority in applying applicable requirements.



Jolene Wolfley, Chair
Development Review Board
Planning Department

Exhibit 1: Planning Memo to the Environmental Planning Commission for VA-2019-00288

Exhibit 2: Comparison of Sidewalk Variance Criteria in the DPM and the IDO

Exhibit 3: Graphic showing existing sidewalk in the immediate area and the neighborhood

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City of Albuquerque

DEVELOPMENT REVIEW APPLICATION

Effective 4/17/19

Please check the appropriate box and refer to supplemental forms for submittal requirements. All fees must be paid at the time of application.

Administrative Decisions	Decisions Requiring a Public Meeting or Hearing	Policy Decisions
☐ Archaeological Certificate *(Form P3)*	☐ Site Plan – EPC including any Variances – EPC *(Form P1)*	☐ Adoption or Amendment of Comprehensive Plan or Facility Plan *(Form Z)*
☐ Historic Certificate of Appropriateness – Minor *(Form L)*	☐ Master Development Plan *(Form P1)*	☐ Adoption or Amendment of Historic Designation *(Form L)*
☐ Alternative Signage Plan *(Form P3)*	☐ Historic Certificate of Appropriateness – Major *(Form L)*	☐ Amendment of IDO Text *(Form Z)*
☐ Minor Amendment to Site Plan *(Form P3)*	☐ Demolition Outside of HPO *(Form L)*	☐ Annexation of Land *(Form Z)*
☐ WTF Approval *(Form W1)*	☐ Historic Design Standards and Guidelines *(Form L)*	☐ Amendment to Zoning Map – EPC *(Form Z)*
	☐ Wireless Telecommunications Facility Waiver *(Form W2)*	☐ Amendment to Zoning Map – Council *(Form Z)*
		Appeals
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APPLICATION INFORMATION

Applicant: Richard G. Chavez		Phone: 505-934-5979
Address: 906 15th ST. NW		Email: rcsagle2sky@gmail.c
City: Alb.	State: NM	Zip: 87102
Professional/Agent (if any):		Phone:
Address:		Email:
City:	State:	Zip:
Proprietary Interest in Site:	List all owners:	

BRIEF DESCRIPTION OF REQUEST Request Appeal for Denial of my Sidewalk Waiver

SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)

Lot or Tract No.: Lots 7-10	Block: 44 Porea Addn.	Unit:
Subdivision/Addition:	MRGCD Map No.:	UPC Code:
Zone Atlas Page(s): J-13	Existing Zoning: R-1A	Proposed Zoning:
# of Existing Lots: 4	# of Proposed Lots: 2	Total Area of Site (acres): 0.32

LOCATION OF PROPERTY BY STREETS

Site Address/Street: NEC 6 15th St.	Between:	and:

CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)

Project # 2019-002811 - VA 2019-00288

Signature: Richard G. Chavez	Date: 2-26-2020
Printed Name: Richard G. Chavez	☑ Applicant or ☐ Agent

FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees	Case Numbers	Action	Fees
VA-2020-00070	Appeal	$130			

Meeting/Hearing Date: 1A		Fee Total: $130
Staff Signature:	Date: 2-28-2020	Project # PR-2019-002811

FORM A: Appeals

Complete applications for appeals will only be accepted within 15 consecutive days, excluding holidays, after the decision being appealed was made.

A single PDF file of the complete application including all plans and documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD.

☐ **APPEAL OF A DECISION OF CITY PLANNING STAFF (HISTORIC PRESERVATION PLANNER) ON A HISTORIC CERTIFICATE OF APPROPRIATENESS – MINOR TO THE LANDMARKS COMMISSION (LC)**

☐ **APPEAL OF A DECISION OF CITY PLANNING STAFF ON AN IMPACT FEE ASSESSMENT TO THE ENVIRONMENTAL PLANNING COMMISSION (EPC)**

☑ **APPEAL TO CITY COUNCIL THROUGH THE LAND USE HEARING OFFICER (LUHO)**

N/A Interpreter Needed for Hearing? ____ if yes, indicate language: _____

✓ Project number of the case being appealed, if applicable: PROJ. # 2019-002811 VA-2019 VARIANCE

✓ Application number of the case being appealed, if applicable: VA 2019-002811

___ Type of decision being appealed: Denial of waiver

___ Reason for the appeal identifying the section of the IDO, other City regulation, or condition attached to a decision that has not been interpreted or applied correctly, and further addressing the criteria in IDO Section 14-16-6-4(U)(4)

___ Appellant's basis of standing in accordance with IDO Section 14-16-6-4(U)(2) – 14-16-6-4(U)(4)a

✓ Letter of authorization from the appellant if appeal is submitted by an agent

___ Copy of the Official Notice of Decision regarding the matter being appealed

I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting or hearing, if required, or otherwise processed until it is complete.	
Signature:	**Date:** 2-26-2020
Printed Name: RICHARD G. CHAVEZ	☐ Applicant or ☐ Agent
FOR OFFICIAL USE ONLY	
Project Number: PR-2019-002811	Case Numbers VA-2020-00070
	-
	-
Staff Signature:	
Date: 2-28-2020	

CITY OF ALBUQUERQUE · NEW MEXICO · 1706

CITY OF ALBUQUERQUE

PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
600 2nd Street NW, 3rd Floor, 87102
P.O. Box 1293, Albuquerque, NM 87103
Office (505) 924-3860 Fax (505) 924-3339

OFFICIAL NOTIFICATION OF DECISION

February 13, 2020

Richard Chavez
906 15th Street NW
Albuquerque NM, 87104

Project #2019-002811
VA-2019-00288 - VARIANCE
AC-19-18 Appeal of Denial of DPM Variance by the Development Review Board

Richard Chavez appeals the DRB's denial of a request for a DPM sidewalk variance for all or a portion of Lots 7-10 Block 44 Perea Addition zoned R-1A, located at NEC of 15th ST NW and Granite Ave NW, containing approximately 0.32 acre(s). (J-13)
Staff Planner: Jolene Wolfley

PO Box 1293

On February 13, 2020 the Environmental Planning Commission (EPC) voted to deny this Appeal.

Albuquerque

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **February 28, 2020.** The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

NM 87103

For more information regarding the appeal process, please refer to Section 14-16-6-4(U) of the IDO, Administration and Enforcement. A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed. It is not possible to appeal EPC Recommendations to City Council; rather, a formal protest of the EPC's Recommendation can be filed within the 15 day period following the EPC's recommendation.

www.cabq.gov

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Successful applicants are reminded that other regulations of the City Zoning Code must be complied with, even after approval of the referenced application(s).

Sincerely,

For Brennon Williams
Planning Director

Brennon Willams, Planning
Director

City of
Albuquerque

Plaza Del
Sol

600 2nd St.
NW

Request for Appeal Hearing to Land Use Hearing Officer for Denial of My Appeal to EPC on February 13TH. My Appeal is based on 16-6-4(U) (4) a. The decision making body or appeal body acted fraudulently, arbitrarily or capriciously.

Although the following comments are not part of the established criteria, I also want to address the Planning Departments lack of Transparency through this process and their negligence in administering this process.

Introduction

The reason you can't fight City Hall is they're always changing the rules. When you codify regulations, staff tends to act in an arbitrary and arrogant manner without accountability or any repercussions. As a Tax-Payer and Customer requesting Services to be rendered from the City Planning department, which comes at a cost to the tune of more than a $1000.00 to date and more to come with the filing of this appeal, I should expect sound customer service. Sound customer service means all information pertinent to the application should be provided with clear and concise instructions. There should not ban any question as to what I am applying for and what I should be receiving for the amount of money I'm having to spend to navigate through the DRB process. What I have come to find out is that the city planning department does not have a process to approve or deny a Lot Line Adjustment that consolidates 4 lots to 2 lots. The DRB, IDO and Design Process Manual are designed for the Development process and projects. My project does not meet the definition of a Development as called for in the IDO. The City IDO on page 456 specifically defines **DEVELOPMENT** *as "Any activity that alters the ground on a property. Development may include construction of buildings, structures, or streets; installation of landscaping, infrastructure, utilities, or site features; and/or activities to prepare land for such construction or installation, such as grading. For the purpose of the IDO, this term includes new development and redevelopment on existing lots."* If my project does not meet the definition of a "Development ", why was it arbitrarily determined to come before the DRB. The question I have for the Planning staff and DRB is, if the State Statutes requires a process for the equivalent of a

lot line adjustment, why is that process not a part of the IDO and DPM, if state statutes calls for it? **State Statute Chapter 3 Municipalities Section 3-20-8 Alternate Summary Procedure B.(1) (b) Re-subdivision where the combination or recombination of portions of previously platted lots does not increase the total number of lots.** This process could have been addressed administratively through the Planning Department in lieu of arbitrarily sending to the application to the DRB, which is designed for real the Development process and projects.

1

History

When I first approached the Planning Department it was to ask what I needed to do to adjust my Lot Lines and Consolidate 4 lots to 2 lots. I was told by planning staff that my project would be considered a Development and that I would have to adhere to the requirements of a sub-division and install sidewalks. When I said that I did not want to have to install sidewalks because I would be an Island on my block with no other sidewalks on three corners of the intersection and no plan for sidewalks by my neighbors. What planning staff said to me was that I had two options, a SIDEWALK WAIVER, or a SIDEWALK VARIANCE. It was very clear that the Waiver was not to install the sidewalk and the Variance was referencing the width of the sidewalk. I submitted an application and paid for a Sidewalk Waiver. What I wasn't told was that there was no criteria for a Sidewalk Waiver and that the criteria to be used was for the Sidewalk Variance, which would be in section 16-6-6(L) (3). This section provides one set of criteria that you have to meet all 3 sub-categories of that specific criteria to get a Variance. What I was not told by staff and learned of it on my own, was that there was an Introductory Chapter to Chapter 12 Sidewalk Variance that had nine categories that provided an exception to the Sidewalk Variance. The criteria listed in 16-6-6(L) (3) was but one of the nine exceptions in the Introductory Chapter 12, Sidewalk Variance criteria. When I asked at the Oct. 30th meeting why that information was never provided to me, by Planning staff or the DRB at the previous meeting I had with the DRB, they could not answer the question, Legal staff was asked by the Chair to step in and Legal stated to DRB, that they needed to sit down and discuss the issues. My decision was postponed to another meeting until staff could regroup and answer my question. A problem is that the DRB never answered my question regarding willfully omitting pertinent information to the application process. I have since asked this question of the EPC and to date, Planning staff, EPC and the DRB have not answered my question as to why they did not provide Introductory Chapter 12 to all applicants requesting a Sidewalk Variance prior to my application. I am still requesting an answer to this question before the Land Use Hearing Officer (LUHO). I was placed in a position by Planning staff to request a Sidewalk Waiver from my adjustment to my Lot Lines and consolidate 4 lots to 2 lots. Throughout this process, Planning Staff and DRB were using the Term Sidewalk Waiver and Sidewalk Variance interchangeably which created a great deal of confusion as to what I was appealing, as the DRB and Planning staff kept trying to get me to apply for a Sidewalk Variance. You will note that on the December

4th Denial Letter from Mr. Brennon of the DBR, he uses both terms interchangeably in the DRB denial letter. In the Overview section of the denial letter, he used the term Variance, but in the History section he uses the term Waiver. My Appeal to the EPC was stated as an Appeal to the Sidewalk Variance, which was false because I never requested a Sidewalk Variance. From the beginning of this process, the DRB and Planning staff directed me to check the Variance box on the first page of the application form and I would also need to check off on the Sidewalk Waiver box on the 2nd page and complete a summary as to why I thought my request would qualify for a Sidewalk Waiver. The summary was submitted as with my initial application and is in the packet of my denial by DRB. The intent of the DRB and Planning staff to insist that I applied for a Variance is simply CYA, because I never did.

At some point in time someone on the city council must have recognized the lack of clarity and confusion that this process created and adopted a Resolution in May 2019 for proposed changes to the Ordinance that would consolidate the Waiver vs Variance language into one definition in order to clear up the process and ambiguity between the two terms. In fact the DRB and Planning staff was supposed to use this criteria for "Interim Procedures for the Development Review". The fact that the Planning Department did not identify these changes until the January 7th meeting, is negligence. To require one

set of rules and then change them because someone in planning was not addressing the changes in a timely manner, then to say that Decision Criteria is similar without defining similar, lacks transparency. Those changes should have been made available at the time of submitting my application on August 30, 2019, so that I was fully aware of all the implications my application was facing, but staff will never own up to that. I was never notified of the changes prior to either the cancelled LUHO Appeal on January 7, 2012 when staff became aware of these issues or the EPC appeal on February 13, 20120. To date, I have yet to receive a copy of the Resolution so I could determine on my own, the impact to my application and various appeals I've had to request. In my denial letter from EPC they refer to the Resolution as an Admin. Action by the CAO, pending approval to incorporate the new language in the Sidewalk Ordinance. No transparency as to when and how this problem occurred until this last Denial letter from EPC nine months after the fact.

In my Appeal to the DRB and EPC the following issues were brought up by the Traffic Engineer:

A.) This has a "high degree of pedestrian activity, which is true for approximately five days of the year. The Christmas Tree lighting in Old Town, somewhat less, but active for the Saturday and Sunday of the Old Town Fiestas, The annual Old Albuquerque festivities at Tiguex Park and maybe a couple of events at Tiguex Park during the year. Other than those days mentioned, pedestrian activity is very limited. This is from the perspective of someone who lives there and observes the traffic on a daily basis for the last 20 plus years. What is the Traffic Engineers statement based on, data, surveys, or assessments that would confirm the

assumption that the high pedestrian activity is a high degree?

B.) Another comment by the Traffic Engineer was that installing sidewalks would enhance the safety of the area and address ADA standards, which is a very ironic statement. By installing a 4ft sidewalk on 15th, it would literally end at the trunk of an Elm tree of my neighbor's house, who has no interest or need to voluntarily install sidewalk to go around the tree. If it was a 3ft sidewalk in would end at the root base of the elm tree. What do we know about Elm tree roots? They will raise the sidewalk over time and create a serious tripping hazard for someone walking south day or night and would make it difficult for a wheelchair or individual on a walker to access or egress, on or off the sidewalk. In order to install a 3 ft. sidewalk I would have to pay for a Revocable Permit to keep the existing fence in place. Mind you the Revocable Permit program is in such disarray, that the city staff does not know how many people have Revocable Permits or who has paid for their permits, as stated by the Traffic Engineer at the EPC Hearing. The other problem, which the Traffic Engineer and Commissioner Karen Hudson agreed on, is that you will have a 2" to 3" deviation between the surface of the sidewalk and the ground where the sidewalk abruptly ends. In time the Elm tree root system will increase that deviation by another 2" to 3" inches over time. Real sidewalk safety enhancements for the block would be from one end of the block to the other end of the block. This would allow a person in a wheelchair or walker, to have access and egress on the sidewalk from one end of the block to the other, which would be a truly safe ADA access. Going esat there is no ADA accessible egress off the sidewalk or ADA access to the neighbors sidewalk. The alley surface can make it difficult for a wheelchair or walker which makes me vulnerable to potential legally liable for conditions I have no control over.

C.) If I were to install a 3 ft. sidewalk, in order to keep my existing fence I would have to pay an annual Revocable Permit fee. The problem with this program is that planning staff or the Traffic Engineer have no idea how many Revocable Permit exist and who has been paying their fees, according to their EPC testimony. Would you call this problem negligence, or incompetence that I am having to pay the price of the city Planning Departments lack of accountability in administering such a program? Administer the

program to all participants or not at all. Arbitrary application of the Revocable Permit program because the record keeping system is less than reliable, should not be an excuse for selective application of the requirements

D.) The Traffic Engineer stated that there's substantial streets with sidewalk in the area. What the Traffic Engineer failed to mention is that there are substantial streets in the area without sidewalks. Half a block south and two properties over from the property DRB claims has sidewalk, there are two adjoining properties with no sidewalk for another gap in the sidewalk system on 15th. One block south of me is the entire corner of 15th and Marble with no sidewalk. One block east of the Museums and one block north of Mountain Rd. has no curbing or sidewalk for one to two miles north of Mountain Rd on 15th St.There's no sidewalk across the

street going east or catty-corner from me, or on either side of the street on 15th from Granite to Mountain Rd. Mr. Schaffer on the EPC agreed with this assessment. For the Traffic Engineer to make the substantial sidewalks statement without addressing the substantial missing areas of sidewalk is a willful omission. When asked what the city plans to complete the sidewalk system north of my property are all the way to Mountain Rd.their plan is to wait for a property owner to come in and apply for a permit. That is not a plan, that is wishful thinking without any clear outcome. The property next to me is a rental property, has been for last 30 years, they have no plans to subdivide the property and the next neighbor over is a retired veteran on a fixed income who has no plans to sell his property nor could he afford the DRB process and cost associated with the development process, such as permit fees, survey platt development. In other words the cities plan for continuation of the sidewalk along 15th to create a safe traversable sidewalk is an administrative allusion, which leaves me as a permanent Island of sidewalk with all kinds of legal liability.

E.) The problem that the Tripping hazard presents is a serious legal liability to me the homeowner, because both the city and I know that there is a Tripping Hazard which has now become public notice. The only solution is to force my neighbors to install sidewalks. Contrary to the Hydrologist contention that the City Sidewalk Ordinance authorizes the Planning Department and city to send a Letter to the homeowner and request them to install sidewalk. When the Hydrologist contends is questionable because when asked by the EPC members whether it was a Request or Required, the Hydrologist did not clarify his answer. I could not find anything in the Ordinance that had any language as to the hydrologist contention. I would ask if that is the case, the city would have addressed the 400 million dollar problem of needs in sidewalk infrastructure for the entire city a long time ago. I would ask the Hydrologist for the section and language of the Ordinance that authorizes the city to require a property owner not utilizing the permit process to be required to install sidewalk as the Hydrologist states. If that were the case why has the city not sent out a notice to every property owner in the city with no sidewalk to get them to have them install sidewalks?

Conclusion

The Lot line Adjustment and consolidation of 4 lots to 2 lots should never been referred to the DRB as a Development project, my application to Adjust lot Lines and consolidate does not meet the IDOs definition of a Development project. The Appeal fees and subsequent fees should never have been a factor in my request. I should not be penalized for the city's lack of compliance with state statutes. The fact that The city and Planning Department does not have a process to address non-development related issues as required by Statute Chapter 3 Municipalities Section 3-20-8 Alternate Summary Procedure B.(1) (b) Re-subdivision where the combination or recombination of portions of previously platted lots does not increase the total number of lots, should not be my problem .

The lack of clarity and discombobulation that I was required to be funneled through with the

DRB process does not serve Property Tax payers well, who are responsible for 17% of city revenues and as customers seeking services to be rendered by the city. As a customer of city services that a property tax payer pays, it would be nice to be considered a customer instead of a nothing more than a Revenue Source to the city. The confusion and lack of clarity between the Sidewalk Waiver and a Sidewalk Variance on the part of the DRB and Planning Department, the lack of transparency in why they did not distribute Chapter 12 Introduction to Sidewalk Variance to all applicants prior to my application is a serious matter that should require some type of accountability of the Planning Department and the DRB,

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on the cities part. As a lay person who pays property taxes who has not benefited from the city installing sidewalk from Broadway to 20th St. on Mountain Rd in the last 20 years and twice on Lomas from Broadway to 20th street, not once but twice in the last 20 years at no cost to property owners has me wondering why my streets should be ignored and if the city can find funding for those streets why can't they prioritize neighborhood streets such as mine. I would also like to seek a refund for all fees submitted with the exception of the initial application fee for my Lot Line Adjustment and Consolidation of 4 lots to 2 lots, as my application should never have been subject to the DRB process and outcomes as the Ordinance is currently written in relationship to state statutes Chapter 3 Municipalities Section 3-20-8.

Attachments:

Copy of Initial Application

Copy of Initial Application Summary

Copy of Sidewalk Waiver Application Fee

Photo of Elm Tree

Photo of Alley Surface Conditions

FORM S2: SUBDIVISION OF LAND – MINOR ACTIONS

Please refer to the DRB minor case schedule for meeting dates and deadlines unless noted differently below. Bring original Mylar of plat with property owner's and City Surveyor's signatures on it to the meeting. Your attendance is required.

A **Variance – DRB for the Bulk Transfer of Land** requires application on Form V in addition to this FORM S2.

>> INFORMATION REQUIRED FOR ALL MINOR SUBDIVISION APPLICATIONS

__ Interpreter Needed for Hearing? ____ if yes, indicate language: _____

__ A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD. PDF *shall be organized* with the Development Review Application and this Form S2 at the front followed by the remaining documents *in the order provided on this form.*

X Zone Atlas map with the entire site clearly outlined and labeled

☐ **SKETCH PLAT REVIEW AND COMMENT**

__ Letter describing, explaining, and justifying the request

__ Scale drawing of the proposed subdivision plat (7 copies, folded)

__ Site sketch with measurements showing structures, parking, building setbacks, adjacent rights-of-way and street improvements, if there is any existing land use (7 copies, folded)

☐ **MAJOR SUBDIVISION FINAL PLAT APPROVAL (requires published notice, heard on the DRB Major Case Schedule)**

__ Letter describing, explaining, and justifying the request

__ Copy of recorded IIA

__ Proposed Final Plat (7 copies, 24" x 36" folded)

__ Design elevations & cross sections of perimeter walls (3 copies)

__ Landfill disclosure and EHD signature line on the Mylar if property is within a landfill buffer

__ DXF file and hard copy of final plat data for AGIS submitted and approved

☒ **MINOR SUBDIVISION PRELIMINARY/FINAL PLAT APPROVAL**

✓ Letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-6(I)

NA Sites 5 acres or greater: Archaeological Certificate in accordance with IDO Section 14-16-6-5(A)

✓ Form DRWS Drainage Report, Grading and Drainage Plan, and Water & Sewer Availability Statement submittal information

✓ Required notice with content per IDO Section 14-16-6-4(K)(6)

→ __ Office of Neighborhood Coordination Public Notice Inquiry response

✓ Proof of emailed notice to applicable Neighborhood Association representatives

→ ✓ Proposed Preliminary / Final Plat with property owner's and City Surveyor's signatures on the plat prior to submittal (7 copies, folded)

✓ Sidewalk Exhibit and/or cross sections of proposed streets (3 copies, 11" by 17" maximum)

→ __ Site sketch with measurements showing structures, parking, building setbacks, adjacent rights-of-way and street improvements (to include sidewalk, curb & gutter with distance to property line noted) if there is any existing land use (7 copies, folded)

__ Landfill disclosure statement per IDO Section 14-16-5-2(G) if site is within a designated landfill buffer zone

__ Proposed Infrastructure List, if applicable

__ DXF file and hard copy of final plat data for AGIS submitted and approved

☐ **MINOR AMENDMENT TO PRELIMINARY PLAT OR INFRASTRUCTURE LIST**

__ Letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-4(X)(2)

__ Original Preliminary Plat, Infrastructure List, and/or Grading Plan (7 copies, folded)

__ Proposed Amended Preliminary Plat, Infrastructure List, and/or Grading Plan (7 copies, folded)

Note: Any application that does not qualify as a Minor Amendment in IDO Section 14-16-6-4(X) must be processed as a Major Amendment. See Form S1.

I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting or hearing, if required, or otherwise processed until it is complete.

Signature: Richard Chavez	Date: 7-16-19
Printed Name: RICHARD E. CHAVEZ	☐ Applicant or ☐ Agent

FOR OFFICIAL USE ONLY

Case Numbers:	Project Number
SD-2019-00158	PR-2019-002821
Staff Signature:	
Date: 8-30-19	

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CITY OF ALBUQUERQUE 1706 NEW MEXICO

FORM V2: Waiver– DRB

Please refer to the DRB case schedules for meeting dates and deadlines. Your attendance is required.

>> INFORMATION REQUIRED FOR ALL VARIANCE/WAIVER AND VACATION APPLICATIONS

- ___ Interpreter Needed for Meeting? ____ if yes, indicate language: _____
- ✓ A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD. PDF *shall be organized* with the Development Review Application and this Form V at the front followed by the remaining documents *in the order provided on this form.*
- ___ Zone Atlas map with the entire site clearly outlined and labeled
- ___ Letter of authorization from the property owner if application is submitted by an agent

☐ **WAIVER – IDO**

- ✓ Letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-6(L)(3), compliance with the DPM, and all improvements to be waived, as applicable. *Note: If the request is based on a bulk land transfer, an application for Subdivision of Land – Minor shall be filed concurrently with the variance request and notice shall be provided on that plat regarding the applicant's agreement that building permits shall not be issued before further action by the DRB.*
- → ___ Scale drawing showing the location of the proposed variance or waiver, as applicable (7 copies, not to exceed 8.5" by 14")
- ✓ Proof of Neighborhood Meeting per IDO Section 14-16-6-4(C)
  - → ___ Office of Neighborhood Coordination neighborhood meeting inquiry response
  - ✓ Proof of email with read receipt OR Certified Letter offering meeting to applicable associations
  - ___ If a meeting was requested/held, copy of sign-in sheet and meeting notes
- ___ Required notices with content per IDO Section 14-16-6-4(K)(6)
  - ___ Office of Neighborhood Coordination Public Notice Inquiry response
  - ___ Proof of emailed notice to affected Neighborhood Association representatives

☐ **WAIVER – DPM *(MUST BE HEARD WITH SUBDIVISION/SITE PLAN ACTION)***

- ___ Justification letter describing, explaining, and justifying the request per the criteria in DPM – Chapter 2
- ___ Drawing showing the easement or right-of-way to be vacated (7 copies, not to exceed 8.5" by 11")
- ___ Required notices with content per IDO Section 14-16-6-4(K)(6)
  - ___ Office of Neighborhood Coordination notice inquiry response, notifying letter, and proof of first class mailing
  - ___ Proof of emailed notice to affected Neighborhood Association representatives
  - ___ Buffer map and list of property owners within 100 feet (excluding public rights-of-way), notifying letter, and proof of first class mailing* ***this step is not required if variance is to be heard with minor subdivision plat***
- ___ Sign Posting Agreement - ***this step is not required if variance is to be heard with minor subdivision plat***

☐ **TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION**

☐ **EXTENSION OF THE IIA FOR TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION**

- ___ Letter describing, explaining, and justifying the deferral or extension
- ___ Drawing showing the sidewalks subject to the proposed deferral or extension (7 copies, not to exceed 8.5" by 14")

I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting, if required, or otherwise processed until it is complete.

Signature: Richard A. Chavez	Date: 7-19-19
Printed Name: Richard A. Chavez	☐ Applicant or ☐ Agent

FOR OFFICIAL USE ONLY

Case Numbers:	Project Number:
VA-2019-00288	PR-2019-002811
Staff Signature:	
Date: 8-30-19	

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Revised 2/8/19

City of Albuquerque

DEVELOPMENT REVIEW BOARD APPLICATION

Please check the appropriate box(es) and refer to supplemental forms for submittal requirements. All fees must be paid at the time of application.

SUBDIVISIONS	☐ Final Sign off of EPC Site Plan(s) *(Form P2)*	☐ Variance for Carport within setback(s) *(Form V)*
☐ Major – Preliminary Plat *(Form P1)*	☐ Amendment to Site Plan *(Form P2)*	☐ Vacation of Public Right-of-way *(Form V)*
☒ Minor – Preliminary/Final Plat *(Form S2)*	**MISCELLANEOUS APPLICATIONS**	☐ Vacation of Public Easement(s) DRB *(Form V)*
☐ Major - Final Plat *(Form S1)*	☐ Extension of Infrastructure List *(Form S1)*	☐ Vacation of Private Easement(s) *(Form V)*
☐ Amendment to Preliminary Plat *(Form S2)*	☐ Amendment to Infrastructure List *(Form P1)*	**PRE-APPLICATIONS**
☐ Extension of Preliminary Plat *(FormS1)*	☐ Variance – Temporary Deferral of S/W *(Form P2)*	☒ Sketch Plat Review and Comment *(Form P2)*
	☒ Variance – Sidewalk Waiver *(Form V)*	
SITE PLANS	☐ Variance to IDO *(Form V)*	**APPEAL**
☒ DRB Site Plan *(Form P2)*	☐ Variance to DPM *(Form V)*	☐ Decision of DRB *(Form A)*

BRIEF DESCRIPTION OF REQUEST

APPLICATION INFORMATION

Applicant: RICHARD G. CHAVEZ		Phone: 505-934-5979
Address: 906 15th N.W.		Email: rceagle2sky@gmail.com
City: ALBUQUERQUE	State: NM	Zip: 87104
Professional/Agent (if any):		Phone:
Address:		Email:
City:	State:	Zip:
Proprietary Interest in Site:	List all owners:	

SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)

Lot or Tract No.: Lots 7A-10-A	Block: 44	Unit:
Subdivision/Addition: PEREA	MRGCD Map No.:	UPC Code: [redacted]
Zone Atlas Page(s): J 13	Existing Zoning: R 1-A	Proposed Zoning:
# of Existing Lots: 4	# of Proposed Lots: 2	Total Area of Site (acres): 0.32

LOCATION OF PROPERTY BY STREETS

Site Address/Street: 15th & GRANITE	Between:	and:

CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)

Signature: Richard G. Chavez	Date: 7-16-19
Printed Name: RICHARD G. CHAVEZ	☒ Applicant or ☐ Agent

FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees	Case Numbers	Action	Fees
SD-2019-00158	P&F	$500.00			
VA-2019-00288	Waiver-IDO	$325.00			

Meeting/Hearing Date: September 11, 2019		Fee Total:	$825.00
Staff Signature:	Date: 8-30-19	Project #	PR-2019-002811

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within the thresholds established by Subsection 14-16-6-4(O) (Deviations) and is granted by the DRB as part of this approval.
9. The Waiver approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.
10. The Waiver for Sidewalk Requirements meets the criteria in (b) below.
11. The Waiver for Front Yard Parking meets the criteria in (c) below
6-6(L)(3)(b) Waiver to Sidewalk Requirements A request for a Variance to sidewalk requirements, shall be approved if it meets all of the applicable criteria in Subsection (a) above and all of the following criteria:
a. The area is of low-intensity land use to an extent that the normal installation of sidewalks will not contribute to the public welfare, and the absence of a sidewalk will not create a gap in an existing sidewalk system extended to 1 or more sides of the subject property or area.
b. The City's right-of-way is insufficient in width to permit the construction of a sidewalk of standard dimension and placement, but there is sufficient right-of-way to meet minimum ADA or PROWAG guidance.
c. The adjoining sidewalks are non-standard as to width and/or location, and the Variance would enable the new and existing sidewalks to match in width and/or location, or could create a smooth transition between areas of different width and/or character.

Please let me know if this answers your question.

ONE ALBUQUERQUE planning

MAGGIE GOULD
planner
o 505.924-3910
e mgould@cabq.gov
cabq.gov/planning

From: Chavez, Richard G, NMDOT [mailto:RichardG.Chavez@state.nm.us]
Sent: Friday, October 25, 2019 4:04 PM
To: Gould, Maggie S.
Subject: DBR Platt & Related Docs for next Meeting

Maggie, hopefully I have submitted everything you need for review. I do have a City Surveyor signed Mylar that I will have for the meting.I do have some questions regarding the DRBs interpretation of my project which I have stated to the board in a letter to you. I'm sure you've had to deal with other confused and discouraged applicants, so I do appreciate everyone's patience with me and my project.

Richard G. Chavez
906 15th St NW\Albuquerque, NM 87104
505-934-5979

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This message has been analyzed by Deep Discovery Email Inspector.

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REQUEST FOR LOT LINE REALIGNMENT AND SIDEWALK WAIVER FOR 906 15TH NW

I reside in the oldest sub-division in the city. The Perea Sub-division was established prior to 1900. I am requesting a Lot Line Realignment and a Waiver for sidewalk. The property in question was purchased in 1947 by my parents. This property is where I was raised and where I plan to retire. The property consists of two single dwelling residences, consisting of four lots for a total of 100' by 142' sq. ft. on the NE corner of the intersection of 15th and Granite NW. The second residence has a separate entrance on Granite. My current property taxes are $6,500.00 and consist approximately one third of my monthly mortgage payment of $1,697.00

The request for a Waiver is to allow the continuation of the Status Quo based on the following:

- The financial burden that will be required to cover the cost of sidewalk installation, not to mention the cost of submitting an application with no guarantee of approval.
- Over the years, the City has chosen to install sidewalks and lamppost at no cost to commercial or residential property owners along Mountain Road from Broadway. The City installed lamppost lighting, curb, gutter on properties with no existing curb, and gutter.
- From 15th & Granite to 15th & Mountain Rd, has no sidewalk until the end of the block where an attorney's office has approximately 30' to 50' of sidewalk as 15th merges with Mountain Rd.
- My neighbors, who have no sidewalk and do not intend to subdivide their properties and have no plans to install sidewalk along my street.
- The adjourning property east of the alley has a sidewalk that is non-conventional with 36" sidewalk and no easement.
- Sidewalks will not enhance the safety of my street as I have kept the sidewalk area free of debris, clutter and weeds for as long as I lived there.
- The area is a low-intensity land use to an extent that the normal installation of sidewalk will not contribute to the public welfare and the absence of a sidewalk will not create a gap in an existing sidewalk system extended to 1 or more sides of the subject property or area
- What sidewalks that do exist are non-standard as to width and easements and /or location. The Variance would maintain the status quo of the neighborhood. Of the four corners on my intersection, only one corner has a sidewalk and that does not meet current standards.
- Portion of existing fence on 15th approximately 50' was grandfathered in when storm sewers and curbing were
- The only consistency/standard about the sidewalks in my area or lack of, there is no standard. Throughout my neighborhood, you have whole blocks without sidewalk

PARCEL ID: **101305837530810901**

LOCATION and LEGAL DESCRIPTION:
906 15TH ST NW
ALBUQUERQUE NM 87104
* 007 044PEREA ADDN L7 , 8, 9 & 10

2018 Property Tax Summary

NANCY M. BEARCE
TREASURER
BERNALILLO COUNTY
ONE CIVIC PLAZA NW, BASEMENT
ALBUQUERQUE, NM
(505) 468-7031
http://www.bernco.gov/treasurer/
e-mail: treas@bernco.gov

CHAVEZ RICHARD GERARD
906 15TH ST NW
ALBUQUERQUE NM 87104

Today's Date JUL-05-19 03:53 PM

MTG COMPANY
FIFTH THIRD BANK
MTG COMPANY #
4457

Tax and Payment Summary

Year	Tax	Int	Pen	Fees	Paid	Due
1st half due	3,297.77	0.00	0.00	0.00	-3,297.77	0.00
2nd half due	3,297.77	0.00	0.00	0.00	-3,297.77	0.00
Total Due	6,595.54	0.00	0.00	0.00	-6,595.54	0.00

Sum of pending ONLINE payments not included above:	0.00
PreTax amount:	0.00
Total Due:	0.00

Assessor's Valuation

Tax Year	2018
Assessed	421142
Taxable	140367

EXEMPTIONS:

HOH	2000
VET	0
OTHER	0
Net Taxable	138367

Dist	A1AM	Rate	47.667
Class	RES	OvrClass	

Owner Type

Tax bills are mailed November 1 of every year as required by state law. Taxes are due in two equal installments. The first half payment is due November 10 and must be paid by December 10 to avoid delinquency charges. Second half payments are due by April 10 of the following calendar year and must be made by May 10 to avoid delinquency charges.

PAYMENT COUPON

PLEASE MAKE YOUR CHECK PAYABLE TO THE BERNALILLO COUNTY TREASURER AND MAIL TO :

BERNALILLO COUNTY TREASURER
NANCY M. BEARCE
PO BOX 627
ALBUQUERQUE, NM 87103-0627

PRINT THIS PARCEL NO. ON YOUR CHECK: 101305837530810901

CHAVEZ RICHARD GERARD

1st half due	.00	
2nd half due	.00	
Total Due	.00	

15A

AMOUNT ENCLOSED $_____

18 5101305837530810901 00 00000000000 00000000000 00000000000

CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Planning Department

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM **December 4, 2019**

TO: **Klarissa Peña, President, City Council**

FROM: **Brennon Williams, Planning Director**

Subject: AC-19-18, Project PR-2019-002811 SI-2019-00158 VA-2019-00288 VA-2019-00416: Richard Chavez, appeals the decision of the Development Review Board (DRB) to Deny a Variance for all or a portion of LOTS 7-10 BLOCK 44 Perea addition, zoned R-1A, located at the NEC of 15th STREET NW and GRANITE AVE. NW, containing approximately 0.32 acre(s). (J-13)

OVERVIEW

An application for a Preliminary and Final Plat and Variance IDO was filed by the applicant on August 30, 2019. The application was accepted and scheduled for the meeting of September 11, 2019. The applicant received board comments and the case was deferred three times before the final meeting on October 30, 2019. The DRB denied the request for a sidewalk waiver at that meeting because of the location of the site in a highly pedestrian urban area and because the lack of sidewalk creates a gap in the sidewalk system making it more difficult to have good pedestrian connectivity.

The applicant appealed this decision on November 12, 2019. The appeal was filed in a timely manner.

HISTORY

The applicant met with staff prior to the submittal to discuss the requirements for the submittal. The applicant was told that he could request a sidewalk waiver, but it was unlikely to be granted because of the location of the property in the center of the City. Staff does not have an exact date for this meeting, but it was in the summer prior to the submittal of the application.

An application for a Preliminary and Final Plat and Sidewalk Waiver IDO was filed by the applicant on August 30, 2019. The application was accepted and scheduled for the meeting of September 11, 2019.

The applicant received comments regarding missing notes on the plat, lack of surveyor's signature and existing sidewalks from Planning Staff. Comments from Code Enforcement stated that a sidewalk should be provided. Comments from Transportation stated that the sidewalk waiver should not be granted and noted that the existing fencing is in the right of way. The case was deferred to the meeting

of September 25, 2019 to allow the applicant to address board comments. The applicant requested a deferral to the October 2, 2019 meeting to allow more time to address Board comments. The case was heard at the October 23, 2019 meeting and again deferred after extensive discussion, to address comments from Transportation regarding the sidewalk waiver, a clear site exhibit, and fencing in the right -of-way. At the October 30, 2019 meeting the DRB heard additional testimony from the applicant and the Transportation DRB member. The DRB denied the request for the waiver based on the IDO requirement for a 4-foot sidewalk in residential areas and the fact that there are existing sidewalks in the area that could eventually connect to the required sidewalk. The requirements would increase pedestrian and ADA access in the area.

APPEAL

The appellant cites the following as reasons for the appeal followed by Staff's response to the appellant's arguments. The full list of the appellant's arguments is contained in the appellant's application dated November 12, 2019 (included in the record).

1. **The DRB's decision was arbitrary and ignored the existing sidewalk gaps in the area and the character of sidewalks in the area.**

   The DRB denied the waiver of the IDO requirement 14-16-5-3(D)(1) for a perimeter sidewalk because the request did not meet all of the criteria in 6-6(L)(3), specifically, 6-6(L)(3)(b).[1] The request would maintain a gap in the sidewalk system because there are existing sidewalks to the east and south of the site, and, therefore, be contrary to furthering public safety and welfare. The area has a high degree of pedestrian activity and the sidewalk would contribute to a safe pedestrian environment.

   The DRB expressed that they would accept a request for a waiver of the width of the sidewalk from the 4-foot wide requirement in order to match existing sidewalks in the area. Mr. Chavez was told he could submit a formal request for the width to the waiver along with information on proposed sidewalk width and distance from existing curb to the property line to demonstrate sufficient right-of-way. (Chapter 12, Current DPM) The applicant did not request a waiver to the width of the sidewalk.

   The applicant's request was treated in the same manner as similar requests. The DRB has required sidewalks for similar platting actions. The IDO requires a perimeter sidewalk for residential property (14-16-5-3(D)(1). Because the applicant is making a change to the property, the requirements of the IDO apply. While the applicant's property may not connect to a sidewalk now, as the area redevelops, more sidewalk can be installed creating a full network of sidewalks. The area has existing sidewalks in a mixed pattern. There are other areas of the city where there are no sidewalks at all. The sidewalk waivers granted by the DRB have been in areas where there are no existing sidewalks.

2. **There is no incentive for any neighboring property to install sidewalks**
   If any of the neighboring properties redevelop, the same requirements would apply to their properties that were applied to the applicant's property. The City requires compliance with existing rules for new development.

[1] The IDO provisions on sidewalk waivers were modified slightly as R-2019-035, See Exhibit A-1, 6-6(L)(2)(a).

3. **Fencing in the right-of-way requires a revocable permit. The existing curb and gutter was built in 1966 and the fencing is "grandfathered" in.**
   As stated above, the applicant is making a change to the site and, therefore, the requirements of the IDO and current City requirements are applicable to the site. The revocable permit is required for any encroachment into the right-of-way. The other option would be to remove the fence altogether.

4. **The City should update the sidewalks using City funds or create a special assessment district as was done along Mountain Road and Lomas.**
   The City creates a Capital Improvement Program to allocate funding for improvements. This is outside the purview of the DRB.

CONCLUSION

The Appellant does not show that the Criteria for an Appeal in Section 14-16-6-4(U)(4) of the IDO has been met. The Appellant has not offered evidence that contradicts the findings/action of the DRB. The DRB did not act fraudulently, arbitrarily, or capriciously; the decision was adequately supported with substantial evidence in the form of Findings listed in the Official Notice of Decision; and the DRB did act within its authority in applying applicable requirements.

6-6(L)(3) ***Review and Decision Criteria***

An application for a Waiver – DRB shall be approved if it complies with the following criteria:

6-6(L)(3)(a) *Any of the following applies:*

1. *There are pre-existing obstructions that cannot be easily or economically relocated or should not be altered, such as grades, fills, water courses, natural topographic features, man-made obstructions, or utility lines.*
2. *The area or site has been recognized as having historical, archeological, and/or architectural significance by the City, state, or federal government, and a Waiver is needed and appropriate to maintain such historical, archeological, and/or architectural significance.*
3. *The established neighborhood character or landscaping on the site would be damaged to a degree that outweighs the public interest in the City's normal technical standards in that location.*
4. *Varying from the normal requirements and standards will encourage flexibility, economy, effective use of open space, or ingenuity in design of a subdivision, in accordance with accepted principles of site planning.*

6-6(L)(3)(b) *The Waiver will not be materially contrary to the public safety, health, or welfare.*

6-6(L)(3)(c) *The Waiver does not cause significant material adverse impacts on surrounding properties.*

6-6(L)(3)(d) *The Waiver will not hinder future planning, public right-of-way acquisition, or the financing or building of public infrastructure improvements.*

6-6(L)(3)(e) *The Waiver will not conflict significantly with the provisions of any city, county, or AMAFCA adopted plan or policy, this IDO, or any other City code or ordinance.*

6-6(L)(3)(f) *The Waiver will not allow, encourage, or make possible undesired development in the 100-year Floodplain.*

6-6(L)(3)(g) *The Waiver will not materially undermine the intent and purpose of this IDO or the applicable zone district.*

6-6(L)(3)(h) *The Waiver does not allow a lot or type of development that does not meet the applicable size, area, and development standards applicable in the zone district where the lot is located, unless a Deviation to such standards is within the thresholds established by Subsection 14-16-6-4(O) and is granted by the DRB as part of this approval.*

6-6(L)(3)(i) *The Waiver approved is the minimum necessary to provide redress without being inconsistent with the provisions of this Section.*

CITY OF ALBUQUERQUE
INVOICE

906 15TH ST NW

ate: 8/30/2019
ffice: ANNEX Cashier:E41709
atch: 10630 Tran #: 14
==========

Building Permits
.:18 AM Station ID
Office ANNEX
Receipt #: 00591813
Reference VA-2019-00288
Trans Amt: $825.00

30 Building Permit $325.00

Payment Total: $325.00

Building Permits
.:18 AM Station ID
Office ANNEX
Receipt #: 00591814
Reference SD-2019-00158
Trans Amt: $825.00

30 Building Permit $500.00

Payment Total: $500.00

==========
Transaction Total: $825.00
Cash Tendered : $840.00
Change Tendered : ($15.00)

Thank you for your payment.
Have a nice day!

-00288
3932

ription	Amount
ication Fee	$275.00
itated Meeting Fee	$50.00

Total due for this invoice: **$325.00**

e:

http://posse.cabq.gov/posse/pub/lms/Default.aspx
00 2nd St. NW, Albuquerque, NM 87102

Sidewalk Waiver Fee

IE BOTTOM PORTION OF THIS INVOICE NOTICE WITH PAYMENT

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Untitled Map

Neighborto north where sidewalk would come to an end at their tree. They're not going to install sidewalk to wrap around the tree

Legend

906 15th St NW

214

Untitled Map

Existing Gap in accessible sidewalk between neighbor and my property. Alley Entry Between Neighbor on east side and my property. S

Legend

906 15th St NW

2-A

CITY OF ALBUQUERQUE

PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
600 2nd Street NW, 3rd Floor, 87102
P.O. Box 1293, Albuquerque, NM 87103
Office (505) 924-3860 Fax (505) 924-3339

OFFICIAL NOTIFICATION OF DECISION

February 13, 2020

Richard Chavez
906 15th Street NW
Albuquerque NM, 87104

Project #2019-002811
VA-2019-00288 - VARIANCE
AC-19-18 Appeal of Denial of DPM Variance by the Development Review Board

Richard Chavez appeals the DRB's denial of a request for a DPM sidewalk variance for all or a portion of Lots 7-10 Block 44 Perea Addition zoned R-1A, located at NEC of 15th ST NW and Granite Ave NW, containing approximately 0.32 acre(s). (J-13)
Staff Planner: Jolene Wolfley

PO Box 1293

On February 13, 2020 the Environmental Planning Commission (EPC) voted to deny this Appeal.

Albuquerque

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **February 28, 2020.** The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

NM 87103

For more information regarding the appeal process, please refer to Section 14-16-6-4(U) of the IDO, Administration and Enforcement. A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed. It is not possible to appeal EPC Recommendations to City Council; rather, a formal protest of the EPC's Recommendation can be filed within the 15 day period following the EPC's recommendation.

www.cabq.gov

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Successful applicants are reminded that other regulations of the City Zoning Code must be complied with, even after approval of the referenced application(s).

Sincerely,

For Brennon Williams
Planning Director

23A

BW/CL

cc: Crystal Ortega, Ciy Council, City hall 9th floor
Kevin Morrow, Legal Department, City Hall 4th floor.
Richard Chavez, 906 15th Street NW, Albuquerque NM, 87104
EPC file
DRB file

Environmental Planning Commission

Agenda Number: 1
Project #: 2019-002018
VA-2019-00288
Hearing Date: February 13, 2019

Staff Report

Agent	Richard Chavez
Applicant	Richard Chavez
Request	**Appeal of the DRB's denial of a Sidewalk Variance**
Legal Description	All or a portion of Lots 7-10, Block 44 Perea addition
Location	NEC or 15th St and Granite Ave., NW
Size	0.32 acres
Existing Zoning	R-1A

The DRB denied the request for a Sidewalk Variance per the DPM. The applicant appealed the denial. The review body is the EPC per the DPM.

Staff Planner

Jolene Wolfley, DRB Chair

Summary of Analysis

The IDO requires a perimeter sidewalk be installed for all properties. The Design Process Manual (DPM), Chapter 12 identifies the criteria to consider a variance of this requirement. The DRB denied the request for a variance because the request did not meet the decision criteria. In fact, the installation of a sidewalk would contribute to the public welfare (it would further pedestrian safety and ADA compliance). The applicant appealed the DRB decision. DPM Chapter 12 identifies the EPC as the appeal body for a sidewalk variance.

The DRB did not act fraudulently, arbitrarily, or capriciously. The decision was adequately supported with substantial evidence in the form of Findings listed in the Official Notice of Decision. The DRB acted within its authority in applying applicable requirements.

CITY OF ALBUQUERQUE
Planning Department

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM **February 6, 2020**

TO: **Dan Serrano, Chairman, Environmental Planning Commission**

FROM: **Brennon Williams, Planning Director** BW

SUBJECT: **AC-19-18, Project PR-2019-002811 SD-2019-00158 VA-2019-00288: Richard Chavez,** appeals the decision of the Development Review Board (DRB) to deny a variance for all or a portion of Lots 7 – 10, Block 44, Perea Addition, zoned R-1A, located at the norhteast corner of 15th St. NW and Granite Ave. NW, containing approximately 0.32 acre(s). (J-13)

OVERVIEW

An application for a Preliminary/Final Plat and a Sidewalk Variance was filed by the applicant on August 30, 2019. The application was accepted and scheduled for the DRB meeting on September 11, 2019. The applicant received DRB comments and the case was reviewed with an indication that additional materials were needed. The DRB reviewed the case at four (4) separate meetings, with the last meeting on October 30, 2019. At that meeting, the DRB denied the request for the Sidewalk Variance because it was determined that the applicant did not meet the applicable criteria per the Development Process Manual (DPM), Chapter 12, Step 2. The DRB found that a variance to the sidewalk installation requirement would not promote the public welfare. The subject site is in a highly-pedestrian and urban area and the lack of a sidewalk around the perimeter of the site is a gap in the sidewalk system that makes it more difficult to have good pedestrian connectivity throughout the neighborhood. The vast majority of parcels in the area have a sidewalk.

The applicant appealed this decision on November 12, 2019; the appeal was filed in a timely manner. The current, in effect, DPM states that, "The decision of the Development Review Board is final unless appealed to the EPC within fifteen (15) days." (ref. DPM, Chapter 12, Sidewalk Variance procedure, Step 2). This appeal to the EPC is based on the current DPM standards which are pre-IDO. There has been an update to this process within the DPM, but that update is pending final approval from the CAO.

26A

HISTORY

The applicant met with staff prior to their submittal to discuss the requirements for the proposed variance. The applicant was told that he could request a sidewalk variance, but it was unlikely to be granted because of the location of the property in the center of the city.

An application for a Preliminary/Final Plat and a Sidewalk Variance was filed by the applicant on August 30, 2019. The application was accepted and scheduled for the DRB's meeting on September 11, 2019.

The Planning Staff provided comments to the applicant regarding missing notes on the plat, the lack of a surveyor's signature, and the lack of an exhibit showing existing sidewalks. Comments provided by the Code Enforcement Division indicated that a sidewalk should be provided, and comments provided by Transportation stated that the sidewalk variance should not be granted and noted that the existing fencing for the subject property is located within the public right-of-way.

The case was deferred to the meeting on September 25, 2019 to allow the applicant opportunity to address DRB comments, and the applicant requested a deferral to the October 2, 2019 meeting to allow additional time to address the provided comments. The case was heard on October 2nd and again on October 23, 2019. However, after extensive discussion, the case was again deferred to address comments from Transportation regarding the sidewalk variance, to allow the applicant to submit a clear site exhibit, and to properly address the fencing located within the public right -of-way. At the October 30, 2019 meeting, the DRB heard additional testimony from the applicant and the Transportation DRB member, but ultimately voted to deny the variance request based on the IDO requirement for a sidewalk to be provided in residential areas and the fact that there are existing sidewalks in the area that could eventually connect to the required sidewalk. It was also noted that the required sidewalk would increase and improve pedestrian and ADA access in the area.

On November 12, 2019, the applicant appealed the DRB's decision to deny the request. When staff processed the appeal, it was inadvertently scheduled for hearing with the Land Use Hearing Officer (LUHO), as the LUHO is generally the appeal body for DRB cases. However, prior to the hearing with the LUHO, staff realized the changes made by R-19-150 (*see explanation below*) which requires that an appeal of a Sidewalk Variance be heard by the Environmental Planning Commission (EPC) under the DPM, not the IDO. At the LUHO hearing held on January 7, 2020, Legal Department staff presented the jurisdictional problem and the LUHO recommended to City Council that the appeal be correctly reassigned to the EPC. At its January 22, 2020 meeting, the City Council referred the appeal to the EPC. While the LUHO scheduling was made in error, the case was reviewed under the appropriate criteria.

In May 2019, the City Council adopted R-19-150, "Interim Procedures for the Development Review Board until the First Annual Update of the Integrated Development Ordinance has been completed." The legislation is highly detailed. On page 4 of "Exhibit A, Item Page 406, Section 6-6(L) states, "Delete subsection 6-6(L)(3)(b) Sidewalk Variance, as this procedure is covered by the DPM." DRB Board members were unaware that R-19-150 had deleted the Sidewalk Variance process within the IDO. Nonetheless, the DRB Transportation engineer evaluated the request using both the IDO and the DPM decision criteria and their comment outcomes are the same. Decision criteria is similar between the previous provision that was in the IDO and the current DPM. [1]

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[1] The Annual Update of the IDO has an amendment that makes the review of a sidewalk installation a "sidewalk waiver" and restores the review criteria that was originally in the IDO before the May 2019 Interim Procedure. The IDO Annual Update would make the DRB decision on a sidewalk 'waiver' appealable to the LUHO. The EPC would then no longer be involved. The Annual Update of the IDO is pending before the City Council.

APPEAL

The appellant cites the following as reasons for the appeal (shown in bold text). Staff's response to the appellant's arguments follow (shown in regular text). The full list of the appellant's arguments is contained in the appellant's application dated November 12, 2019 (included in the Record).

1. **Appellant: The DRB's decision was arbitrary and ignored the existing sidewalk gaps in the area and the character of sidewalks in the area.**

   Staff Response: The applicant's request was treated in the same manner as similar requests. Historically, the DRB has required perimeter sidewalks for similar platting actions. Section 14-16-5-3(D)(1)(a) of the IDO requires a perimeter sidewalk for residential property. Because the applicant is making a change to their property, the requirements of the IDO apply (See Section 1-7(A)(1)).

   The DRB denied the variance of the IDO requirement for a perimeter sidewalk because the request did not meet all of the applicable criteria for a Sidewalk Variance in Chapter 12(A)(1-9) of the DPM. Approval of the request would perpetuate a gap in the sidewalk system where there are existing sidewalks to the east and south of the site. Gaps in the sidewalk system are contrary to public safety and welfare, and the area has a high degree of pedestrian activity and the sidewalk would contribute to a safe pedestrian environment, especially for pedestrians with disabilities.

   The DRB members informed the applicant that an alternative approach would be to request a variance to the width of the sidewalk from the 4-foot wide requirement to match existing sidewalks in the area. The variance to the width requirement is also covered in the current DPM, Chapter 12. However, the applicant did not request a variance to the width of the sidewalk.

   The neighborhood has many existing sidewalks in a mixed pattern, so building additional sidewalk promotes the public welfare. In contrast, there are other areas of the City where there are no sidewalks at all. The sidewalk variances granted by the DRB have been in areas where there are no existing sidewalks. While the applicant's property may not completely connect to a sidewalk now, more sidewalks can be installed as the area redevelops and creates a full network of sidewalks.

2. **Appellant: There is no incentive for any neighboring property to install sidewalks.**

   Staff Response: If any of the neighboring properties redevelop, the same requirements will apply to the other area properties that were applied to the applicant's property. The City requires compliance with existing rules for new development (IDO Section 1-7(A)(1).

3. **Appellant: Fencing in the right-of-way requires a revocable permit. The existing curb and gutter were built in 1966 and the fencing is "grandfathered" in.**

   Staff Response: As stated above, the applicant is making a change to the site and, therefore, the current requirements of the IDO and other City standards are applicable to the property. The revocable permit is required for any encroachment into the right-of-way. The other option available to the owner is to remove the encroaching fence altogether.

4. **Appellant: The City should update the sidewalks using City funds or create a special**

assessment district as was done along Mountain Road and Lomas.

Staff Response: The City Council creates a Capital Improvement Program (CIP) to allocate funding for improvements. This process is outside the purview of the DRB, which is charged with implementing the DPM and IDO in situations like this.

CONCLUSION

The Applicant's request did not show it meets the Criteria for a Sidewalk Variance per the DPM, Chapter 12, and the DRB denied the proposed variance. In the appeal, the appellant has not offered evidence that contradicts the findings or action of the DRB. The DRB did not act fraudulently, arbitrarily, or capriciously, and the decision was adequately supported with substantial evidence in the form of Findings listed in the Official Notice of Decision. Consequently, the DRB acted within its authority in applying the applicable requirements.

Jolene Wolfley

Jolene Wolfley, Chair
Development Review Board
Planning Department

Attachments:

1. Sidewalk Variance criteria from DPM, Chapter 12
2. Comparison of Sidewalk Variance Criteria from DPM to criteria formerly in the IDO.
3. Map of existing sidewalks in the vicinity of 15th & Granite

Chapter 12
SIDEWALK VARIANCE

INTRODUCTION

The Sidewalk Ordinance states that "all properties within the City of Albuquerque shall have sidewalk, drivepad and curb and gutter in accordance with the standards set forth by the Sidewalk Ordinance, unless a variance from these standards is allowed through the procedures established by the Sidewalk Ordinance or unless such facilities were constructed under differing standards previously in force." In addition, sidewalk design must be in accordance with the criteria presented in Chapter 23, Volume 2 of the Development Process Manual. General sidewalk design criteria promotes mobility, safety and comfort of the pedestrian and allows adequate pedestrian access to abutting property.

While the City encourages compliance with the standards and design criteria, there are certain circumstances under which a variance from the standards and design criteria is appropriate. The sidewalk variance procedure was established to provide for possible departure from normal standards under specific circumstances and to protect unique characteristics of certain neighborhoods.

Any property owner who wishes to install a sidewalk which does not conform to the standards in the Sidewalk Ordinance or the design criteria in the DPM, Chapter 23, Volume 2 must apply for a variance. The single exception is use of material other than standard material as described in Chapter 23, Volume 2. In this case only the review and signatures of the City Engineer and Traffic Engineer are required.

Variance applications are evaluated based on the following criteria set forth in the Sidewalk Ordinance:

"A. The Mayor, upon application of the owners or upon institution of an improvement district, may give a variance from any requirements of this ordinance, if it is found that:

1. The area is one which is subject to site development plan review as a planned unit development as provided in the Zoning Code, Article 7-14 R.O.A. 1994) , or

2. The area is one in which, because of special functional conditions, it is desirable to maintain or develop a design plan not consistent with uniform sidewalk installation as set forth in Section 14 of the Sidewalk Ordinance, or

3. The area or site has been recognized as having historical, archeological, and/or architectural significance by the City of Albuquerque, the State of New Mexico, or the United States of America and in order to maintain such historical, archeological, and/or architectural significance a variance is appropriate, or

4. The area is of low intensity land use to an extent that the normal installation of sidewalks will not contribute to the public welfare, or

5. The City's right-of-way is insufficient in width to permit the construction of a sidewalk of standard dimension and placement, or

6. A sidewalk variance would preserve trees possessing the following characteristics:

(1) Adaptability to the particular soil, climate, and moisture conditions of this City;

(2) High resistance to gas, smoke, and disease;

(3) Freedom from litter and offensive odors;

(4) Wood that is not brittle and thereby easily broken by wind and sleet;

(5) A root structure compatible with planting in confined areas;

(6) Long normal life; or

7. There are pre-existing obstructions that cannot be easily or economically relocated or should not be

altered, such as grades, fills, water courses, natural topographic features or man-made obstructions, or

8. The adjoining sidewalks are non-standard as to width and/or location, or

9. The established neighborhood character or mature landscaping on the site would be damaged to a degree that outweighs the public utility of the normal sidewalk requirement."

FUNDAMENTALS

1. Governing Regulations:

Sidewalk Ordinance (Article 8-6 R.O.A. 1994))

Development Process Manual, Chapter 23, Volume 2

2. Applicant:

Property owner or his authorized agent

The City upon institution of an improvement district

3. Approval Mechanisms:

Development Review Board; appeal to Environmental Planning Commission; appeal to City Council

SIDEWALK VARIANCE PROCEDURE

Consultation with a Development Service Division staff member is recommended prior to application to ensure that there have been no changes to relevant policies and procedures and to determine scheduling deadlines for application review. Approximate time frames are shown on the flow chart.

Step 1: Application

Obtain application form at the Albuquerque Development and Building Services Center.

Submit a completed application form and seven (7) copies of a sketch of the request to the Development Services Division.

APPLICATION MATERIALS:

Completed application form

Sketch of request showing

- Location of sidewalk relative to street(s) and property line(s)
- Location and dimensions of the right-of-way
- Location of any landscaping and major topographical features
- Location of any other physical obstructions
- Dimensions of sidewalk width and setback areas
- Scale and north arrow

Outcome: The Development Services Division (internal processing; no applicant responsibility):

Opens a case file

Schedules application for review at Development Review Board meeting

Notifies applicant by telephone with written confirmation of Development Review Board meeting date, time and location

Conducts field inspection of request location prior to Development Review Board meeting

Step 2: Development Review Board Meeting

The purpose of this meeting is to discuss the appropriateness of the request. The applicant must be present at the meeting to describe the request and respond to questions.

Outcome:

Development Review Board reaches a decision to:

- approve,
- approve with conditions, or
- deny.

Applicant will receive a Letter of Advice stating the Development Review Board's decision along with any conditions imposed.

The decision of the Development Review Board is final unless appealed to the EPC within fifteen (15) days. See Appeal Procedures, Chapter 15.

Step 3: Sidewalk Permit

Approval of a sidewalk variance does not constitute approval of plans for a sidewalk permit. The Letter of Advice must accompany the sidewalk permit application.

Click to view:
Sidewalk Variance
(Adobe Reader required to view this image)

DPM - Chapter 12 - Sidewalk Variance

(Highlighted items are color coded to show overlap of DPM and IDO)

Sidewalk ordinance states that all properties within the City of Albuquerque shall have sidewalk drivepad and curb and gutter in accordance with the standards set forth by the sidewalk ordinance unless a variance from these standards is allowed through the procedures established by the Sidewalk Ordinance..." General sidewalk design criteria promotes mobility, safety, and comfort of the pedestrian and allows adequate pedestrian access to abutting property.

The mayor "may" give a variance: Subject to site development plan review.

a. Subject to site development plan review.
b. Maintain or develop a design plan not consistent with uniform sidewalk installation.
c. Historical significance and variance needed to maintain significance.
d. Low intensity land use and sidewalk will not contribute to the public welfare.
e. Insufficient right-of-way to permit the construction of a sidewalk.
f. A sidewalk variance would preserve trees.
g. Pre-existing obstructions that cannot be easily relocated or should not be altered.
h. Adjoining sidewalks are non-standard as to width and or location.
i. Mature landscaping would be damaged to degree it outweighs public utility of sidewalk.

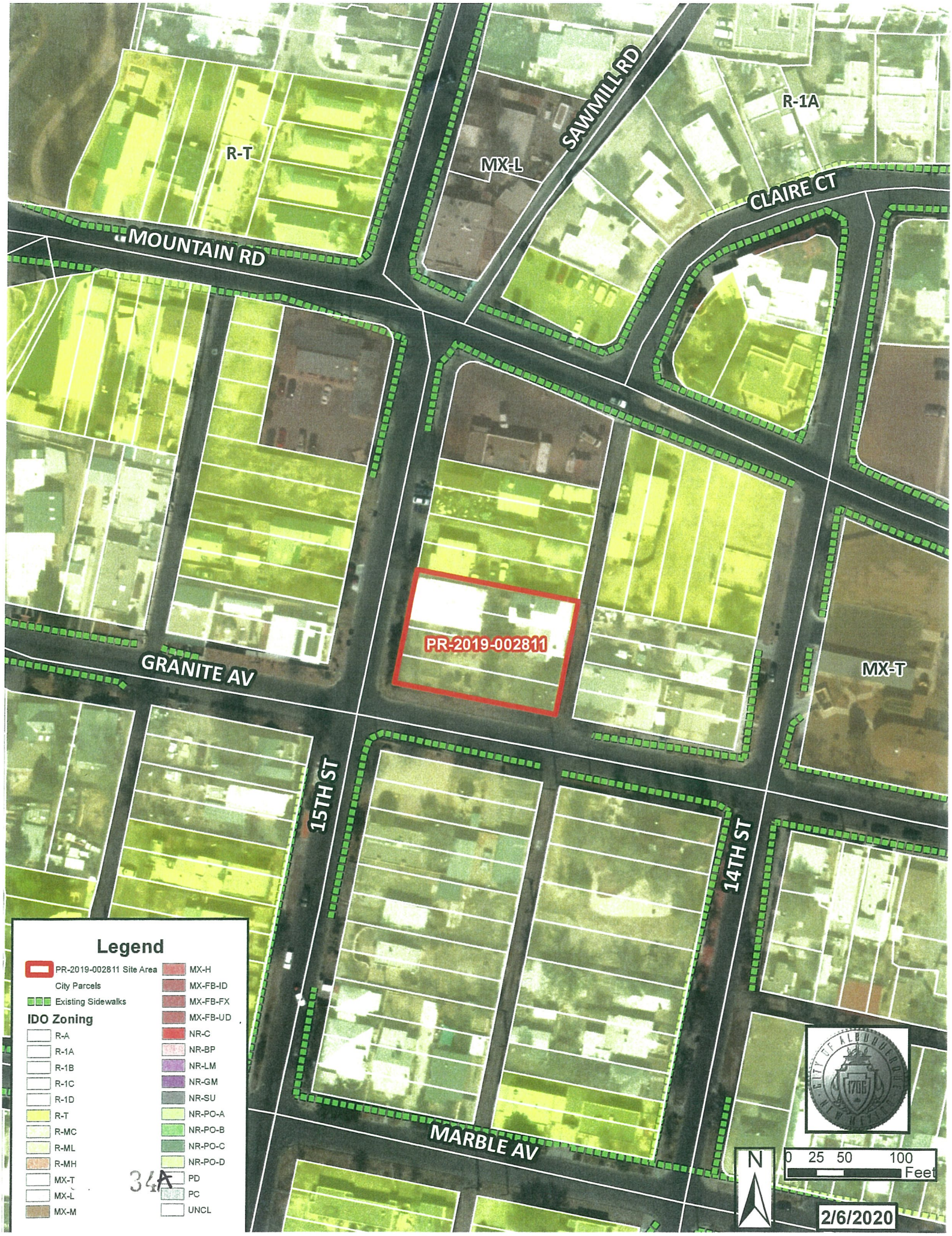
IDO 6-6 (L)(3) – Variance to DRB – Page 406

1. Any of the following applies
   (a) Special circumstances- hardship that is substantial, topography, etc.
   (b) Pre-existing obstructions.
   (c) Historical significance, variance is needed to maintain this.
   (d) Established neighborhood character or landscaping would be damaged to a certain extent.
   (e) Variance would encourage flexibility, economy, etc.
2. Not contrary to public safety, health or welfare.
3. No significant material adverse impacts on surrounding properties
4. Will not hinder future planning, ROW acquisition, building public infrastructure.
5. Will no significantly conflict with adopted plans, ordinances, codes.
6. Will not encourage development in floodplain.
7. Will not undermine the intent of IDO or zone district.
8. Will not allow a lot that does not meet IDO standards.
9. Variance is the minimum necessary to avoid hardship.
10. Variance for sidewalk requirements meets criteria below: 6-6-3(L)(b).

IDO Section 6-6-3(L)(b) – Page 409

Variance to Sidewalk Requirements was Eliminated by R-19-150

A. Low intensity land use; normal contribution of sidewalks will not contribute to the public welfare; absence will not create a gap of 1 or more sides of subject property.
B. City's right-of-way is of insufficient width, but sufficient right-of-way to meet ADA or PROWAG.
C. Adjoining sidewalks are non-standard as to width and/or location. Variance would allow sidewalks to match in width.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MARBLE AV
Legend
PR-2019-002811 Site Area
City Parcels
Existing Sidewalks
IDO Zoning
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R-1A
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R-1C
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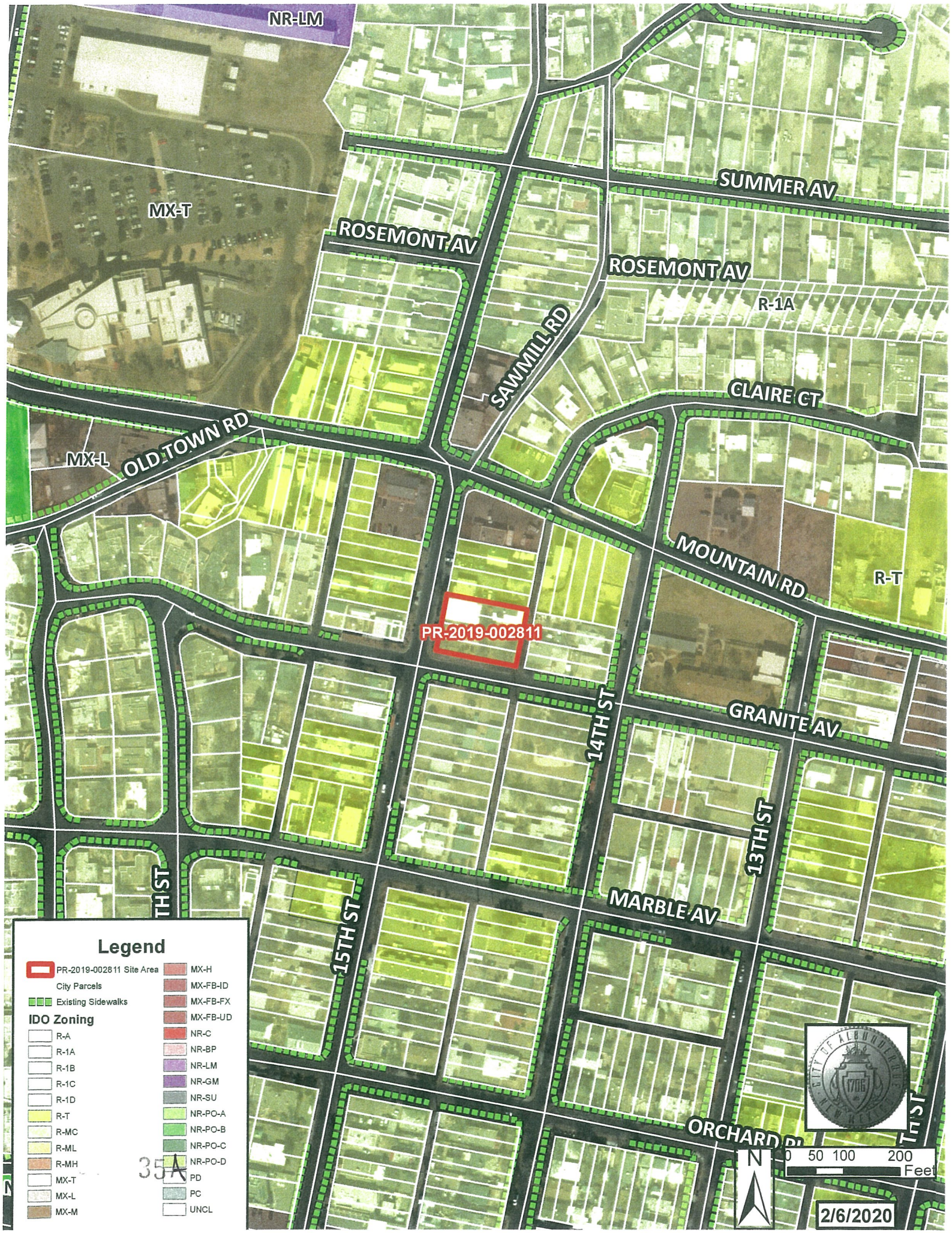
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PR-2019-002811
14TH ST
GRANITE AV
13TH ST
15TH ST
MARBLE AV
ORCHARD PL
Legend
PR-2019-002811 Site Area
City Parcels
Existing Sidewalks
IDO Zoning
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CITY OF ALBUQUERQUE
CITY COUNCIL

INTEROFFICE MEMORANDUM

TO: Brennon Williams, Director, Planning Department

FROM: Stephanie M. Yara, Director, Council Services SMY 1/24/20

SUBJECT: AC-19-18, Project PR-2019-002811, SI-2019-00158, VA-2019-00288, VA-2019-00416: Richard Chavez appeals the decision of the Development Review Board (DRB) to Deny a Variance for all or a portion of Lots 7-10 Block 44 Perea addition, zoned R-1A, located at the NEC of 15th Street NW and Granite Ave. NW, containing approximately 0.32 acres

DATE: January 24, 2020

At its January 22, 2020 meeting, the Council referred this matter to the Environmental Planning Commission. This appeal was assigned and scheduled to be heard by the Land Use Hearing Officer (LUHO), but the City Council determined that it should more appropriately be assigned to the Environmental Planning Commission per operation of R-19-150.

Attached you will find a complete copy of the official record to date.

cc: Russell Brito, Planning Department, Urban Design & Development Manager
File AC-19-18

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BEFORE THE CITY OF ALBUQUERQUE
LAND USE HEARING OFFICER

APPEAL NO. AC-19-18

PR-2019-002811
S1-2019-00158; VA-2019-00288; VA-2019-00416

Richard Chavez, Appellant.

This is an appeal of a decision from the Development Review Board (DRB) that implicates the sidewalk variance requirements of the Development Process Manual (DPM). Apparently, this appeal was mistakenly assigned and scheduled to be heard by this Land Use Hearing Officer (LUHO) when in fact it should have been assigned to the Environmental Planning Commission (EPC). At least, that is the position of the City Attorney's Staff.

Briefly, Appellant applied for a sidewalk variance under the DPM of which was denied by the DRB. That decision was appealed by Appellant. At the scheduled LUHO hearing, an Assistant City Attorney made a preliminary motion to dismiss this appeal, claiming that the EPC, not the LUHO, has subject matter jurisdiction over this appeal because Chapter 15 of the DPM requires that the EPC hear appeals from the DRB regarding the DPM. Thus, I respectfully defer to the City Council to reassign this appeal to the EPC.

Steven M. Chavez, Esq.
Land Use Hearing Officer

January 8, 2020
Copies to:
Appellants,
Party Opponents,
City Staff

IN RE: AC-19-18

TRANSCRIPT OF PROCEEDINGS

January 7, 2020
9:30 a.m.
1 Civic Plaza
Ninth Floor
Albuquerque, New Mexico 87103

HELD BEFORE: MR. STEVEN CHAVEZ
LAND USE HEARING OFFICER

REPORTED BY: DESTENIE VISARRAGA, RPR, NM CCR #136
WILLIAMS & ASSOCIATES, LLC
1608 5th Street, Northwest
Albuquerque, New Mexico 87102

1 MR. CHAVEZ: Good morning. So we are here for a
2 land use appeal. This is Appeal Number 8 -- or 19-18 --
3 AC19-18; is that correct?
4 Okay. I'm sorry. Let me pull up my file. My
5 name is Steven Chavez. I'm the land use hearing officer
6 for the City of Albuquerque. Today's date is January 7,
7 2020. And it's my understanding that there are some
8 preliminary issues regarding this appeal.
9 MS. SANCHEZ: Yes.
10 MR. CHAVEZ: And what are those preliminary
11 issues? State your full name for the record.
12 MS. SANCHEZ: Good morning, Mr. Chavez.
13 MR. CHAVEZ: Good morning.
14 MS. SANCHEZ: My name's Nicole Sanchez. I'm an
15 assistant city attorney representing the Development
16 Review Board.
17 I just wanted to note for the record a
18 preliminary jurisdictional issue. Under City Resolution
19 19-150, sidewalk variances are a procedure covered by
20 the Development Process Manual, or the DPM, not the
21 Integrated Development Ordinance or the IDO.
22 In the DPM, Chapter 12, DRB has the authority to
23 make a decision on whether to grant or deny a sidewalk
24 variance or waiver. Under this section, DRB's decisions
25 are appealed to the Environmental Planning Commission or

1 the EPC, not the land use hearing officer.
2 So this may present a jurisdictional issue in
3 this current appeal. Secondly, I would just like to
4 note related to that, DRB did review Mr. Richard
5 Chavez's sidewalk waiver under the IDO and the DPM, and
6 both of those requirements for a sidewalk waiver are
7 substantially similar.
8 MR. CHAVEZ: Okay.
9 MS. SANCHEZ: So I just want to make that note
10 for the record.
11 MR. CHAVEZ: So that we don't go into -- thank
12 you so much, Ms. Sanchez. So we don't go into the
13 merits just yet.
14 Your name is, sir?
15 MR. RICHARD CHAVEZ: Richard Chavez.
16 MR. CHAVEZ: Let me swear you in. Can you come
17 on up? Can you have a seat? I just have a few
18 questions for you regarding the jurisdictional issue
19 that was raised, Mr. Chavez. Good morning.
20 MR. RICHARD CHAVEZ: Can you please raise your
21 right hand?
22 RICHARD CHAVEZ
23 Having been first duly sworn under oath,
24 was questioned and testified as follows:
25 MR. CHAVEZ: Okay. Thank you. Do you understand

1 what Ms. Sanchez raised regarding the jurisdictional
2 issue Resolution --
3 Is it 150?
4 MS. SANCHEZ: Yes.
5 MR. RICHARD CHAVEZ: I understand what she said,
6 but that was never brought up prior to this discussion.
7 MR. CHAVEZ: I understand. I did read Resolution
8 150, and I would agree with you. I didn't see in the
9 IDO or in the resolution where the issue regarding the
10 DPM would fall into the EPC's lap. Can you clarify that
11 a little bit more?
12 MS. SANCHEZ: Yes. Under the development process
13 manual, Chapter 12 --
14 MR. CHAVEZ: Okay. So it's in the DPM itself?
15 MS. SANCHEZ: Yes, it is.
16 MR. CHAVEZ: I did see it in the DPM. I know the
17 resolution cites to the DPM. The resolution is not the
18 best-crafted resolution in the world, but certainly it
19 is the law of Albuquerque now. And so I will draft a
20 letter order to the City Council, explaining to the City
21 Council that this matter should be before the EPC,
22 because it's the City Council who delegated this appeal
23 to me.
24 And so it -- I think that I do need to resolve it
25 that way with the City Council, and then the City

1 Council can either decide to delegate it to the EPC or
2 they can send it back to me, or they can deal with it
3 themselves, certainly.
4 Yes, sir.
5 MR. RICHARD CHAVEZ: Can I ask a question?
6 MR. CHAVEZ: Absolutely.
7 MR. RICHARD CHAVEZ: So in Chapter 12 that the
8 attorney's referencing, that is the introduction to the
9 variance -- for sidewalk variance. I didn't see
10 anywhere in there that there was any language with
11 regard to the waiver of the sidewalk, or waiver for the
12 sidewalk. That chapter was strictly related to the
13 variance, which they educated me too, but I didn't see
14 no language in there that referred to any kind of waiver
15 with regard to the Chapter 12 introduction for sidewalk
16 variance.
17 MR. CHAVEZ: Now, I cannot answer that question,
18 because that's a merits issue, and we're dealing with
19 the jurisdictional issue at this time. And because I
20 don't want to deal with the merits issue until the
21 jurisdictional issue is resolved, I'm not go to answer
22 that question for you, sir, I'm sorry. I think that
23 jurisdictionally, I need to determine whether or not
24 this matter needs to go back to City Council and
25 ultimately to the EPC. I did have an occasion to read

1 that jurisdictional issue in the resolution and in the
2 DPM, and I would agree with Ms. Sanchez that if there is
3 a valid question regarding whether or not the EPC has
4 jurisdiction, and I think -- I just need to look at it a
5 little closer today. And I apologize for wasting your
6 time coming down here for this, but I don't have control
7 over that. So I think it's an honest mistake that was
8 made. I don't know where it was made, but we'll get it
9 resolved. Okay.
10 MR. RICHARD CHAVEZ: Can I make a statement?
11 MR. CHAVEZ: If it's not regarding merits. If
12 it's regarding the jurisdictional issue, you can.
13 Otherwise, I'm not going to hear the merits of your
14 argument, sir.
15 MR. RICHARD CHAVEZ: No. With regard to the
16 jurisdictional issue, does that mean this is going to be
17 delayed?
18 MR. CHAVEZ: Absolutely. That's the problem.
19 But I will work as quickly as possible. I will get a
20 letter out by -- what's today? Today's Tuesday. I will
21 get a letter out by the end of tomorrow to the City
22 Council. I normally have 15 days to do that. I will do
23 it tomorrow so that we can get this resolved as quickly
24 as possible. I don't know how long it will take for the
25 City Council to deal with it. That's something I don't

1 have control over. But I will ask them to deal with it
2 right away. Okay?
3 MR. RICHARD CHAVEZ: I appreciate that. I'm just
4 concerned that this sort of is a pattern of lack of
5 information that I'm being provided with regard to the
6 process and the requirements that the planning
7 department requires. So it's a concern for me.
8 MR. CHAVEZ: I think it's a valid concern. But I
9 don't have control --
10 MR. RICHARD CHAVEZ: No, I totally understand
11 what you're saying, that this is going to be deferred
12 until we determine which jurisdiction is going to hear
13 this hearing.
14 MR. CHAVEZ: Well, I think what I'm trying to say
15 very politely is that I need to look at it a little
16 closer, but I'm leaning towards agreeing with
17 Ms. Sanchez. I think the language is very clear -- it's
18 not really that clear, but it's clear enough to where
19 there's an issue that the City Council has to resolve
20 with the jurisdiction, and I will help them with that
21 resolution in a letter. I'll get a copy of it to you,
22 Mr. Chavez. Which brings me to your contact
23 information. Do you have an e-mail address, sir?
24 MR. RICHARD CHAVEZ: Yes, sir.
25 MR. CHAVEZ: Can you give it to me?

1 MR. RICHARD CHAVEZ: R-c-e-a-g-l-e --
2 MR. CHAVEZ: I'm sorry, r-c-e- --
3 MR. RICHARD CHAVEZ: -- -a-g-l-e, the number 2
4 s-k-y@gmail.com.
5 MR. CHAVEZ: And, Ms. Sanchez, I think I have
6 your e-mail address already.
7 MS. SANCHEZ: Yes.
8 MR. CHAVEZ: So I will get that out by the end of
9 tomorrow. Okay.
10 Anything else? Thank you. Let's close the
11 hearing. Thank you so much.
12 (The Hearing was concluded at 9:38 a.m.)
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1 REPORTER'S CERTIFICATE

2 I, DESTENIE M. VISARRAGA, RPR, NM CCR #136, DO
3 HEREBY CERTIFY that I did report in stenographic
4 shorthand the questions and answers set forth herein,
5 and the foregoing is a true and correct transcript of
6 the proceeding had upon the taking of this Hearing.
7 I FURTHER CERTIFY that I am neither employed by
8 nor related to nor contracted with any of the parties or
9 attorneys in this case, and that I have no interest
10 whatsoever in the final disposition of this case in any
11 court.
12
13 Destenie M. Visarraga
14 Destenie M. Visarraga, RPR, NM CCR #136
License Expires: 12/31/20
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January 16, 2020

The following comments will be provided to the City Council by Council staff for the January 22, 2020 Council meeting.

AC-19-18 Project PR-2019-002811, SI-2019-00158, VA-2019-00288, VA-2019-00416: Richard Chavez appeals the decision of the Development Review Board (DRB) to Deny a Variance for all or a portion of Lots 7-10 Block 44 Perea addition, zoned R-1A, located at the NEC of 15th Street NW and Granite Ave. NW, containing approximately 0.32 acres

I. Introduction:

A. The issue in this appeal is whether an appeal of DRB's decision on a sidewalk waiver request goes to the EPC or the City Council.

B. The LUHO held a brief hearing on the matter and deferred to the City Council for a determination as to the proper procedure.

II. Background:

A. The current text of the IDO specifies that the granting or not of a "sidewalk variance" is a decision within the discretion of the DRB, and that the DRB's decision in this regard is appealable to the City Council through the LUHO. **[IDO § 14-16-6-6(L)(3)(b), Tbl. 6-1-1]**

B. However, the City enacted R-19-150 last year which purports to augment certain DRB processes called for within the IDO in order to promote appropriate procedural safeguards for various types of decisions. To this end, R-19-150 removed the "sidewalk variance" process from within the purview of the IDO, in favor of the existing process and procedures found within the Development Process Manual.

C. The Development Process Manual specifically provides that appeals of the DRB relating to sidewalk variances (or "waivers") is first appealable to the EPC, as opposed to going directly to the City Council through the LUHO.

III. LUHO Findings & Recommendation:

A. The LUHO recognized the possible conflict or discrepancy between the IDO and the DPM, but determined that that given the novelty of this issue, the City Council should ultimately make the determination about the effect of R-19-150 on the process.

IV. Staff Comments & Recommendation:

A. R-19-150 appears to have intended to augment the requirements of the IDO with respect to this type of application. This augmentation was intended as temporary until such time the IDO could be updated as part of the IDO annual update process. In the meantime, it appears that the effect of R-19-150 is to place this appeal within the initial authority of the EPC.

B. There appears to be no procedural harm from referring this matter to the EPC per the terms of R-19-150 and the DPM, because any decision of the EPC is itself ultimately appealable to the City Council.

C. Accordingly, <u>this matter should be referred to the EPC</u> for it to hear the initial appeal.

V. Council Options:

1. <u>Remand to the LUHO for hearing</u> – The Council may remand to the LUHO for a hearing on the appeal.
2. <u>Refer to the EPC for initial hearing</u> – the City Council may refer this matter to the EPC for an initial appeal hearing which will result in a final determination unless additional appeals are filed.

CHAIR SERRANO: We'll go to agenda item # 1, Ms. Wolfley.

MS WOLFLEY: Chairman Serrano and Commissioners. I think this is an appeal hearing so if the appellant has 10 minutes first, correct? Okay, so I'm going to let the appellant start and have their time and then staff will come and respond to that.

CHAIR SERRANO: Good morning.

MR CHAVEZ: Good morning. On the agenda it says staff is supposed to go first and then the appellant.

CHAIR SERRANO: Well before we start, are you the appellant?

MR CHAVEZ: Yes, yes.

CHAIR SERRANO: Okay, state your name and address for the record, please.

MR CHAVEZ: My name is Richard Chavez. I reside at 906 15th Street, Albuquerque, New Mexico 87104.

CHAIR SERRANO: Please raise your right hand, do you swear to tell the truth under penalty of perjury. Okay Ms. Wolfley you have something?

MS WOLFLEY: I just wanted to let Mr. Chavez know he will have time for rebuttal after his testimony. So, you'll have another chance (Inaudible).

MR CHAVEZ: So, thank you for taking the time today. I want to thank whoever put this agenda together. Because the title for my appeal is appealing of a variance. This is just an example of the dysfunctionality that I've been dealing with from the very beginning and dealing with my particular application. I never at any point time ever ask for a variance. When I came before the staff to see what I needed to do to apply. I came in asking for a lot line adjustment to consolidate 4 lots to 2. That's all I wanted to do. Okay. So, when I came the staff all of a sudden, I found out here's the application, oh, by the way, you're a subdivide and you're a developer, and I, that was confusing to me because I was just asking for a lot line adjustment and I didn't understand why these other regulations were being called upon me.

I'm not attorney, I'm not a professional developer. I'm a tax payer I own property and when I came before this, before the Planning staff and DRB I thought this would be a fairly simple process. A) do you have any adjoining sidewalk that that you would be able to attach to, to create a continuation of this system on your street. No, that should have been a pretty simple answer to my request. If I created by, if my application created a gap in which I get filled to, for a continuation from one end of the street to the other. I could accept that. But the problem is that that's not the case. So, when I came before the staff, I was told I had to apply for a variance or a waiver depending on which one I wanted to do. When I was explaining the difference, I said I would like to prefer to request a waiver because I do not want to put sidewalk in it was explained to me that a variant was just a variant on the width of the sidewalk. I do not want to put sidewalk

in because there is no sidewalk on either side of the street for the whole block on my particular Street. So, the options that were given was to apply for a waiver or apply for a variance. So, in the process I pay the fee for a waiver on the sidewalk the fee was for a waiver on the sidewalk not for a variance. And from the very beginning of this process staff has directed me, pushed me try to control me into applying for a variance and I that was not what I wanted to do. So, the fact that I'm appealing on this agenda an issue that's called a variance is really disingenuous because I have never applied for that, never asked for that, never wanted that.

I started this process on 9/11. Okay, and here we are February 13th, and we still don't have a decision and part of it is because some of the delay is on my part which was a matter of not being able to get the kind of information that I needed for my application. Part of the delays been on the staff's part. I went before the January 7 hearing expecting to go before the hearing officer that morning. I was told at meeting that it was going to be canceled and It was going to be because it was the wrong jurisdiction. That I had to go before EPC. I don't think the staff found out five minutes before that meeting if that was the case, but I was never notified prior to that meeting.

Part of the problem that we have with this, the problem that I'm having with this application is that they considered me a developer and that my project was a development. I had nothing to do with development and on page 456 of the IDO. There's a definition of development which none of what I met what I was doing met that definition. So, then the question became what about the subdivision issue. Well state statute, chapter three municipalities Section 3-20-8 alternate summary procedures B (1) B re-subdivisions where the combination or recommendation of portions of previously padlock is not increased the total number of lots. That should be a process that you have to find within your ordinance and you don't. And so, what happens is it creates this arbitrary process by which the DRB basically starts coming up with these arbitrary decisions. Point example, the traffic engineer provided three recommendations on their review of my application. First one was, that there was plenty sidewalks in the area and there was no need for a waiver. I was stunned because if you look at Google Earth within one block, there's a series of streets that don't have side walk one block from my house. From two blocks going north towards 15th around the museum east of the museum. There's no sidewalk. And so, when I presented that before the staff, they had to acknowledge that was not the case that that statement never went forward. The other statement was that by installing sidewalk it would create a, it would enhance safety. The question I have is whose safety is it going to enhance? First of all, if you're an individual with a disability on wheelchair or a walker, now I have an accessible corner. Which mine would be the only one in the intersection that an individual could get onto my sidewalk. Now going north, they have, they have the, I don't know where the safety part comes in because at the end of my property the sidewalk ends, and it ends into the tree of the neighbor. So, if you're in a wheelchair in a walker and you're trying to get off that sidewalk, you have no egress that's handicap accessible off that sidewalk going north going east the same thing except it's an alley. So, in that alley you have is an asphalt dirt alley that you have no transition off the sidewalk, into that alley into the next side walk that would be traversable by somebody and wheelchair or a walker. So, that did not matter to DRB staff because they said now we're going to have you do this anyway, but here's the thing against me. What about the legal liability that I have to face because now staff, or the city is required me to put in the sidewalk that has won't

egress off it and the first time an individual in a wheelchair or in a walker stumbles and falls trying to get off at sidewalk. Who are they going to sue the city? No, they're goanna be suing me the property owner. So, what the DRB has created for me is a legal liability that the cost doesn't just stop with the installation of sidewalk. So, in trying to go through this process what I came to find out was even if, even in asking for a waiver there was no criteria for a waiver all the criteria that I was being referred to was regarding the variance criteria. The specific area, the chapter of the section of the idea was 14-6-6-6 (3) in that there was only, there was, there was the, there was three areas within code enforcement that I had to meet all three of those areas. Okay. Well, it's almost impossible to meet those three. I met two of them, but then I come to find out that there's a whole introductory chapter to the variance ordinance the staff never bother to present to me. They didn't present it at all. I located that on my own, and the introductory chapters there is nine variables that if you qualify for you get an exemption to the variance. In my simple mind, I kept thinking waver, wavier, wavier. It wasn't a wavier it was a variance. It was the introductory chapters and variance. So, when I presented that to staff I asked them, why was I not given this information? They could not answer me. They even asked legal for her input. She said you need to sit down and discuss this. So, I'm wondering okay if in fact you wanting me to put in a waiver for a variance then why don't you give me all the information related to that variance request that did not take place.

The other issue that I find really hard to understand is the lack of consideration for the financial burden that is being placed on an applicant for this particular process. You know, what do you do, if you're a veteran unlimited income and you're trying to go to sponsor you cannot even afford the application process. I'm already into this application process to the tune of over $1000. I should not have had to pay more than $500 to assess the lot line adjustment period.
I never should have had to request a waiver. I should never had to gone through this appeal process and incur the kind of cost that I do. Can somebody tell me how much time I have?

CHAIR SERANO: You have as much time as you need.

MR CHAVEZ: Oh, thank you I appreciate that. So, you know, I asked the question I never got to answer to it. Why do you not give this information out to every applicant that's applying for a variance? To this day I have not been given an answer to that question. Because to me in that chapter there's nine variable that they… of only one was in that 16-3 – whatever they gave me. That was only one of the nine variables but they never provided the information on the other eight variables.

One of the one of the other issues, so in the cost of my application of what I would have to do I look at about $16,000 in sidewalk cost that had to do with two drive pads, a corner accessible, a handicap corner and traffic control. And so, to me that's a pretty expensive investment because currently right now my property taxes at $6,500 year constitutes about a third of my mortgage payment. With the cost that I would incur by having to put in sidewalk my property tax also approximately 46% of my mortgage payment. So, it's a significant in cost for me.

I guess in conclusion what I find, A) that there was no process either for a waiver or for a lot line adjustment. State statute specifically cause for that process. It's not within the ordinance of the of

the sidewalk or what the, what staff uses to determine. But when you do, when you have this gray area, it creates a lot of arbitrary statements and decisions and that's why I feel that I've been dealing with through this whole process. The other issue about safety, because one of the issues that traffic engineering said was that I was within the right-of-way, within the setback of the city, and I need to remove my fence and remove that 15 feet from the street, although for two blocks. Everybody is in that same boat on between 15th, between Mountain road and Mable on 15th. For two blocks everybody's in the same boat. And the reason for that was in the early 60s, I grew up on this block in the early 60s the city late 50s early 60s the city came in and put storm sewers throughout the entire street. My folks had to pay an assessment team to the curb and sidewalk that was installed at that point in time, and because of that it basically grandfathered in all the property lines for up to the two blocks beyond that actually but my immediate two blocks.
And so, in this process, what the Planning director said on the news regarding this case, was that when you come into the process it triggers this whole process because you're asking for a status change to your property. I said, okay, I can understand that but why just somebody's looking through a lot line adjustment. Perfect example across the street from me there was an old building, I mean old houses dilapidated it was purchased for approximately 60 to 80,000 by a contractor he fixed it up sold it for about a hundred and sixty sold it to another couple in 2018 it sold for $268,000 no sidewalk put in there. Now this was taken a really torn down piece of property renovating it and no requirement for sidewalk. So, the developer made out big bucks didn't have to put a sidewalk in as far as renovating. There's another property about three houses down, two houses down it's vacant right now. They can put in the five story whatever never have to put in sidewalks because they're not asking for the sub-divide. So, to me, it's just kind of inconsistencies, the lack of a process, the timeframe that I've had to endure to get this thing approved, and the cost to me because every time I've had come before this board, I have to take time off. I work in Santa Fe, so I can't just take one or two hours off to come before this board. I've expended over 20 hours in leave trying to address this issue.

CHAIR SERRANO: Excuse me. Mr. Chavez. I think we got your point because we're starting to be redundant in what we're saying. If you have anything new to add now would be the time but if not, just so you're aware after staff presents their portion of the case. You're free to come up for rebuttal under our rules. What I would suggest you do is while you're listening to this make notes of your rebuttal questions, and then we'll submit them and then we'll see which of your rebuttal questions are relevant to what we're doing because sometimes people come up with questions that have no bearing whatsoever. Okay. So, before you leave Commissioners any questions? Commissioner Hudson.

COMMISSIONER HUDSON: Thank you. Mr. Chair. Good morning. Mr. Chavez quick question. Do you consider your property in like a highly pedestrian-friendly urban walkable area?

MR CHAVEZ: I would and the reason for that is because whenever Tiguex park has some activity going on or there's something going on in the old town area. Yeah, there is a lot of traffic. I get a lot of foot traffic but amazingly in all these years, there's never been one fatality one accident for a pedestrian or illegal in that area for all those activities that took place. So

again, the enhancement of safety to me is irrelevant because it's already safe. There's never been an accident in that particular area.

COMMISSIONER HUDSON: Thank you. One other question is the main reason that you don't want to put the sidewalk in because of the cost?
MR CHAVEZ: That and the legal liability that you're placing me in. Because there's no extension. There's no continuation of the sidewalk beyond me. And when you're, what I was told by a traffic engineer, that if you're really serious about enhancing the safety you go from one end of the block to the other end of the block so that a person in a wheelchair or Walker has complete access ability from one end of the street to the other. That's not the case.

COMMISSIONER HUDSON: Thank you.

CHAIR SERRANO: Thank you commissioner Shaffer.

COMMISSIONER SHAFFER: Just one quick question. What in this my just so I have for further information. What's the purpose of your subdivide request?

MR CHAVEZL I have two houses on the property. My folks bought this property in 1947. I built a second edition in 2004 and I would like to split the property because I'm getting point to I'm getting close to retirement and I would like to live in a mortgage free environment.

CHAIR SERRANO: Commissioners anything else? I just have one question Mr. Chavez. You indicated that when you came in to begin this process you were advised what would be triggered?

MR CHAVEZ: Correct.

CHAIR SERRANO: So, you chose to continue right?

MR CHAVEZL I did.

CHAIR SERRANO: Okay.

MR CHAVEZ: I had no choice.

CHAIR SERRANO: Right, okay. I just to, thank you. Commissioners nothing else? Okay. Thank you, Mr. Chavez. Mrs. Wolfley.

MS WOLFLEY: Good morning, Chair Serrano and members of the commission. My names Jolene Wolfley, I'm chair of the Development Review Board, and Jeanne Wolfenbarger is here. She's the traffic engineering manager and she will be giving a part of this presentation as well.

So, I just wanted to let you know that Mr. Chavez the applicant came in and he did discuss with staff the requirement, If you're re-platting he's taking 4 lots and making them into 2 that you do

trigger all the IDO requirements if you're making a change of use on your property, and that it be he, they talked to him about putting the, this would trigger putting in a sidewalk. Given the location of this property. It was unlikely he would be granted a variance to the sidewalk requirement. There's been discussion with him about considering a narrower sidewalk to match some of the other side walks in the area, but he chose to proceed with asking for the complete variance or not installing a sidewalk at all.
So, generally the application came in for a sidewalk variance with his plat application. This was reviewed at four meetings. There were various exhibits and things that were lacking in the application staff worked pretty intently with him in these four hearings to try to discuss his situation of what he needed and ultimately the DRB denied the sidewalk variance and this means that his plat application is on hold until this matter is determined. The applicant appealed and initially we sent the application, the appeal to the LUHO. Everything that the DRB has that's appealed goes to the LUHO. We didn't realize that there was a provision that had changed in May where there were various changes made to DRB processes in the IDO. It was a temporary change, and the DRB staff did not realize that that provision about a sidewalk variance had been taken out of IDO. And what that effectively meant is that the governing provisions are in the DPM the Development Process Manual, and that said that if someone appeals a sidewalk variance of any sort and the EPC is the appeal body, and that's our current governing document. So, the LUHO, City Council both took action to reassign this appeal to you as the EPC. So once again, this is the provision of the IDO that talks about when you make a change to your property you trigger. Let me have Ms. Wolfenbarger come in and talk about the details of how the case was reviewed. And I should just mention that in this case variance is kind of with a small v. It doesn't use the all of the ZHE criteria for a variance. It uses the DPM or the Development Process Manual listing of items for a variance.

MS WOLFENBARGER: Good morning. I would like to point out that Mr. Chavez had a very elaborate explanation for the variance that he presented. Based on DPM criteria, which is what I used in side-by-side with the IDO to determine whether or not we could grant his request. And first of all, I went through a series of the criteria, if you point the next page where we have that criteria listed. I don't know if anyone can see that. There is, we had put together a comparison of what the IDO had shown versus the DPM and much of the criteria is quite similar. It does talk about historical significance, low intensity pedestrian use, obstructions Etc., and based on this criteria. We had evaluated and determined that this area first of all most particularly is not a low intensity and having a sidewalk would contribute to the public welfare. We realize that there are there are still a few gaps and the neighborhood, but much of the neighborhood does already have sidewalk and we do agree that there are some areas that don't have ADA compliance, but we try to work with these applications that come in. You know, these re-platting to get sidewalk put in in front of people's property. Because our job as part of the DRB is to enhance Public Safety by making sure we have the correct vehicular pathways as well as pedestrian pathways. So, this area was determined not to be a low intensity as was already mentioned. There's some pedestrian use quite a bit of pedestrian use based on the fact that it's in the old town area. And therefore, we do think it will contribute to the public welfare. And there also is some connectivity, and now i'd like to go to the map that (inaudible) so graciously prepared.

On the, on the screen we have a map that shows Mr. Chavez property at the northeast corner of 15th and Granite. And what we did is we use the aerial to show where we actually do have some sidewalk. The sidewalk is digitally created by the GIS program and it's represented by a bunch of green dots as to where we have actual sidewalk. And as you can tell yes indeed, there are some gaps throughout and obviously because it's an old area there are areas where it's not ADA compatible. However, providing a sidewalk along the south side of the property will tie into the sidewalk to the east. Yes, it's noted that there's an alleyway in there that's not quite ADA compatible, but it'll provide some continuity there, even though the alleyway itself is not ADA compatible. They'll be a connection to the south on 15th street if you'll note their sidewalk continuing south to the north we realize there's a gap there. There may be obstructions to the north such as trees, but we had advised that if there's trees in the way we were willing to look at a variance from the standard with four feet as well as you know suggest future sidewalk easement for neighbors to the north in case at such point that anyone would come in with an action where we would also ask those people to build sidewalk and at some point, you know, it's also possible that the city might come in and fill in the gaps, although that's not as likely. So, we try to take those things into consideration when looking at the sidewalk variance. I do look at sidewalk variances. Sometimes people will submit to me as part of a Planning action, or Building permit action in instances when I have allowed variances, they typically involve well-developed cul-de-sacs with very low pedestrian use and no established sidewalks. There's nothing to connect into its well-developed, and its low pedestrian use, so I did want to also point that out. So, thank you.

CHAIR SERRANO: Thank you. Commissioner any questions? Commissioner Eyster and then commissioner Meadows.

COMMISSIONER EYSTER: Thank you chair. Thank you, Ms. Wolfenbarger. The IDO, could you please characterize what the IDO, how the IDO looks at sidewalks? What's the IDO trying to accomplish citywide with sidewalks?

MS WOLFENBARGER: So, in this particular case, because we're referring to the DPM in this case. The DPM is the established document to look at variances that is what we are concentrating on. The IDO itself does point out to items such as the City engineer, can ask for improvements along the frontage of a property, that's being developed. In this case there may not be actual development. But there is subdivision and DRB does take that into consideration, and the IDO does point out that the DRB looks after ADA and development of pedestrian ways and vehicular ways.

COMMISSIONER EYSTER: So, the Design Process Manual does charge the DRB with looking after ADA standards?

MS WOLFENBARGER: Correct.

COMMISSIONER EYSTER: And what are the various actions that can result in having to build a sidewalk in addition to a replat?

MS WOLFENBARGER: Other decisions that we make beyond sidewalk or?

COMMISSIONER EYSTER: Like Mr. Chavez said that there was building on in the area. They had maybe building permits I assumed but they didn't have to do sidewalks so building permit maybe does not require that?

MS WOLFENBARGER: Now being in this position for only six months. I haven't seen any applications for that particular area, but in my experience in reviewing what's been done in the past typically sidewalk variances have been granted when there's low pedestrian traffic or.

COMMISSIONER EYSTER: That's not quite what I'm trying to learn. He is, was required to build a sidewalk because he was doing a plat of re-plat I think. Are there other people who have other requests that are also required to go ahead and build the sidewalk?

MS WOLFENBARGER: Yes, they are.

COMMISSIONER EYSTER: What are those other kinds of situations?

MS WOLFENBARGER: Well commercial areas, and residential areas, all types of uses. Our typical reaction to someone coming in for platting action develop an action. Is to request that sidewalk. Because it is listed in the DPM, as well as the IDO to put the sidewalk along the frontage.

COMMISSIONER EYSTER: Thank you.

CHAIR SERRANO: Thank you, Commissioner Meadows.

COMMISSIONER MEADOWS: Good morning. So, a couple things I wanted to clarify one is because we heard about waivers versus variances. So, a waiver would be if the appellant was trying to, requested to build a narrower sidewalk that was in line with the other existing sidewalks in the area as opposed to variance, which is not to build a sidewalk at all. Is that Correct?

MS WOLFENBARGER: If you would you like to elaborate on that?

MS WOLFLEY: Chairman Serrano and Commissioner Meadows. So, currently if you want to not install a sidewalk or you want to install a narrower sidewalk then is the standard it's a variance through the DPM and that's why I said variance with a small v.

COMMISSIONER MEADOWS: Okay, and what would a waiver entail?

MS WOLFLEY: So, I have this slide up here and in May of 2019 the city council did a temporary change to the IDO. Because in the IDO had listed this as a variance if you didn't install a sidewalk, it was a variance and then in May of 2019 the city council did a temporary measure until the annual update cycle to change many of the DRB things to waivers and they

actually removed the sidewalk variance language from the IDO. DRB staff was working under the impression that they had changed variance to wavier because that's what they did with a lot of the DRB actions that they left they were waivers. And so, Mr. Chavez is right there was some communication with him calling this a waiver at one point, and as we proceeded through the appeal stage, that's when we realized that this provision about a sidewalk variance was eliminated completely it wasn't just changed to be a waiver but it is in the DPM as a variance. And what we were wanting to show you this slide in your packet is that the top part has the DPM Process Manual sidewalk variance criteria that was used to evaluate this and the bottom part is what was in the IDO as a sidewalk variance, And I've color-coded these so you can see what's yellow in the DPM is yellow in the IDO and green goes with green. And this is to show you that Ms. Wolfenbarger per practice in this kind of transition period is to use both IDO and the DPM and just evaluate the different criteria. And even though that bottom part isn't in effect right now. It's the top part that's an effect. It shows that the same basic elements were being reviewed on this request.

COMMISSIONER MEADOWS: And one other question, so we heard that all different kinds of platting actions would trigger the requirement for sidewalk does a building permit trigger the requirement for sidewalk?

MS WOLFENBARGER: Yes, it does.

MS WOLFLEY: This is our City Engineer Shahab Biazar I'm not sure he was here when we were sworn in.

CHAIR SERRANO: Just state your name.

MR BIAZAR: Yeah Shahab Biazar, City Engineer. Mr. Chair and Commissioner Eyster. Actually, a provision was, a section was added to the IDO to address that issue because I did get in trouble for not enforcing sidewalks right away dedication on plotted lots. One of the counselors approach me and basically chewed me out for that very reason. Where we had a project in (Inaudible) acres that was getting developed at the corner of Barstow and Alameda, and future Alameda was supposed to be going right behind that house. So, and I was told by that right of way wasn't dedicated, and why we're not requiring sidewalk. I told Mike truly I didn't find any way to enforce that. So that specific language was added to the IDO under subsection 1 7, 1-7 B to enforce that. So basically, it allows the city engineer to require any improvements fronting any plotted lots even when they come through building permits.

COMMISSIONER MEADOWS: Okay. All right. Thank you.

CHAIR SERRANO: Commissioner Shaffer.

COMMISSIONER SHAFFER: Thank you char. I don't know if this is appropriate at this time. I was going to ask Mr. Brito to if you could can you put up on the Google Map Google Maps that intersection on the screen? The 15th and Granite, unless Ms. Wolfley wants to do it.

MS WOLFLEY: While he's doing that I just wanted to mention that you just went through annual updates to the IDO. And in that you were dealing with this temporary provision and making it permanent and it would restore this sidewalk criteria that you see on the bottom and when that happened then what's on the top would go away. But currently were legally governed by what's on the top.

COMMISSIONER SHAFFER: Thank you, and I did I understand from testimony when you were speaking that there's a member of the city legal from that is familiar with this case here? Because I'm actually ask her.

MS WOLFLEY: Yeah let me introduce Nicole Sanchez, from the Legal department, and she's counsel to the Development Review Board.

COMMISSIONER SHAFFER: Thank you. Good morning.

CHAIR SERRANO: Excuse me, we did swear you in right?

MS SANCHEZ: I'm an attorney, so I have an attorney's (Inaudible) but I'm happy to swear in.

CHAIR SERRANO: We swore in pastors we'll swear in the attorneys. Do you swear to tell the truth under penalty of perjury?

MS SANCHEZ: I do.

CHAIR SERRANO: How come everybody uses atorney as a way to get out of being sworn in.

MS SANCHEZ: Because it is a long process.

CHAIR SERRANO: That's scares the heck out of me, but nonetheless state your name.

MS SANCHEZ: Nicole Sanchez.

CHAIR SERRANO: Okay. Commissioner Shaffer.

COMMISSIONER SHAFFER: What I need to ask is relevant to Mr. Brito getting that on the screen, but in reference to Mr. Chavez question, and I have several questions as you go down that street and a lot of legal question, a lot of legal questions about whose responsibility is what to his question of saying there's a tree at the end of the street someone in a wheelchair falls off his brand-new curb his brand-new sidewalk trying to get around that tree. Who's in your opinion, who's, whose responsibility is that what that was now put into place?

MS SANCHEZ: I would ask Mr. Varela, I believe that would be city liability. However, we're not addressing the property to the north at this time. We're only looking at the subject site

COMMISSIONER SHAFFER: I understand.

MS SANCHEZ: Is that your understanding Mr. Varela, that the city would be liable because it is city right-of-way?

COMMISSIONER SHAFFER: And that was where I was headed with that, because it's they're requesting the request from the city is telling the applicant that they have to put in a sidewalk to accommodate city services, correct? It's a city service to create the ADA compliance of the of the right-of-way.

MR VARELA: It's a component of public infrastructure. However, it would be located on private property.

COMMISSIONER SHAFFER: Located on private property which would open potentially open um up the medication as well and a joint suit.

MR VARELA: That would not be eliminated possibility.

COMMISSIONER SHAFFER: And my question to this and I guess if Mr. Brito can't get it up. If you go to the get the screen up Google Maps. We do it in all the other ones. All right. So, if you can kind of spin around there to the other corner. There's the City of Albuquerque stop sign right there on the corner. Percent that's on that person's private property supposed according what we're talking about, but it's a City of Albuquerque stop sign. So, someone in a wheelchair is coming down the sidewalk falls off the curb who's legally responsible for that lawsuit at that point that we've created this public infrastructure.

MS SANCHEZ: In my opinion it would be the City of Albuquerque, because it's on the city right-of-way.

COMMISSIONER SHAFFER: And then you go to the right-hand side. Where we have nothing and that continues down that street all the way around you go to the other side. There is literally no, back out just a little bit. There are no sidewalks on the street. I understand the point of creating continuity, which is extremely important, but I just don't you know, opening up someone to a legal can of worms on this when there is no further continuity. I'm not sure it is the right thing that you understand the process as you see in the sidewalk. I know you noted on your map that there's gaps in the alleyways, but they're yeah, there's no ADA compliance anywhere in this neighborhood whatsoever. So, I'm just my guess my question and what for us to ponder is that this is the right thing for this forcing this person to do? I know we have to follow the processes, but I just I wanted to bring that point up that Mr. Chavez brought up of him getting sued for going into a dead end and someone having to get off of his property onto the under the right-of-way.

MS WOLFENBARGER: I might like to add that we are asking him to put sidewalk within public right-of-way. Where there's plenty of room so none of the sidewalk would actually be on private property. So, I did want to point that out.

COMMISSIONER SHAFFER: Ok. Thank you.

CHAIR SERRANO: Commissioner Eyster.

COMMISSIONER EYSTER: Just for a dialogue with Commissioner Shaffer and with the witnesses, Ms. Sanchez and also, Mr. Varela. So, sidewalks generally are on public property. In my neighborhood. I know my property line is several feet inside the sidewalk at sidewalks on city property. So, I wouldn't I wouldn't be sued if someone were hurt on that sidewalk, is that correct, you think?

MS SANCHEZ: Chair, Commissioner Eyster, that is correct. The property owner could be named in a suit, but the liability would likely fall within the city.

COMMISSIONER EYSTER: Okay, I understand now. Thanks.

CHAIR SERRANO: Commissioners anything else? I just want to be clear. I just want to be clear. So, with respect to this particular property, you're asking the applicant or appellant to put a sidewalk to meet the DPM on public right-of-way.

MS SANCHEZ: Chairman that is correct.

CHAIR SERRANO: Commissioner Hollinger.

COMMISSIONER HOLLINGER: Thank you, Mr. Chair. So just to clarify a few things in regards to the section to the north of Mr. Chavez's property where the sidewalk would be on the responsibility of the other homeowner. That potentially would not be installed. How would the sidewalk end so if someone was traversing across that sidewalk, how could they transition to get back to the street with that just come to a dead end. Is there a potential that person could fall off? Just so I can better understand how that works.

MS WOLFENBARGER: Well obviously you know there's some gaps obstructions that would have to be looked at for any further construction of sidewalk. I think in this case it looks like there's some trees in the lay but we would work with the property owner to maybe look at options like a for instance the width of reduction or sidewalk easement or if that doesn't work, they would have to remove some of those obstructions or trees it possible that you know, if that might dead end but as these applications come in we're trying to fill in the gaps for the sidewalk. Generally, and hopefully at some point in time whether it be through applications or through a city project the whole network would be completed. Especially for an area that's high in pedestrian traffic.

COMMISSIONER HOLLINGER: I understand. If I may I have a second question as well in Mr. Chavez's request for appeal. He noted that other sections of the city had City assistance in building sidewalks. Are there any options for him in terms of that?

MS SANCHEZ: Chairman, Commissioner Hollinger. It is my understanding that the city has the ability to fund sidewalks through the Capital Improvements Program. However, you refer to the staff memo. That process is just outside of the DRB, to determine whether sidewalk funding or the project scope for building additional sidewalks.

COMMISSIONER HOLLINGER: So, in short, the answer is no?

MS SANCHEZ: It would go through the Capital Improvements Program.

COMMISSIONER HOLLINGER: Thank you.

CHAUR SERRANO: If I could follow up on commissioner Hollinger's question. I think where you might be going with it was if the appellant or anyone were to put a sidewalk in that probably have to go off the grade of the top of the curve, right?
MS WOLFENBARGER: Correct in most circumstances as you can see along here the right-of-way a little bit narrower. So, in such a case, we would build it adjacent.

CHAIT SERRANO: I mean, you won't want to go above or below the curve Correct.

MS WOLFENBARGER: No, it would have to be flush with the top.

CHAIR SERRANO: Correct. So, if we could go back to that page 9 that we add up. Thank you. It states at the top that the general sidewalk design criteria promote mobility safety and comfort for the pedestrian and allows adequate pedestrian access to a budding properties. I'm just going to play devil's advocate here. But the appellant comes in and puts in a sidewalk on his portion per the requirements set forth. He's using the top of the curve as the grade the abutting properties are now below the grade of the sidewalk even if it's one or two inches. Someone's walking, it's night they're handicapped, they're in a wheelchair, they're just even jogging. And you just trip over that, one or two inches that's the grade variance from the non-sidewalk to the sidewalk. Would that not create a, would that not go contrary to promoting mobility safety and comfort for the pedestrian?

MS WOLFENBARGER: Well the sidewalk we would be asking for would have to be flush with sidewalk and dry pad. So, the sidewalk that were asking to be built itself would be inspected to make sure there's no tripping hazards. But you're correct and stating that outside of that area there's possible somewhat of a gap once you go from sidewalk to no sidewalk.

CHAIR SERRANO: But nonetheless the whole street has curb and gutter.

MS WOLFENBARGER: Correct.

CHAIR SERRANO: So, we've established a grade for sidewalk.

MS WOLFENBARGER: Yes, there's there would be a grade established for sidewalk with the curb being in place.

CHAIR SERRANO: Okay. Thank you. Commissioners anything else? All right staff anything else you want to present? Ms. Wolfley.

MS WOLFLEY: I think I just want to reinforce that you see from the slides that there is a mixed pattern of sidewalk in the area, but it's predominantly sidewalk. And so, unless we start continuing to add to the sidewalk that's in a neighborhood like this. We won't have a continuous pattern. And so that's why the IDO is set up that way that when you come in your taking some action on your property, then it's set up that we we'll ask for the sidewalk and then you need to meet the criteria in order to get a variance to the sidewalk criteria. And so, we're arguing that these criteria are not met and in particular that the intensity of the land use and the pedestrianism in the area is benefited. The public benefit is for a sidewalk and not against a sidewalk. So, we just feel the applicant and now the appellant has not met the criteria that are required in the DPM.

CHAIR SERRANO Thank you. But you also use the term to incentivize the development of sidewalks through and through. So, you're asking the appellant to come in put the sidewalk in and meets the criteria you set forth. But you also I think somewhere in the testimony we heard the word incentivize future development of sidewalks along the whole street, but that will only trigger were to come in and request anything correct.

MS WOLFLEY: If some if some other parcel did not have a sidewalk and came in to do a plating action or building permit or some other action then then that request would trigger this sidewalk requirement as well.

CHAIR SERRANO: But if they never come in?

MS WOLFLEY: If they never come in, it would not be triggering

CHAIR SERRANO: We may have that issue with mobility obstruction public safety. We may I'm not, I mean you don't have to ask.

MS WOLFLEY: Yeah, and you know, there's an existing condition of no sidewalk at this parcel that does create some tripping or other hazards that the sidewalk would be a better remedy for and I'm sure that when we transition from this potential sidewalk to a property to the north. It doesn't have sidewalk. Every effort will be made to make that transition smooth as MS. Wolfenbarger said no tripping hazard, but we do have those hazards in the existing condition that things are at today.

CHAIR SERRANO: Thank you. Mr. Wolfley, so Mr. well she would have to defer to you to give an answer.

MS WOLFLEY: Yes, I'd like to defer to the city engineer.

CHAIR SERRANO: Alright, thank you. Please come on.

MR BIAZAR: Mr. Chair, Commissioners, actually DMD is under the city ordinance can write letters to their property owners and request for them to build that missing sidewalks to answer your questions. So, city sidewalks responsibility is left to property owners. DMD can write letters to property owners to actually because they request for them to build it.

CHAIR SERRANO: They request. So, if they chose not to abide by the request, because it's not a mandate which were putting a mandate on the appellant.

MR BIAZAR: Well, I mean you start with a request, and if they don't build it and the city ends up building it. They will go back and request for that reimbursement.

CHAIR SERRANO: But the only mandate to follow up on that request would be in the event that they were to trigger something that would require them to put…

MR BIAZAR: Not necessarily.

CHAIR SERRANO: But Ms. Wolfley just stated that the only way the abutting properties would have the mandate or requirement to put a sidewalk in. Would be if they triggered an action to do so.

MR BIAZAR: She did when I work with DMD, we were allowed to if they were missing sidewalks we were able to write letters to property owners and bequest. Either fix or replace that missing sidewalks.

CHAIR SERRANO: Okay. I understand that, but it's a request.

MR BIAZAR: Like I said, we asked.

CHAIR SERRANO: Ok, but asking would be similar to a request.

MR BIAZAR: But then after that we would follow up with a more stringer letter saying that...

CHAIR SERRANO: Let me make it simpler. So, I had the property adjoining the appellants property and you sent me a letter asking or requesting me to put a sidewalk in because the neighbor did and we're going in that direction. Am I mandated to do so?

MR BIAZAR: Per Ordinance yes you are.

CHAIR SERRANO: I am. So, it's contrary to Ms. Wolfleys testimony that the only thing that would require it would be something that would trigger it.

MR BIAZAR: That is true.

CHAIR SERRANO: Okay, so we don't know here we're at with this?

MR BIAZAR: Well, I mean per Ordinance your, I mean property owners are supposed to be on sidewalks fronting their property. So, city can obligate the property owners build their missing sidewalks.

CHAIR SERRANO: Correct. So, if we were to revert to the ordinance as you're stating then the the applicant the appellant has no basis to even want to appeal this because you're saying it's required under the ordinance regardless.

MR BIAZAR: That is true.

CHAIR SERRANO That is true?

MR BIAZAR: In my opinion yeah.

CHAIR SERRANO: But is it? Let's take the opinion part out and go to factual legal. Can you sustain his opinion as fact?
MS SANCHEZ: Chairman I would have to look into that. I don't have had answer it this time, and I would want to look at the ordinance.

CHAIR SERRANO: So, then we can go back to Ms., I think Ms. Wolfley testimony probably has more merit at this point considering we are here to deal with the appeal. Thank you, sir.

MR BIAZAR: In the meantime, we just have to find the ordinance.

CHAIR SERRANO: I appreciate it. Thank you, Commissioner Hudson.

COMMISSIONER HUDSON: Thank you. Whoever from the city would like to answer. It's probably an engineering question, but we're talking a lot about the liability and you're going to trip over this little part of the sidewalk that's higher than the dirt. Is there a possibility of floating the ends of that so that you can float it and whether it's an inch or 2 inch or whatever so you can float it. So, you don't have the issue of tripping over it and then it would blend in nicely with what the adjacent property terrain is.

MS WOLFENBARGER: Yes, that is correct when you get into the details of construction and inspection, we can do something at the ends minimally.

COMMISSIONER HUDSON: So, then you don't have to worry about the concern that our chair had is if you're jogging or you're in the wheelchair or whatever if it was floated to the adjacent property terrain, then the liability perhaps would be mitigated. Is that accurate?

MS WOLFENBARGER: Yes, for that specific area.

COMMISSIONER HUDSON: Thank you. Thank you very much.

CHAIR SERRANO: Thank you. Commissioners is there anything else? Commissioner Shaffer.

COMMISSIONER SHAFFER: Just quick a question. Everyone one likes always throwing we like to use the term as its own because we said so in this the ordinance. Is there an ordinance that's being cited? Or are we just saying, oh it's because the ordinance says so. Or we don't know?

MR BIAZAR: I will find that ordinance shortly.

COMMISSIONER SHAFFER: Thank you.

CHAIR SERRANO: Commissioners? Commissioner Eyster.

COMMISSIONER EYSTER: Thank you chair. One or two of staff witnesses have indicated that it's the long-term goal of the Development Process Manual that we would have ample sidewalks safe sidewalks ADA sidewalks pretty much throughout the city with certain situations where we wouldn't. But if maybe I would ask Ms. Sanchez or Mr. Varela if this commission overturns the DRB denial and Mr. Chavez would then have a variance would he have that variance indefinitely with this always piece that would not have to have a sidewalk. Even when the rest of the neighborhood does and 30 or 40 years.

MR VARELA: The ruling would stand until it was appealed or overturned by a higher authority.

COMMISSIONER EYSTER: So, I take that to be that would be more or less an indefinite variance, even if the rest of the neighborhood starts to come along and really becomes completely side walked.

MR VARELA: A higher authority for example would be the City Council or District Court.

COMMISSIONER EYSTER: Thank you.

CHAUR SERRANO: Thank you. So, to follow up with Commissioner Eyster question. If we're going down the path that there is an ordinance or there will be an ordinance requiring all properties to put sidewalks in as City staff as indicated and we were to go down the path of granting the appeal. Can we add a condition that would make it subject to any existing or perspective ordinance that is or maybe in place requiring said sidewalks to make the appellant abide by that? And that's probably more directed to you Mr. Varela. You can weigh in too Mr. Brito if you'd like. You need some time to?

MR VARELA: Mr. Chair if you can repeat the question?

CHAIR SERRANO: I knew you're going to say that. I guess where I was going with this this is If possible, if we were to grant the appellants appeal with the condition that would mandate him to put that side, those sidewalks in if an existing and or future ordinance is put in place requiring

them as City staff as indicated that way at that point everybody is treated the same and I think the arbitrary or capricious argument the appellants putting forth that goes away.

MR VARELA: Mr. Chairman members of the Commission. There are actually is an ordinance in place right now. It's 6-5-5-3 pedestrian's sidewalk, right add curb and gutter required all properties within the city shall have sidewalk, dry pad, curb ramps, curb and gutter in accordance with standards that Worthen 6-5-5-1. Unless the variance from the standards is allowed through the procedures established by this ordinance.

CHAIR SERRANO: Mr. Brito, can you put that that language on the screen for us, please? And while you're doing that so, Mr. Varela, you're stating you're basically agreeing with what I'm saying, by and staff, that with the ordinance in place the appellant like any other person that has property in this city is required under this ordinance to put in a sidewalk.

MR VARELA: That is correct, yes.

CHAIR SERRANO: Is there a timeframe?

MR VARELA: The ordinance does not state a timeframe.

CHAIR SERRANO: Okay, but it does say, does it say may or shall?

MR VARELA: Shall.

CHAIR SERRANO: Thank you. And Mr. Brito while you're putting that up, I'm going to do this. We're going to take a five-minute recess so it allows you to put that up, and Mr. Chavez if you have rebuttal questions, if you would bring those to Mr. Salas. I'll get them and then we'll come back and five minutes. Okay. Well reconvene at 10:02. Mr. Chavez, if you come to the podium and while you're doing that, thank you. Mr. Brito, Mr. Varela for bringing up the Ordinance. One quick question before we go to your rebuttal questions, Mr. Chavez, and this would be directed to Mr. Varela under 6-5-5-3 there's reference to a variance that I guess could be allowed. Under 6-5-5-1, in your review 6-5-5-1 would this appeal meet such a request? I guess my question is does Mr. Chavez have some standing here to, because he's talking about a variance that that if we were to grant the appeal which in essence would be a variance, right? Would that meet the criteria said, because I don't have 6-5-5-1 in front of me, but.

MR VARELA: What the ordinance did was it then redirects the person requesting the variance to the Integrated Development Ordinance and in the Integrated Development Ordinance, there is some language which could be considered guiding language or they mainly talk about variances for example, for cell tower placement and such and the very first criteria there, which is what is in the best interest of the overall community.

CHAIR SERRANO: Okay. Thank you. Ok, Mr. Chavez, you submitted to this body a list of 13 questions.

MR CHAVEZ: It's only six sir.

CHAIR SERRANO: There's only six?

MR CHAVEZ: It's only the bottom half of the page, sorry.

CHAIR SERRANO: So, the top half is not?

MR CHAVEZ: No, I just tried to reword the bottom half. The top half was notes I was taking.

CHAIR SERRANO: Alright, so the chair finds that we have. We're going to allow three questions that are relevant and by that, I mean they either have either haven't been asked and answered or there might be a little more clarification that we can provide you with, okay. And the first one would be, your question number 4, which says if the ordinance for sidewalks is in place. How many property owners have been required to put it to put in a sidewalk? I think that's been asked and answered to some degree, but I'll give you clarification as we've gone forth in this hearing we have established that there's an ordinance in place that is now requiring all property owners to put in a sidewalk. Okay. So, we go to question number 5 if staff can't be on the same page, I was an applicant supposed to understand the process and the ordinance? I can't, I'm not going to sit here and say staff is not on the same page the whole reason that we're going through this hearing and we're having this dialogue is to try to get to a resolution and to get the facts on the table with respect to whether any applicant yourself or any is to understand this process that's a hard question to answer because quite frankly a lot of applicants and I hate to use this term lay folks in this process tend to hire professionals to represent them in this process who know where all the land mines are per se, but absent that there is an it's incumbent upon the applicant to do some due diligence if they're going to represent themselves. That's the easiest answer. The question number 7, what is the city's plan to install sidewalk for rest of the block? It's a redundant question, because we sort of asked and answered that already? I think staff has made it clear in this hearing that they sent out, or they will send out requests. I think now that we've ascertained that that ordinance says what it says, I'm sure staff is going to leave here and send out a whole bunch of requests, but it's going to mandate not only you. If your appeal is not granted to put a sidewalk in, but everyone else on those streets north south east and west that are within the city proper.

MR CHAVEZ: So, there was a question. I thought was the most relevant it was number 2.

CHAIR SERRANO: Well, okay, but hold on Mr. Chavez. We're only dealing with your rebuttal questions right now. Okay staff.

MR BRITO: Mr. Chair, thank you. I just want to note per the EPC rules of conduct in addition to the ability of the appellant to enter these cross-examination questions. He is given five minutes for closing statements,

CHAIR SERRANO: Right and that's what I'm getting at. So instead of a question, we're going to give you that time to give your closing statement. So, if you there's anything that you want to add added in your closing statement, sir, okay, if you can proceed.

MR CHAVEZ: So, when I applied for, when I started this whole process I was told by DRB staff, by Planning department that I need to apply for a sidewalk waiver. Nowhere in my application, nowhere in this discussion was a waiver for a sidewalk brought up. It's all been related to a variance. There're two very distinct outcomes between a sidewalk waiver and a variance and so where's the criteria for a sidewalk wavier. I was never able to locate that the criteria that my application was judged on and determined was based on the variance criteria, which I never applied for that was based on direction from the DRB and their staff. So, you know the term sidewalk waiver and variance is being used very interchangeably, but my fee went to a sidewalk waiver and there is a separate fee for sidewalk variance. I didn't apply for that. And so, this whole discussion about a variance is confusing because that's not what I apply for. Now the information that you put up here little bit earlier all after the fact from when I applied they brought up the information that they're just bringing to, you know about the change in ordinance and so forth. Why would that information not given to me upon application? So, when you go to codify anything in place that really emboldens staff to just make these arbitrary statements because they have no accountability as to what if you know, what if this is not a case where this is not a developer the state statues I realized the City of Albuquerque is a home Charter and that you establish your own ordinances and so forth. But when you don't have that in your Ordnance, you have to defer to state policy or state statutes and state statute that I just cited specifically asked for re subdivisions that don't increase property lots. You should have a process in place for that and that's not here. And that's the whole reason for this arbitrary process is because I'm kind of a square peg they're trying to shove down with the round hole and that is not right for one. Two it doesn't make sense because the next person that's coming in is going to be asking which is it is it a waiver, well now we have information after the fact of my application.

I don't know what to say because again, the you saw the difference in opinion between the legal liability that I could be facing you try to comfort yourself and thinking that not only the city would be held liable, but the gentleman said specifically, no the individual property owner. The attorney over here said that there's a possibility I could be held liable. Well, you can bet your you know what, on the fact that if somebody were to hurt themselves getting off sidewalk on the north end or on the east end, that I would be one of the individuals I would be the first individual they're going to sue. Now they might bring the city in as because it is a city right-of-way, but they're coming after me the property owner. So, the financial burden that you're creating. I understand that you have an ordinance to put in but if you really wanted to address that ordinance, you have the 400-million-dollar problem. You're the planning department, why can't you work with the infrastructure folks in developing a bond program where you put out 40 million dollars a year. You could address that in 10 years say 20 million in 20 years. You could actually address every sidewalk issue. You wouldn't have to deal with this through a bond program. Why doesn't the city do that? The city was able to find funding to put a new sidewalk new curbing Lamppost from Broadway to 20th street on Mountain road. They did on Lomas twice in the last 20 years. They found the money to do that. Why can't they find the money to address the inner areas of the neighborhood. Thank you.

CHAIR SERRANO: Thank you, Mr. Chavez we have a question from commissioner Hudson.

COMMISSIONER HUDSON: Thank you for your comments about waiver versus variance but staff report actually states here, and I assumed that you knew that you submitted an application for what is called and these are capitalized terms a preliminary final flat and sidewalk variance was filed by the applicant on August 30th. Did you know when you filled that out that it was called a preliminary final plat and sidewalk variance. It did not say anything about a waiver.

MR CHAVEZ: I'd like to correct you on that because the second page of that application specifically calls for a waiver process and that process requires you to submit a letter explaining how you meet the definition of, or how you exceed the requirements of 14-6-6-6 so on the application. Yes, that's what the form recalls for. But if you go to the second page of the form, there's a specific area specifically for a sidewalk waiver.

COMMISSIONER HUDSON: But you knew that you sign, your application was a preliminary final plat and sidewalk variance application correct?

MR CHAVEZ: That is because the application itself does not have a category for the sidewalk waiver. It's on the second page. I had no choice but to check off that box.

COMMISSIONER HUDSON: And what is your definition between a variance and a waiver?

MR CHAVEZ: The variance according to share what they instructed me on was it a variance is the width of the sidewalk. You're asking for a variance on the width. A waiver is not to install any sidewalk at all, which is what I asked for from the very beginning. The confusion is really coming from staff and DRB, not from me. Because if you look at the denial letter on the subject line, it was referencing a variance and then you go to the body of the letter it's referencing a waiver. So, they use this term interchangeably throughout this entire process, which has been really hard for me to understand and as you can see up here, you don't even hear the term waiver, which is what I actually applied for.

COMMISSIONER HUDSON: But the form didn't call it a waiver, they call it a variance.

MR CHAVEZ: But what you're focusing on is the first page there's two pages to that application and the second page does have an area for a sidewalk waiver that I checked off. I didn't have any choice on the first page. They don't give you a choice.

COMMISSIONER HUDSON: Thank you.

CHAIR SERRANO: Commissioner Eyster.

COMMISSIONER EYSTER: Thank you chair. Mr. Chavez in the staff report there's four bases for your appeal. And I wonder if you would help us understand the third one about fencing in the

right-of-way requires a revocable permit the existing curb and gutter were built in 1966. And the fencing is grandfathered in.

MR CHAVEZ: So, for two blocks from Mountain road to Marble, all of the properties are 3 feet off the curbing. Okay. So, what I was told and what the engineer said that I could request a variance to where I could only put three feet of sidewalk so it wouldn't hit the tree. Okay, but the problem is that you have a revocable permit that you have to pay ongoing. So, it's an additional tax to keep the fence in place to put in a sidewalk. They didn't mention that to you.

COMMISSIONER EYSTER: Is that on your property or up to the north of you?

MR CHAVEZ: No, no that is not my property.

COMMISSIONER EYSTER: Because what I thought I saw in the photos was that your property has a wall about 10 feet from the curb. Is that right?

MR CHAVEZ: No, there's no wall on my property I have a chain link fence on the southside and the westside.

COMMISSIONER EYSTER: So, your fence is near the curb like 3 feet.

MR CHAVEZ: its within 3 feet of the curb.

COMMISSIONER EYSTER: Okay. I think I get it now so you don't but you don't want to build any sidewalk not just a 3-foot sidewalk. Look.

MR CHAVEZ: I would actually have some consideration, but until they told me that by leaving my fence in place I would be taxed an additional revocable fee for a revocable every single year. That did not make sense to me. Why should I be paying to keep my fence?
COMMISSIONER EYSTER: Ms. Wolfenbarger is that correct that he would be charged an annual fee for the fence?

MS WOLFENBARGER: Yes, for any structures within the right-of-way that also include chain link fencing is called a revocable permit where the property owner does have to pay to keep items of theirs within the right-of-way and there is an annual fee associated with that per year. But the alternative is to remove the fence and not have it within the right-of-way. That's been pretty standard, it's coordinating with Alan Varela. We've been doing several revocable permits when people come in for an action through DRB.

COMMISSIONER EYSTER: So, does our action today affect that fence? Whether we uphold your denial or reject your denial.

MS WOLFENBARGER: In order to move forward with a platting action, the revocable permit is a separate issue from the sidewalk. Because regardless of whether or not we put in a sidewalk the fact of the matter is the fence is still in the right-of-way. So, we're still asking for the fence to either be removed, or push back the property line, or a revocable permit would be needed.

COMMISSIONER EYSTER: But it is a separate question from what we're looking at.

MS WOLFENBARGER: Yes, that is correct.

COMMISSIONER EYSTER: Thank you.

CHAIR SERRANO: Thank you, Commissioner Shaffer.

COMMISSIONER SHAFFER: Thank you, Chair. Ms. Wolfenbarger, I have a question for you in regards to that, because this is back to where we keep going and saying, you know, why is this one property getting singled out? So, I've spent this entire time looking through that entire neighborhood 70% of the neighborhood has a fence within the right-of-way. So, does every single one of those properties are they all paying a revocable permit every single one of them? And, I'm not and as we've established it's not that's a separate issue, because we're not creating an action that's creating a permit.

MS WOLFENBARGER: There are a lot of revocable permits missing within the city with existing properties. Whenever someone however comes in for any type of action through the city whether it be DRB, DRC, or Building permit at that time we do ask for a revocable permit.

MR DUBOIS: The answer to your question is…

COMMISSIONER SHAFFER: Sir hold on one second please, thank you. The question is we're separating this because we have an action for a variance, denial, appeal, but that's you know, we brought this up ok that's an additional cost for this gentleman for this process. And I'm just curious of how does the city and your department go through that? I mean how do you enforce this, other then when someone as an actual action.

MS WOLFENBARGER: Well it's something that we've had some discussions on, and actually another department within the city with revocable permits. Alan could you help me out with this?

MR VARELA: The understanding that I have, the understanding that I have is that naturally when people bring themselves to the attention of the city then they are informed of the law and the requirements and at that point they're asked, requested, required, however you prefer to phrase it all amounts to the same end result to come in compliance with the with the current rules regulations and laws at the time.

CHAIR SERRANO: Real quick follow up, you mentioned that some of revocable permits are missing. Is it also safe to say some of them just don't exist? To kind of follow up with. Mr. Varela said it's not until they bring some form of action.

MS WOLFENBARGER: Yeah there's many that don't exist.

CHAIR SERRANO: Okay, so missing and exist are two different things with respect. So, Ms. Wolfley. Thank you. Mr. Chavez. Ms. Wolfley, Mr. Chavez alluded to the fact that in the application in commissioner Hudson alluded to requested a variance but there was a box on the second page it said waiver and he checked it off. Does that, is that accurate?

MS WOLFLEY: Let me ask Ms. Gould to answer that question.

CHAIR SERRANO: It's simple you know, if it's on the application and he checked off waiver and it exists then the answers yes, if not then the answers no.

MS GOULD: So, Mr. Chair, I think the key piece of information in this is that the change that was made to the DRB rules in May was trying to clarify that the DRB was not a quasi-judicial body. Therefore, things that had previously been called waivers, things that have been previously called variances were switched to waivers. And what Mr. Chavez was originally told because that was the information we were working on, was that he was asking for a waiver to the IDO requirement that all properties have a perimeter sidewalk. And so that that was what was submitted and the difference between the waiver to the IDO criteria versus the variance to the DPM criteria regarding sidewalk width and so I think that's, and without the application in front of me I can't honestly answer that question about which box was checked or not checked, but I think that's the key piece of confusion here is that there was a change made that wasn't accurately translated. But as I think as Ms. Wolfenbarger, and Ms. Wolfley, chart showed the criteria for variance in the criteria for waiver or substantially similar.

MR CHAIR: Well let be more specific. Is there a box that says waiver on the second page?

MS GOULD: I would need to look at the application that you filled out in order to answer that question.

MR CHAIR: So, you can say yes or no, but Mr. Chavez is saying yes because he checked off that box.

MS GOULD: Which is possible and I can go through the record and find the second page of the application he filled out if you would like us to do that.

MR CHAIR: Okay. Well, then let me ask this. Let's assume that there is a box that says waiver would a reasonable person believe that they if they check that box that they would be requesting a waiver?

MS GOULD: That is probably a reasonable assumption.

MR CHAIR: Thank you. Okay, Commissioners any discussion? The floor is closed and we'll go to the Commission.

COMMISSIONER SHAFFER: Thank you chair obviously had two concerns one was legal and I think that's just no offense, that's just a quagmire of events that could possibly happen in because at any given point anyone can sue anybody for anything, so that's I think it was established that it's city right-of-way. So, they are the front-runner of the legal process there so that answer my question and that coming from my world. I understand that once you touch something. You've got to bring it up to code. I mean, that's the rule. I mean, that's how that goes or city is older and

has many things that have to get brought up to code for public safety and public well-being and to bring things to current codes. I think that there was an obvious confusion on the front end for and a little mixing of paperwork and so on so forth that contributed to Mr. Chavez dismay in this process and I think that's documented, although unintentional as there was changes from city council to the to the hand him some different processes put in place. So, it created a little bit of confusion. And that's okay in my opinion. I do think that that the city has an opportunity to do a lot of work down in those areas to help homeowners and everybody create their ADA compliances. It drives me crazy when I'm walking down a sidewalk and it ends in a pile of dirt and then you jump into the street and then you're walking in the street and now you're walking amongst the vehicle. So, I think there's opportunities for everybody. But I do understand the process that's in place that when you touch it you bring it up to code. It happens to us happens to everybody all the time. And I think that's a good process to identify things that need to happen in our city to make them better and up and up to date. So, I'm just open to more discussion amongst the Commissioners.

CHAIR SERRANO: Thank you, Commissioner Shaffer. Commissioner Eyster.

COMMISSIONER EYSTER: Thank you chair. I would like to support the pedestrian sidewalk dry pad curb and gutter section of our code, our useful code and parts in the IDO that have to do with that and rules of the Development Review Board. I do think it's an intelligent part of an intelligent community to take care of everyone and some of those people I have an acquaintance who's blind and she says man you do not want to walk in the curb her cane goes under a car a parked car and she gets a faceplant on the car. So, I do think we need to have the sidewalks uniformly around our city. I note that the appellants argument number one the DRB decision was arbitrary. I don't see anything arbitrary in their decision. The appellant says they ignored the existing sidewalk gaps in the area. I don't think that's a good argument because yes, this area does have sidewalk gaps. I think that when it was developed people probably didn't build sidewalks, but now we're looking for a city with sidewalks with ADA sidewalks. I think ADA is a federal law and so I would like to uphold the DRB denial and see that this area 50 years from now does have complete sidewalks.

CHAIR SERRANO: Thank you, Commissioner Hudson.

COMMISSIONER HUDSON: Thank you. Mr. Chair. I concur with with both Commissioner Eyster, and Commissioner Shaffer, you know were trying very hard to stick with what the IDO is calling for we're trying very hard to make Albuquerque a better place and have better infrastructure. And I think it's unfortunate that the appellant is more concerned about the cost of this then the good that it will do for the community. He actually testified that this is a highly pedestrian area and I feel that it's very important that we do uphold the DRB's denial.

CHAIR SERRANO: Thank you, Commissioner Hudson. I just want to add one thing. I think we've ascertained that the applicant was looking for a waiver more than a variance from his own testimony. And I don't know if there is a process in place for the appellant to procure a waiver and I think what he was asking was to not move the fence line, which would waive the 4 foot

requirement to a 3 foot. Now that may not be a waiver it may be a variance but nonetheless, I think we've established today that there is an ordinance in place for all properties city property to have sidewalks. So, I'm not sure if moving in the direction of granting the appeal goes contrary to law which is what we're not here to do because the appeal is on the variance and maybe we'll quickly if Mr. Brito, or Ms. Wolfley if you could just answer for the record whether there's a process in place for a waiver.

MS WOLFLEY: The current process in place through the Development Process Manual is you can request a variance to not install a sidewalk and you can request a variance to modify the width of the sidewalk and staff is repeatedly suggested that Mr. Chavez consider a request to modify the width of the sidewalk and he's still welcome to do that at any time. His plat has not been finalized. The issue of waiver you will see that language return if the City Council takes-action to move this section back in the IDO and it will be called a waiver and then that portion of the DPM that we're using today will be deleted.

CHAIR SERRANO: Thank you. So, in essence based on your testimony, no final action has been taken. So, if hypothetically Mr. Chavez can come in amend his application for a variance from 4 foot by 3 foot.

MS WOLFLEY: Correct. He can apply for whatever width he wants to…

CHAIR SERRANO: He has to reapply? But he can amend it and he would not have, and avoid having to pay additional fees right?

MS GOULD: Mr. Chair generally in a case like this, we would amend the existing application to add the variance request and there would be additional, we would be paying for the variance request. That could do that could be discussed among staff, but that would generally be the process.

MR CHAVEZ: Okay, but he would need to initiate that with DRB.

MS GOULD: Yes.

CHAIR SERRANO: Okay. Okay, so we've established that so I think we've covered everything Commissioners anything else. You understood or and understand what I just said, Mr. Chavez?

You understand what I just said about the opportunity for you to go in and amend the variance from a 4 foot to a 3 foot.

MR CHAVEZ: Yes.

CHAIR SERRANO: Okay, thank you. Okay Commissioners. No further discussion. I will entertain a motion. Commissioner Eyster.

COMMISSIONER EYSTER: Thank you chair. In the matter of project number 2019-002811, VA-2019-00288, Variance. I move that the commission uphold the DRBs denial of a request for a sidewalk variance.

CHAIR SERRANO: Is there a second? Commissioner Hudson's. It's been moved by Commissioner Eyster, seconded by Commissioner Hudson that agenda item number one project number 2019-002811 be moved to uphold the denial of the DRBs denial. No further discussion Commissioners, excluding commissioner Cruz all those in favor, raise your right and signify by saying aye. Opposed nay passes unanimously. Thank you.

ONE ALBUQUERQUE

EPC HEARING

FEBRUARY 13, 2020

Agenda #: 1

AC-19-18

Appeal of Sidewalk Variance Denial– DRB

Project #2019-002811, SI-2019-00158, VA-2019-00288

Location

Located the Northeast corner of 15th Street NW

And Granite Ave. NW, containing approximately 0.32 acres

Staff Planners: Jolene Wolfley, DRB Chair

Jeanne Wolfenbarger, Traffic Engineering Manager

75A

INTRODUCTION

Project # Case #	**2019-002811 VA-2019-00288**
Agent	Richard Chavez
Applicant	Richard Chavez
Request	**Appeal of Sidewalk Variance Denial– DRB**
Location	Located at the Northeast corner of 15th Street NW And Granite Avenue NW
Size	Approximately 0.32 acres
Existing Zoning	R1-A
Proposed Zoning	N/A

ONE ALBUQUERQUE

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OVERVIEW

- Application for Sidewalk Variance was filed with Plat Application
- DRB denied the Sidewalk Variance
- Applicant appealed
- LUHO/City Council reassigned appeal to EPC
- EPC is the appeal body for Sidewalk Variance per DPM

77A

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--IDO 1-7(A)(1)
A change to property triggers
IDO requirements

--Lots are being replatted

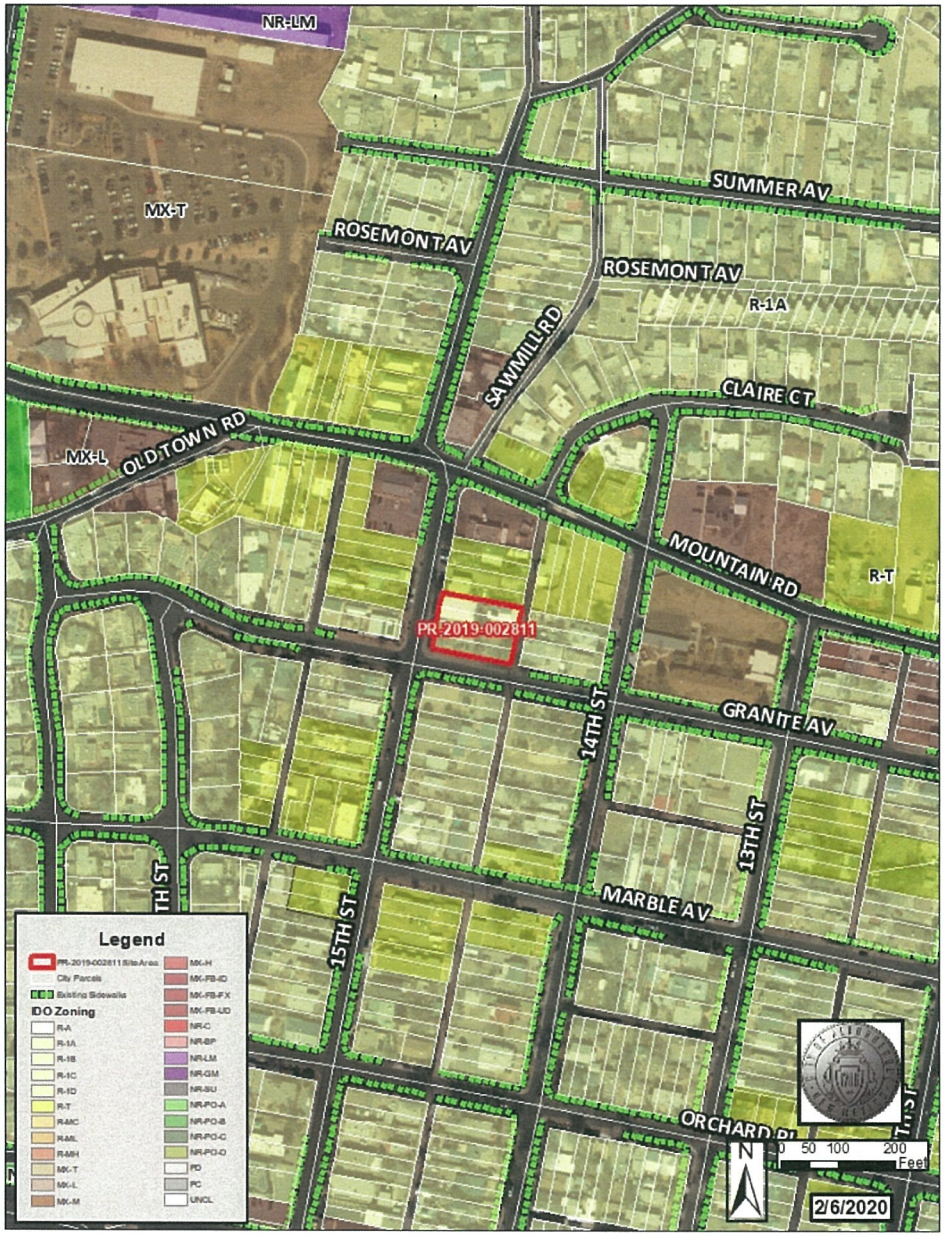
78 A

DRB Determined
Sidewalk Variance
Criteria Not Met

- Not a low intensity land use
- A sidewalk <u>would</u> contribute to the public welfare
- Much of the neighborhood has sidewalk

79 A

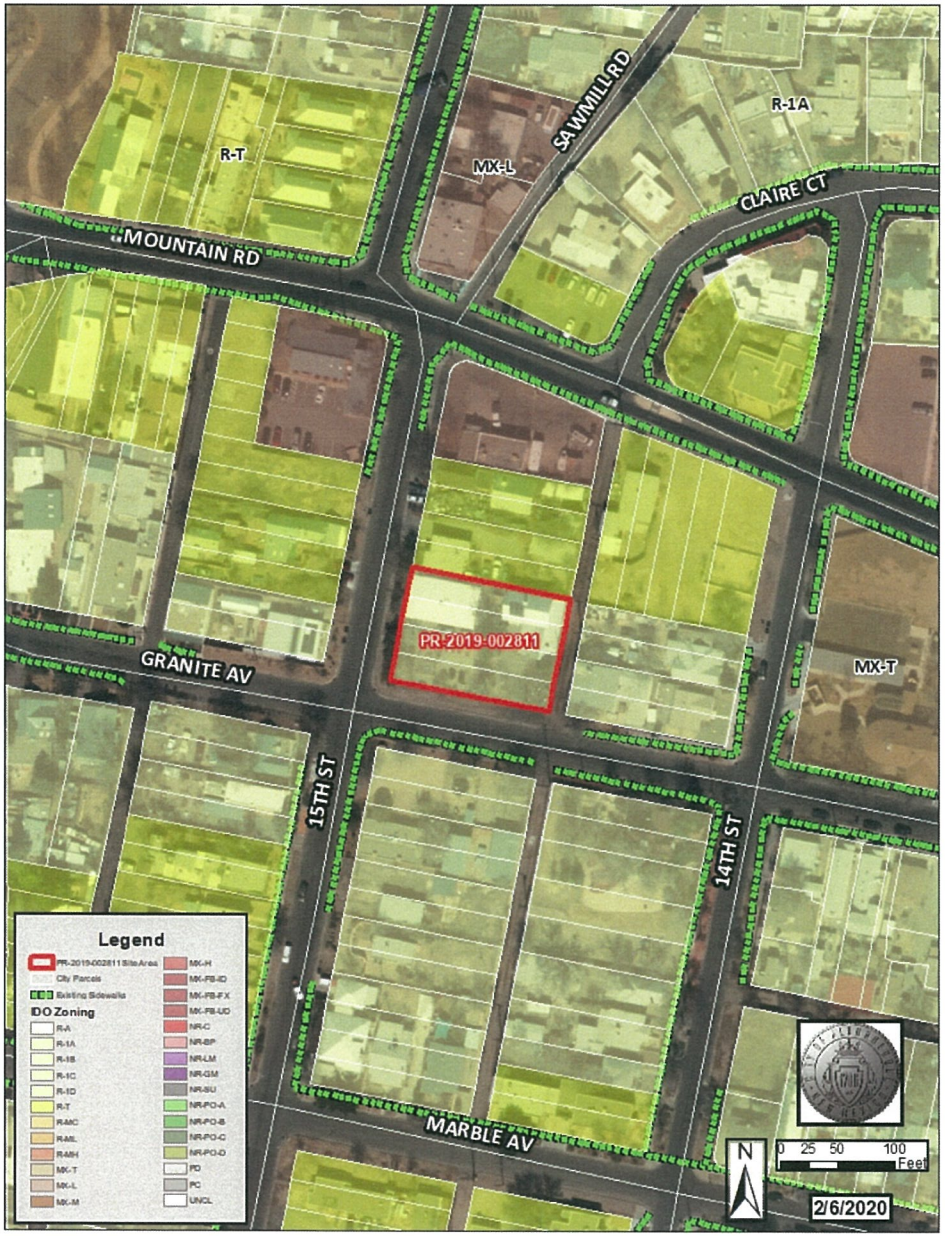
ONE ALBUQUERQUE



NEIGHBORHOOD--GREEN DASHES ARE SIDEWALK

ONE ALBUQUERQUE

80A



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PROCESSING OF SIDEWALK VARIANCE

- IDO requires perimeter sidewalk for all properties
- R-19-150 Removed Sidewalk Variance from the IDO

- DPM Chapter 12

Criteria for Sidewalk Variance

82 A

Comparison of Sidewalk Variance Criteria in the DPM and the IDO
(Highlighted items are color coded to show overlap of DPM and IDO

DPM

Development Process Manual (DPM) - Chapter 12 - Sidewalk Variance

Sidewalk ordinance states that "all properties within the City of Albuquerque shall have sidewalk, drivepad and curb and gutter in accordance with the standards set forth by the sidewalk ordinance unless a variance from these standards is allowed through the procedures established by the Sidewalk Ordinance..." General sidewalk design criteria promotes mobility, safety, and comfort of the pedestrian and allows adequate pedestrian access to abutting property.

The mayor "may" give a variance: Subject to site development plan review.

a. Subject to site development plan review.
b. Maintain or develop a design plan not consistent with uniform sidewalk installation.
c. Historical significance and variance needed to maintain significance.
d. Low intensity land use and sidewalk will not contribute to the public welfare.
e. Insufficient right-of-way to permit the construction of a sidewalk.
f. A sidewalk variance would preserve trees.
g. Pre-existing obstructions that cannot be easily relocated or should not be altered.
h. Adjoining sidewalks are non-standard as to width and or location.
i. Mature landscaping would be damaged to degree it outweighs public utility of sidewalk.

IDO

IDO 6-6 (L)(3) – Variance DRB – Page 406

1. Any of the following applies
   (a) Special circumstances- hardship that is substantial, topography, etc.
   (b) Pre-existing obstructions.
   (c) Historical significance, variance is needed to maintain this.
   (d) Established neighborhood character or landscaping would be damaged to a certain extent.
   (e) Variance would encourage flexibility, economy, etc.
2. Not contrary to public safety, health or welfare.
3. No significant material adverse impacts on surrounding properties
4. Will not hinder future planning, ROW acquisition, building public infrastructure.
5. Will no significantly conflict with adopted plans, ordinances, codes.
6. Will not encourage development in floodplain.
7. Will not undermine the intent of IDO or zone district.
8. Will not allow a lot that does not meet IDO standards.
9. Variance is the minimum necessary to avoid hardship.
10. Variance for sidewalk requirements meets criteria below: 6-6-3(L)(b).

IDO Section 6-6-3(L)(b) – Page 408
Variance to Sidewalk Requirements was Eliminated by R-19-150

A. Low intensity land use; normal contribution of sidewalks will not contribute to the public welfare; absence will not create a gap of 1 or more sides of subject property.
B. City's right-of-way is of insufficient width, but sufficient right-of-way to meet ADA or PROWAG.
C. Adjoining sidewalks are non-standard as to width and/or location. Variance would allow sidewalks to match in width.

83A

ONE ALBUQUERQUE

CITY OF ALBUQUERQUE
CITY COUNCIL

INTEROFFICE MEMORANDUM

TO: **Brennon Williams, Director, Planning Department**

FROM: **Stephanie M. Yara, Director, Council Services** SMY 1/24/20

SUBJECT: **AC-19-18, Project PR-2019-002811, SI-2019-00158, VA-2019-00288, VA-2019-00416: Richard Chavez appeals the decision of the Development Review Board (DRB) to Deny a Variance for all or a portion of Lots 7-10 Block 44 Perea addition, zoned R-1A, located at the NEC of 15th Street NW and Granite Ave. NW, containing approximately 0.32 acres**

DATE: **January 24, 2020**

At its January 22, 2020 meeting, the Council referred this matter to the Environmental Planning Commission. This appeal was assigned and scheduled to be heard by the Land Use Hearing Officer (LUHO), but the City Council determined that it should more appropriately be assigned to the Environmental Planning Commission per operation of R-19-150.

Attached you will find a complete copy of the official record to date.

cc: Russell Brito, Planning Department, Urban Design & Development Manager
File AC-19-18

X:\CL\SHARE\CL-Staff_Legislative Staff\Reports\LUPZ\AC-19-18 Memo to Planning.doc

BEFORE THE CITY OF ALBUQUERQUE
LAND USE HEARING OFFICER

APPEAL NO. AC-19-18

PR-2019-002811
S1-2019-00158; VA-2019-00288; VA-2019-00416

Richard Chavez, Appellant.

This is an appeal of a decision from the Development Review Board (DRB) that implicates the sidewalk variance requirements of the Development Process Manual (DPM). Apparently, this appeal was mistakenly assigned and scheduled to be heard by this Land Use Hearing Officer (LUHO) when in fact it should have been assigned to the Environmental Planning Commission (EPC). At least, that is the position of the City Attorney's Staff.

Briefly, Appellant applied for a sidewalk variance under the DPM of which was denied by the DRB. That decision was appealed by Appellant. At the scheduled LUHO hearing, an Assistant City Attorney made a preliminary motion to dismiss this appeal, claiming that the EPC, not the LUHO, has subject matter jurisdiction over this appeal because Chapter 15 of the DPM requires that the EPC hear appeals from the DRB regarding the DPM. Thus, I respectfully defer to the City Council to reassign this appeal to the EPC.

Steven M. Chavez, Esq.
Land Use Hearing Officer

January 8, 2020
Copies to:
Appellants,
Party Opponents,
City Staff

IN RE: AC-19-18

TRANSCRIPT OF PROCEEDINGS

January 7, 2020
9:30 a.m.
1 Civic Plaza
Ninth Floor
Albuquerque, New Mexico 87103

HELD BEFORE: MR. STEVEN CHAVEZ
LAND USE HEARING OFFICER

REPORTED BY: DESTENIE VISARRAGA, RPR, NM CCR #136
WILLIAMS & ASSOCIATES, LLC
1608 5th Street, Northwest
Albuquerque, New Mexico 87102

86A

1 MR. CHAVEZ: Good morning. So we are here for a
2 land use appeal. This is Appeal Number 8 -- or 19-18 --
3 AC19-18; is that correct?
4 Okay. I'm sorry. Let me pull up my file. My
5 name is Steven Chavez. I'm the land use hearing officer
6 for the City of Albuquerque. Today's date is January 7,
7 2020. And it's my understanding that there are some
8 preliminary issues regarding this appeal.
9 MS. SANCHEZ: Yes.
10 MR. CHAVEZ: And what are those preliminary
11 issues? State your full name for the record.
12 MS. SANCHEZ: Good morning, Mr. Chavez.
13 MR. CHAVEZ: Good morning.
14 MS. SANCHEZ: My name's Nicole Sanchez. I'm an
15 assistant city attorney representing the Development
16 Review Board.
17 I just wanted to note for the record a
18 preliminary jurisdictional issue. Under City Resolution
19 19-150, sidewalk variances are a procedure covered by
20 the Development Process Manual, or the DPM, not the
21 Integrated Development Ordinance or the IDO.
22 In the DPM, Chapter 12, DRB has the authority to
23 make a decision on whether to grant or deny a sidewalk
24 variance or waiver. Under this section, DRB's decisions
25 are appealed to the Environmental Planning Commission or

1 the EPC, not the land use hearing officer.
2 So this may present a jurisdictional issue in
3 this current appeal. Secondly, I would just like to
4 note related to that, DRB did review Mr. Richard
5 Chavez's sidewalk waiver under the IDO and the DPM, and
6 both of those requirements for a sidewalk waiver are
7 substantially similar.
8 MR. CHAVEZ: Okay.
9 MS. SANCHEZ: So I just want to make that note
10 for the record.
11 MR. CHAVEZ: So that we don't go into -- thank
12 you so much, Ms. Sanchez. So we don't go into the
13 merits just yet.
14 Your name is, sir?
15 MR. RICHARD CHAVEZ: Richard Chavez.
16 MR. CHAVEZ: Let me swear you in. Can you come
17 on up? Can you have a seat? I just have a few
18 questions for you regarding the jurisdictional issue
19 that was raised, Mr. Chavez. Good morning.
20 MR. RICHARD CHAVEZ: Can you please raise your
21 right hand?
22 RICHARD CHAVEZ
23 Having been first duly sworn under oath,
24 was questioned and testified as follows:
25 MR. CHAVEZ: Okay. Thank you. Do you understand

1 what Ms. Sanchez raised regarding the jurisdictional
2 issue Resolution --
3 Is it 150?
4 MS. SANCHEZ: Yes.
5 MR. RICHARD CHAVEZ: I understand what she said,
6 but that was never brought up prior to this discussion.
7 MR. CHAVEZ: I understand. I did read Resolution
8 150, and I would agree with you. I didn't see in the
9 IDO or in the resolution where the issue regarding the
10 DPM would fall into the EPC's lap. Can you clarify that
11 a little bit more?
12 MS. SANCHEZ: Yes. Under the development process
13 manual, Chapter 12 --
14 MR. CHAVEZ: Okay. So it's in the DPM itself?
15 MS. SANCHEZ: Yes, it is.
16 MR. CHAVEZ: I did see it in the DPM. I know the
17 resolution cites to the DPM. The resolution is not the
18 best-crafted resolution in the world, but certainly it
19 is the law of Albuquerque now. And so I will draft a
20 letter order to the City Council, explaining to the City
21 Council that this matter should be before the EPC,
22 because it's the City Council who delegated this appeal
23 to me.
24 And so it -- I think that I do need to resolve it
25 that way with the City Council, and then the City

1 Council can either decide to delegate it to the EPC or
2 they can send it back to me, or they can deal with it
3 themselves, certainly.
4 Yes, sir.
5 MR. RICHARD CHAVEZ: Can I ask a question?
6 MR. CHAVEZ: Absolutely.
7 MR. RICHARD CHAVEZ: So in Chapter 12 that the
8 attorney's referencing, that is the introduction to the
9 variance -- for sidewalk variance. I didn't see
10 anywhere in there that there was any language with
11 regard to the waiver of the sidewalk, or waiver for the
12 sidewalk. That chapter was strictly related to the
13 variance, which they educated me too, but I didn't see
14 no language in there that referred to any kind of waiver
15 with regard to the Chapter 12 introduction for sidewalk
16 variance.
17 MR. CHAVEZ: Now, I cannot answer that question,
18 because that's a merits issue, and we're dealing with
19 the jurisdictional issue at this time. And because I
20 don't want to deal with the merits issue until the
21 jurisdictional issue is resolved, I'm not go to answer
22 that question for you, sir, I'm sorry. I think that
23 jurisdictionally, I need to determine whether or not
24 this matter needs to go back to City Council and
25 ultimately to the EPC. I did have an occasion to read

1 that jurisdictional issue in the resolution and in the
2 DPM, and I would agree with Ms. Sanchez that if there is
3 a valid question regarding whether or not the EPC has
4 jurisdiction, and I think -- I just need to look at it a
5 little closer today. And I apologize for wasting your
6 time coming down here for this, but I don't have control
7 over that. So I think it's an honest mistake that was
8 made. I don't know where it was made, but we'll get it
9 resolved. Okay.
10 MR. RICHARD CHAVEZ: Can I make a statement?
11 MR. CHAVEZ: If it's not regarding merits. If
12 it's regarding the jurisdictional issue, you can.
13 Otherwise, I'm not going to hear the merits of your
14 argument, sir.
15 MR. RICHARD CHAVEZ: No. With regard to the
16 jurisdictional issue, does that mean this is going to be
17 delayed?
18 MR. CHAVEZ: Absolutely. That's the problem.
19 But I will work as quickly as possible. I will get a
20 letter out by -- what's today? Today's Tuesday. I will
21 get a letter out by the end of tomorrow to the City
22 Council. I normally have 15 days to do that. I will do
23 it tomorrow so that we can get this resolved as quickly
24 as possible. I don't know how long it will take for the
25 City Council to deal with it. That's something I don't

1 have control over. But I will ask them to deal with it
2 right away. Okay?
3 MR. RICHARD CHAVEZ: I appreciate that. I'm just
4 concerned that this sort of is a pattern of lack of
5 information that I'm being provided with regard to the
6 process and the requirements that the planning
7 department requires. So it's a concern for me.
8 MR. CHAVEZ: I think it's a valid concern. But I
9 don't have control --
10 MR. RICHARD CHAVEZ: No, I totally understand
11 what you're saying, that this is going to be deferred
12 until we determine which jurisdiction is going to hear
13 this hearing.
14 MR. CHAVEZ: Well, I think what I'm trying to say
15 very politely is that I need to look at it a little
16 closer, but I'm leaning towards agreeing with
17 Ms. Sanchez. I think the language is very clear -- it's
18 not really that clear, but it's clear enough to where
19 there's an issue that the City Council has to resolve
20 with the jurisdiction, and I will help them with that
21 resolution in a letter. I'll get a copy of it to you,
22 Mr. Chavez. Which brings me to your contact
23 information. Do you have an e-mail address, sir?
24 MR. RICHARD CHAVEZ: Yes, sir.
25 MR. CHAVEZ: Can you give it to me?

1 MR. RICHARD CHAVEZ: R-c-e-a-g-l-e --
2 MR. CHAVEZ: I'm sorry, r-c-e- --
3 MR. RICHARD CHAVEZ: -- -a-g-l-e, the number 2
4 s-k-y@gmail.com.
5 MR. CHAVEZ: And, Ms. Sanchez, I think I have
6 your e-mail address already.
7 MS. SANCHEZ: Yes.
8 MR. CHAVEZ: So I will get that out by the end of
9 tomorrow. Okay.
10 Anything else? Thank you. Let's close the
11 hearing. Thank you so much.
12 (The Hearing was concluded at 9:38 a.m.)
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93A

1 REPORTER'S CERTIFICATE

2 I, DESTENIE M. VISARRAGA, RPR, NM CCR #136, DO
3 HEREBY CERTIFY that I did report in stenographic
4 shorthand the questions and answers set forth herein,
5 and the foregoing is a true and correct transcript of
6 the proceeding had upon the taking of this Hearing.
7 I FURTHER CERTIFY that I am neither employed by
8 nor related to nor contracted with any of the parties or
9 attorneys in this case, and that I have no interest
10 whatsoever in the final disposition of this case in any
11 court.
12
13 Destenie M. Visarraga
14 Destenie M. Visarraga, RPR, NM CCR #136
License Expires: 12/31/20
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January 16, 2020

The following comments will be provided to the City Council by Council staff for the January 22, 2020 Council meeting.

AC-19-18 Project PR-2019-002811, SI-2019-00158, VA-2019-00288, VA-2019-00416: Richard Chavez appeals the decision of the Development Review Board (DRB) to Deny a Variance for all or a portion of Lots 7-10 Block 44 Perea addition, zoned R-1A, located at the NEC of 15th Street NW and Granite Ave. NW, containing approximately 0.32 acres

I. Introduction:

A. The issue in this appeal is whether an appeal of DRB's decision on a sidewalk waiver request goes to the EPC or the City Council.

B. The LUHO held a brief hearing on the matter and deferred to the City Council for a determination as to the proper procedure.

II. Background:

A. The current text of the IDO specifies that the granting or not of a "sidewalk variance" is a decision within the discretion of the DRB, and that the DRB's decision in this regard is appealable to the City Council through the LUHO. **[IDO § 14-16-6-6(L)(3)(b), Tbl. 6-1-1]**

B. However, the City enacted R-19-150 last year which purports to augment certain DRB processes called for within the IDO in order to promote appropriate procedural safeguards for various types of decisions. To this end, R-19-150 removed the "sidewalk variance" process from within the purview of the IDO, in favor of the existing process and procedures found within the Development Process Manual.

C. The Development Process Manual specifically provides that appeals of the DRB relating to sidewalk variances (or "waivers") is first appealable to the EPC, as opposed to going directly to the City Council through the LUHO.

III. LUHO Findings & Recommendation:

A. The LUHO recognized the possible conflict or discrepancy between the IDO and the DPM, but determined that that given the novelty of this issue, the City Council should ultimately make the determination about the effect of R-19-150 on the process.

IV. Staff Comments & Recommendation:

A. R-19-150 appears to have intended to augment the requirements of the IDO with respect to this type of application. This augmentation was intended as temporary until such time the IDO could be updated as part of the IDO annual update process. In the meantime, it appears that the effect of R-19-150 is to place this appeal within the initial authority of the EPC.

B. There appears to be no procedural harm from referring this matter to the EPC per the terms of R-19-150 and the DPM, because any decision of the EPC is itself ultimately appealable to the City Council.

C. Accordingly, <u>this matter should be referred to the EPC</u> for it to hear the initial appeal.

V. Council Options:

1. <u>Remand to the LUHO for hearing</u> – The Council may remand to the LUHO for a hearing on the appeal.
2. <u>Refer to the EPC for initial hearing</u> – the City Council may refer this matter to the EPC for an initial appeal hearing which will result in a final determination unless additional appeals are filed.

CITY OF ALBUQUERQUE

Planning Department
Brennon Williams, Interim Planning Director
Development Review Division
600 2nd Street NW – 3rd Floor
Albuquerque, NM 87102

NOTICE OF APPEAL

March 2, 2020

TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on February 28, 2020. You will receive a Notice of Hearing as to when the appeal will be heard by the **Land Use Hearing Officer.** If you have any questions regarding the appeal please contact Alfredo Salas, Planning Administrative Assistant at (505) 924-3370.

Please refer to the enclosed excerpt from the City Council Rules of Procedure for Land Use Hearing Officer Rules of Procedure and Qualifications for any questions you may have regarding the Land Use Hearing Officer rules of procedure.

Any questions you might have regarding Land Use Hearing Officer policy or procedures that are not answered in the enclosed rules can be answered by Crystal Ortega, Clerk to the Council, (505) 768-3100.

CITY COUNCIL APPEAL NUMBER: AC-20-6
PLANNING DEPARTMENT CASE FILE NUMBER:
PR-2019-002811, SI-2019-00158, VA-2019-00288, VA-2019-00416, VA-2020-00070

APPLICANT: Richard Chavez
906 15th Street NW
Albuquerque NM, 87104

cc: Crystal Ortega, City Council, City county bldg. 9th floor
Kevin Morrow/Legal Department, City Hall, 4th Floor-
DRB File
EPC File

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

ENVIRONMENTAL PLANNING COMMISSION
AGENDA

Thursday, February 13, 2020
8:30 a.m.

Plaza Del Sol Hearing Room, Lower Level
600 2nd Street NW

MEMBERS
Dan Serrano, Chair
David Shaffer, Vice Chair

Joseph Cruz
Richard Meadows
Johnathan R. Hollinger
Karen Hudson
Gary L. Eyster P.E. (Ret.)
Robert Stetson

****

NOTE: A LUNCH BREAK AND/OR DINNER BREAK WILL BE ANNOUNCED AS NECESSARY

Agenda items will be heard in the order specified unless changes are approved by the EPC at the beginning of the hearing; deferral and withdrawal requests (by applicants) are also reviewed at the beginning of the hearing. Applications deferred from a previous hearing are normally scheduled at the end of the agenda.

There is no set time for cases to be heard. However, interested parties can monitor the progress of the hearing by calling the Planning Department at **924-3860**. All parties wishing to address the Commission must sign-in with the Commission Secretary at the front table prior to the case being heard. Please be prepared to provide brief and concise testimony to the Commission if you intend to speak. **In the interest of time, presentation times are limited as follows, unless otherwise granted by the Commission Chair: Staff – 5 minutes; Applicant – 10 minutes; Public speakers – 2 minutes each. An authorized representative of a recognized neighborhood association or other organization may be granted additional time if requested. Applicants and members of the public with legal standing have a right to cross-examine other persons speaking per Rule B.13 of the EPC Rules of Conduct.**

All written materials – including petitions, legal analysis and other documents – should ordinarily be submitted at least 10 days prior to the public hearing, ensuring presentation at the EPC Study Session. The EPC strongly discourages submission of written material at the public hearing. Except in extraordinary circumstances, the EPC will not consider written materials submitted at the hearing. In the event the EPC believes that newly submitted material may influence its final decision, the application may be deferred to a subsequent hearing. Cross-examination of speakers is possible per EPC Rules of Conduct.

NOTE: ANY AGENDA ITEMS NOT HEARD BY 8:30 P.M. MAY BE DEFERRED TO ANOTHER HEARING DATE AS DETERMINED BY THE PLANNING COMMISSION.

Call to Order:

A. Pledge of Allegiance
B. Announcement of Changes and/or Additions to the Agenda
C. Approval of Amended Agenda
D. Swearing in of City Staff

1. Project #2019-002811
VA-2019-00288 - VARIANCE
AC-19-18 Appeal of Denial of DPM Variance by the Development Review Board

Richard Chavez appeals the DRB's denial of a request for a DPM sidewalk variance for all or a portion of Lots 7-10 Block 44 Perea Addition zoned R-1A, located at NEC of 15th ST NW and Granite Ave NW, containing approximately 0.32 acre(s). (J-13)
Staff Planner: Jolene Wolfley

2. Project #2019-002765
SI-2019-00380 –Site Improvement

Modulus Architect Inc., agent for Red Shamrock 4 LLC, request the above action for all or a portion of Lots 1 Thru 9 Coors Pavilion (Being A Replat Of Tract X-1-A2, of Tracts X-1-A1 & X-1-A2 University Of Albuquerque Urban Center), located on Coors Blvd. NW, between St. Josephs Dr. NW, and Coors Blvd. NW , containing approximately 21 acres. (G-11)
Staff Planner: Leslie Naji
(CONTINUED from January 9, 2020 Hearing)

3. Project #2018-001695
SI-2019-00381 – Major Amendment Site Plan–EPC and removal of use restrictions from site plan

Modulus Architect Inc., agent for Novus Properties LLC, request the above action for all or a portion of Tracts A-1, A-2-A, A-2-B, B, C, D, E, F, G, H of Fountain Hills Plaza Subdivision and Lot 2, Block B and Lot 3, Block B of Albuquerque West Subdivision and Lot 6-A-1-A of Albuquerque West Unit 1, zoned NR-C, located on Nunzio Ave. NW, between Paradise Blvd. NW & Vista Fuente NW, containing approximately 31.0 acres. (C-12)
Staff Planner: Linda Rumpf
(DEFERRED from January 9, 2020 Hearing)

4. Project #2019-002682 (1008521)
RZ-2019-00049 – Zone Map Amendment (Zone Change)
SI-2019-00266 – Site Plan

Richard Dobbs and Havanna Kean, agents for QMD, LLC, request the above action for all or a portion of Tract A, Summary Plat of Tract N, Paradise Hills Industrial Park, and a portion of Tract 2 of Eagle Ranch, and a portion of a 100' PNM Easement, zoned MX-M, to PD, located on Irving Blvd. NW, between Eagle Ranch Rd. NW and Coors Blvd. NW (4349 Irving Blvd. NW), approximately 4 acres. (C-13)
Staff Planner: Catalina Lehner
(DEFERRED from November 14, 2019)

ENVIRONMENTAL PLANNING COMMISSION
ACTION SUMMARY

Thursday, February 13, 2020
8:30 a.m.

Plaza Del Sol Hearing Room, Lower Level
600 2nd Street NW

COMMISSIONER MEMBERS PRESENT:

Dan Serrano, Chair
David Shaffer, Vice Chair
Karen Hudson
Gary L. Eyster, P.E. (Ret.)
Richard Meadows
Joseph Cruz
Robert Stetson
Jonathan R. Hollinger

****

Call to Order: 8:35 am

A. Pledge of Allegiance
B. Announcement of Changes and/or Additions to the Agenda
C. Approval of Amended Agenda
D. Swearing in of City Staff

1. Project #2019-002811
VA-2019-00288 - VARIANCE
AC-19-18 Appeal of Denial of DPM Variance by the Development Review Board

Richard Chavez appeals the DRB's denial of a request for a DPM sidewalk variance for all or a portion of Lots 7-10 Block 44 Perea Addition zoned R-1A, located at NEC of 15th ST NW and Granite Ave NW, containing approximately 0.32 acre(s). (J-13)
Staff Planner: Jolene Wolfley

A motion was made by Commissioner Eyster, and Seconded by Commissioner Hudson that matter PR-2019-002811 be Denied, based on the following findings. The motion carried by the following vote:

For 7: – Serrano, Eyster, Meadows, Shaffer, Stetson, Hudson, & Hollinger

Commissioner Cruz Abstained

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Albuquerque Environmental Planning Commission (EPC) will hold a **Public Hearing** on **Thursday, February 13, 2020** at **8:30 a.m.**, in the Plaza del Sol Hearing Room, Lower Level, Plaza del Sol building, 600 2nd St. NW, Albuquerque, NM to consider the following item:

Project #2018-001695
SI-2019-00381 – Major Amendment Site Plan – EPC including removal of use restrictions

Modulus Architect Inc., agent for Novus Properties LLC, request the above action for all or a portion of Tracts A-1, A-2-A, A-2-B, B, C, D, E, F, G, H of Fountain Hills Plaza Subdivision and Lot 2, Block B and Lot 3, Block B of Albuquerque West Subdivision and Lot 6-A-1-A of Albuquerque West Unit 1, zoned NR-C, located south of Paradise Blvd. NW, north of Paseo del Norte NW, west of Eagle Ranch Rd. NW, and east of Davenport St. NW, containing approximately 37.0 acres. (C-12)
Staff Planner: Linda Rumpf

Project #2018-001402
SI-2018-00171 – Site Plan
VA-2019-00103- Variance

Consensus Planning, Inc, agent for Gamma Development, LLC, requests the above action for all or a portion of Lots 1 through 3, Block 1, Plat of West Bank Estates together with Tract A1, Lands of Suzanne H Poole, and Tracts C-1 and Lot 4-A of Plat of Tracts C-1, C-2 and Lot 4-A, Lands of Suzanne H Poole being a Replat of Tract C, Lands of Suzanne H Poole, Tract C, Annexation Plat Land in Section 25 and 36, T11N R2E, Lot 4, Block 1 West; zoned R-A, located at 5001 Namaste Rd. NW, between La Bienvenida Pl. NW and the Oxbow Open Space, containing approximately 23 acres. (F-11 and F-12) **(Remand)**
Staff Planner: Catalina Lehner

Project #2019-002682 (1008521)
RZ-2019-00049 – Zone Map Amendment (Zone Change)
SI-2019-00266 – Site Plan

Richard Dobbs and Havanna Kean, agents for QMD, LLC, request the above action for all or a portion of Tract A, Summary Plat of Tract N, Paradise Hills Industrial Park, and a portion of Tract 2 of Eagle Ranch, and a portion of a 100' PNM Easement, zoned MX-M, to PD, located on Irving Blvd. NW, between Eagle Ranch Rd. NW and Coors Blvd. NW (4349 Irving Blvd. NW), approximately 4 acres. (C-13)
Staff Planner: Catalina Lehner

Project #2019-002811
VA-2019-00288 - VARIANCE
AC-19-18 Appeal of Denial of DPM Variance by the Development Review Board

Richard Chavez appeals the DRB's denial of a request for a DPM sidewalk variance for all or a portion of Lots 7-10 Block 44 Perea Addition zoned R-1A, located at NEC of 15th ST NW and Granite Ave NW, containing approximately 0.32 acre(s). (J-13) Staff Planner: Jolene Wolfley

Dan Serrano, Chair
Environmental Planning Commission

TO BE PUBLISHED IN THE ALBUQUERQUE JOURNAL JANUARY 15, 2020.

APPROVED

Russell Brito
Urban Design & Development
Planning Department

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CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Planning Department

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM **December 4, 2019**

TO: **Klarissa Peña, President, City Council**

FROM: **Brennon Williams, Planning Director**

Subject: AC-19-18, Project PR-2019-002811 SI-2019-00158 VA-2019-00288 VA-2019-00416: Richard Chavez, appeals the decision of the Development Review Board (DRB) to Deny a Variance for all or a portion of LOTS 7-10 BLOCK 44 Perea addition, zoned R-1A, located at the NEC of 15th STREET NW and GRANITE AVE. NW, containing approximately 0.32 acre(s). (J-13)

OVERVIEW

An application for a Preliminary and Final Plat and Variance IDO was filed by the applicant on August 30, 2019. The application was accepted and scheduled for the meeting of September 11, 2019. The applicant received board comments and the case was deferred three times before the final meeting on October 30, 2019. The DRB denied the request for a sidewalk waiver at that meeting because of the location of the site in a highly pedestrian urban area and because the lack of sidewalk creates a gap in the sidewalk system making it more difficult to have good pedestrian connectivity.

The applicant appealed this decision on November 12, 2019. The appeal was filed in a timely manner.

HISTORY

The applicant met with staff prior to the submittal to discuss the requirements for the submittal. The applicant was told that he could request a sidewalk waiver, but it was unlikely to be granted because of the location of the property in the center of the City. Staff does not have an exact date for this meeting, but it was in the summer prior to the submittal of the application.

An application for a Preliminary and Final Plat and Sidewalk Waiver IDO was filed by the applicant on August 30, 2019. The application was accepted and scheduled for the meeting of September 11, 2019.

The applicant received comments regarding missing notes on the plat, lack of surveyor's signature and existing sidewalks from Planning Staff. Comments from Code Enforcement stated that a sidewalk should be provided. Comments from Transportation stated that the sidewalk waiver should not be granted and noted that the existing fencing is in the right of way. The case was deferred to the meeting

of September 25, 2019 to allow the applicant to address board comments. The applicant requested a deferral to the October 2, 2019 meeting to allow more time to address Board comments. The case was heard at the October 23, 2019 meeting and again deferred after extensive discussion, to address comments from Transportation regarding the sidewalk waiver, a clear site exhibit, and fencing in the right -of-way. At the October 30, 2019 meeting the DRB heard additional testimony from the applicant and the Transportation DRB member. The DRB denied the request for the waiver based on the IDO requirement for a 4-foot sidewalk in residential areas and the fact that there are existing sidewalks in the area that could eventually connect to the required sidewalk. The requirements would increase pedestrian and ADA access in the area.

APPEAL

The appellant cites the following as reasons for the appeal followed by Staff's response to the appellant's arguments. The full list of the appellant's arguments is contained in the appellant's application dated November 12, 2019 (included in the record).

1. **The DRB's decision was arbitrary and ignored the existing sidewalk gaps in the area and the character of sidewalks in the area.**

   The DRB denied the waiver of the IDO requirement 14-16-5-3(D)(1) for a perimeter sidewalk because the request did not meet all of the criteria in 6-6(L)(3), specifically, 6-6(L)(3)(b).[1] The request would maintain a gap in the sidewalk system because there are existing sidewalks to the east and south of the site, and, therefore, be contrary to furthering public safety and welfare. The area has a high degree of pedestrian activity and the sidewalk would contribute to a safe pedestrian environment.

   The DRB expressed that they would accept a request for a waiver of the width of the sidewalk from the 4-foot wide requirement in order to match existing sidewalks in the area. Mr. Chavez was told he could submit a formal request for the width to the waiver along with information on proposed sidewalk width and distance from existing curb to the property line to demonstrate sufficient right-of-way. (Chapter 12, Current DPM) The applicant did not request a waiver to the width of the sidewalk.

   The applicant's request was treated in the same manner as similar requests. The DRB has required sidewalks for similar platting actions. The IDO requires a perimeter sidewalk for residential property (14-16-5-3(D)(1). Because the applicant is making a change to the property, the requirements of the IDO apply. While the applicant's property may not connect to a sidewalk now, as the area redevelops, more sidewalk can be installed creating a full network of sidewalks. The area has existing sidewalks in a mixed pattern. There are other areas of the city where there are no sidewalks at all. The sidewalk waivers granted by the DRB have been in areas where there are no existing sidewalks.

2. **There is no incentive for any neighboring property to install sidewalks**
   If any of the neighboring properties redevelop, the same requirements would apply to their properties that were applied to the applicant's property. The City requires compliance with existing rules for new development.

[1] The IDO provisions on sidewalk waivers were modified slightly as R-2019-035, See Exhibit A-1, 6-6(L)(2)(a).

3. **Fencing in the right-of-way requires a revocable permit. The existing curb and gutter was built in 1966 and the fencing is "grandfathered" in.**
   As stated above, the applicant is making a change to the site and, therefore, the requirements of the IDO and current City requirements are applicable to the site. The revocable permit is required for any encroachment into the right-of-way. The other option would be to remove the fence altogether.

4. **The City should update the sidewalks using City funds or create a special assessment district as was done along Mountain Road and Lomas.**
   The City creates a Capital Improvement Program to allocate funding for improvements. This is outside the purview of the DRB.

CONCLUSION

The Appellant does not show that the Criteria for an Appeal in Section 14-16-6-4(U)(4) of the IDO has been met. The Appellant has not offered evidence that contradicts the findings/action of the DRB. The DRB did not act fraudulently, arbitrarily, or capriciously; the decision was adequately supported with substantial evidence in the form of Findings listed in the Official Notice of Decision; and the DRB did act within its authority in applying applicable requirements.

6-6(L)(3) ***Review and Decision Criteria***

An application for a Waiver – DRB shall be approved if it complies with the following criteria:

6-6(L)(3)(a) *Any of the following applies:*

1. *There are pre-existing obstructions that cannot be easily or economically relocated or should not be altered, such as grades, fills, water courses, natural topographic features, man-made obstructions, or utility lines.*
2. *The area or site has been recognized as having historical, archeological, and/or architectural significance by the City, state, or federal government, and a Waiver is needed and appropriate to maintain such historical, archeological, and/or architectural significance.*
3. *The established neighborhood character or landscaping on the site would be damaged to a degree that outweighs the public interest in the City's normal technical standards in that location.*
4. *Varying from the normal requirements and standards will encourage flexibility, economy, effective use of open space, or ingenuity in design of a subdivision, in accordance with accepted principles of site planning.*

6-6(L)(3)(b) *The Waiver will not be materially contrary to the public safety, health, or welfare.*

6-6(L)(3)(c) *The Waiver does not cause significant material adverse impacts on surrounding properties.*

6-6(L)(3)(d) *The Waiver will not hinder future planning, public right-of-way acquisition, or the financing or building of public infrastructure improvements.*

6-6(L)(3)(e) *The Waiver will not conflict significantly with the provisions of any city, county, or AMAFCA adopted plan or policy, this IDO, or any other City code or ordinance.*

6-6(L)(3)(f) *The Waiver will not allow, encourage, or make possible undesired development in the 100-year Floodplain.*

6-6(L)(3)(g) *The Waiver will not materially undermine the intent and purpose of this IDO or the applicable zone district.*

6-6(L)(3)(h) *The Waiver does not allow a lot or type of development that does not meet the applicable size, area, and development standards applicable in the zone district where the lot is located, unless a Deviation to such standards is within the thresholds established by Subsection 14-16-6-4(O) and is granted by the DRB as part of this approval.*

6-6(L)(3)(i) *The Waiver approved is the minimum necessary to provide redress without being inconsistent with the provisions of this Section.*

PLANNING DEPARTMENT
DEVELOPMENT SERVICES DIVISION
600 2nd Street NW, Ground Floor, 87102
P.O. Box 1293, Albuquerque, NM 87103
Office (505) 924-3946

OFFICIAL NOTIFICATION OF DECISION

Richard Chavez
906 15th Street NW
ABQ NM 87104

Project# PR-2019-002811
Application#
SI-2019-00158 PRELIMINARY /FINAL PLAT
VA-2019-00288 SIDEWALK WAIVER
LEGAL DESCRIPTION:
All or a portion of LOTS 7-10 BLOCK 44 PEREA ADDITION, zoned R-1A, located at NEC of 15th ST NW and GRANITE AVE NW, containing approximately 0.32 acre(s). J-13

On October 30, 2019, the Development Review Board (DRB) held a public meeting concerning the above referenced application and deferred the Preliminary and Final Plat and denied the waiver request based on the following Findings:

SI-2019-00158 PRELIMINARY /FINAL PLAT

1. This preliminary/final plat is attached to the waiver request and was deferred to the meeting of November 20, 2019.

VA-2019-00288 SIDEWALK WAIVER

1. The applicant requested a waiver to the required frontage sidewalk.
2. The DRB denied the waiver of the IDO requirement 14-16-5-3(D)(1) for a perimeter sidewalk because the request did not meet all of the criteria in 6-6(L)(3), specifically, 6-6(L)(3)(b), the request will create a gap in the sidewalk system because there are existing sidewalks to the east and south of the site. Additionally, the area has a high degree of pedestrian activity and the sidewalk will contribute to a safe pedestrian environment.
3. The applicant did not request a waiver to the width of the sidewalk.
4. The applicant followed the required notice procedure in IDO Table 6-1-1.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the DRB's decision or by

NOVEMBER 14, 2019. The date of the DRB's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-6-4(U) of the Integrated Development Ordinance (IDO). A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed.

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Applicants submitting for building permit prior to the completion of the appeal period do so at their own risk. Successful applicants are reminded that there may be other City regulations of the IDO that must be complied with, even after approval of the referenced application(s).

Sincerely,

Jolene Wolfley
DRB Chair

JW/mg

City of Albuquerque

DEVELOPMENT REVIEW BOARD APPLICATION

Please check the appropriate box(es) and refer to supplemental forms for submittal requirements. All fees must be paid at the time of application.

SUBDIVISIONS	☐ Final Sign off of EPC Site Plan(s) *(Form P2)*	
☐ Major – Preliminary Plat *(Form P1)*	☐ Amendment to Site Plan (Form P2)	☐ Vacation of Public Right-of-way *(Form V)*
☑ Minor – Preliminary/Final Plat *(Form S2)*	**MISCELLANEOUS APPLICATIONS**	☐ Vacation of Public Easement(s) DRB *(Form V)*
☐ Major - Final Plat *(Form S1)*	☐ Extension of Infrastructure List or IIA *(Form S1)*	☐ Vacation of Private Easement(s) *(Form V)*
☐ Amendment to Preliminary Plat *(Form S2)*	☐ Minor Amendment to Infrastructure List *(Form S2)*	**PRE-APPLICATIONS**
☐ Extension of Preliminary Plat *(FormS1)*	☐ Temporary Deferral of S/W *(Form V2)*	☐ Sketch Plat Review and Comment *(Form S2)*
	☐ Sidewalk Waiver *(Form V2)*	
SITE PLANS	☐ Waiver to IDO *(Form V2)*	**APPEAL**
☐ DRB Site Plan *(Form P2)*	☐ Waiver to DPM *(Form V2)*	☐ Decision of DRB *(Form A)*

BRIEF DESCRIPTION OF REQUEST APPEAL of DRB DENIAL For Side WALK VARIANCE Request.

APPLICATION INFORMATION

Applicant: RICHARD G. CHAVEZ		Phone: 934-5979 (505)
Address: 906 15TH ST. NW		Email: rcseagle2sky@gmail.com
City: ALBUQUERQUE	State: N.M	Zip: 87104
Professional/Agent (if any):		Phone:
Address:		Email:
City:	State:	Zip:
Proprietary Interest in Site:	List all owners:	

SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)

Lot or Tract No.: Lots 7-10	Block: 44 PEREA Addition	Unit:
Subdivision/Addition:	MRGCD Map No.: 33	UPC Code:
Zone Atlas Page(s): J-13	Existing Zoning: R-1A	Proposed Zoning
# of Existing Lots: 9	# of Proposed Lots: 2	Total Area of Site (Acres): 0.32

LOCATION OF PROPERTY BY STREETS CORNER of 15TH & GRANITE

Site Address/Street: SAME AS ABOVE	Between:	and:

CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)

Signature: Richard G. Chavez	Date: 11/12/19
Printed Name: RICHARD G. CHAVEZ	☑ Applicant or ☐ Agent

FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees	Case Numbers	Action	Fees
VA-2019-00416	Appeal	$265			

Meeting Date:		Fee Total: $265
Staff Signature:	Date: 11-12-19	Project # PR-2019-002811

FORM A: Appeals

Complete applications for appeals will only be accepted within 15 consecutive days, excluding holidays, after the decision being appealed was made.

A single PDF file of the complete application including all plans and documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD.

- ☐ **APPEAL OF A DECISION OF CITY PLANNING STAFF (HISTORIC PRESERVATION PLANNER) ON A HISTORIC CERTIFICATE OF APPROPRIATENESS – MINOR TO THE LANDMARKS COMMISSION (LC)**
- ☐ **APPEAL OF A DECISION OF CITY PLANNING STAFF ON AN IMPACT FEE ASSESSMENT TO THE ENVIRONMENTAL PLANNING COMMISSION (EPC)**
- ☐ **APPEAL TO CITY COUNCIL THROUGH THE LAND USE HEARING OFFICER (LUHO)**

__ Interpreter Needed for Hearing? ____ if yes, indicate language: ~~PR-2019-002811~~

✓ Project number of the case being appealed, if applicable: PR-2019-002811

✓ Application number of the case being appealed, if applicable: SI-2019-00158 – VA-2019-00288

✓ Type of decision being appealed: DRB Sidewalk Variance Denial

✓ Reason for the appeal identifying the section of the IDO, other City regulation, or condition attached to a decision that has not been interpreted or applied correctly, and further addressing the criteria in IDO Section 14-16-6-4(U)(4)

2. Appellant's basis of standing in accordance with IDO Section 14-16-6-4(U)(2)

__ Letter of authorization from the appellant if appeal is submitted by an agent

✓ Copy of the Official Notice of Decision regarding the matter being appealed

I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting or hearing, if required, or otherwise processed until it is complete.

Signature:	**Date:** 11-12-19
Printed Name: Richard G. Chavez	☐ Applicant or ☐ Agent

FOR OFFICIAL USE ONLY

Project Number:	Case Numbers
PR-2019-002811	VA-2019-00416
	-
	-
Staff Signature:	
Date: 11-12-19	

Effective 5/17/18

PLANNING DEPARTMENT
DEVELOPMENT SERVICES DIVISION
600 2nd Street NW, Ground Floor, 87102
P.O. Box 1293, Albuquerque, NM 87103
Office (505) 924-3946

OFFICIAL NOTIFICATION OF DECISION

Richard Chavez
906 15th Street NW
ABQ NM 87104

Project# PR-2019-002811
Application#
SI-2019-00158 PRELIMINARY /FINAL PLAT
VA-2019-00288 SIDEWALK WAIVER
LEGAL DESCRIPTION:
All or a portion of LOTS 7-10 BLOCK 44 PEREA ADDITION, zoned R-1A, located at NEC of 15th ST NW and GRANITE AVE NW, containing approximately 0.32 acre(s). J-13

On October 30, 2019, the Development Review Board (DRB) held a public meeting concerning the above referenced application and deferred the Preliminary and Final Plat and denied the waiver request based on the following Findings:

SI-2019-00158 PRELIMINARY /FINAL PLAT

1. This preliminary/final plat is attached to the waiver request and was deferred to the meeting of November 20, 2019.

VA-2019-00288 SIDEWALK WAIVER

1. The applicant requested a waiver to the required frontage sidewalk.
2. The DRB denied the waiver of the IDO requirement 14-16-5-3(D)(1) for a perimeter sidewalk because the request did not meet all of the criteria in 6-6(L)(3), specifically, 6-6(L)(3)(b), the request will create a gap in the sidewalk system because there are existing sidewalks to the east and south of the site. Additionally, the area has a high degree of pedestrian activity and the sidewalk will contribute to a safe pedestrian environment.
3. The applicant did not request a waiver to the width of the sidewalk.
4. The applicant followed the required notice procedure in IDO Table 6-1-1.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the DRB's decision or by

NOVEMBER 14, 2019. The date of the DRB's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-6-4(U) of the Integrated Development Ordinance (IDO). A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed.

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Applicants submitting for building permit prior to the completion of the appeal period do so at their own risk. Successful applicants are reminded that there may be other City regulations of the IDO that must be complied with, even after approval of the referenced application(s).

Sincerely,

Jolene Wolfley
DRB Chair

JW/mg

REQUEST FOR APPEAL

FOR SIDEWALK VARIANCE, PROJECT # 2019-002811

906 15TH St NW

Response to SI-2019-00288 #2

Appeal based on 6-4(U) (4) (a) -&- 6-6(L) (3)(b)

I am requesting an appeal to the decision of the DRB to deny my request for a Sidewalk Variance based on 6-4(U) (4) (a) and 6-6(L)(3)(b). In my opinion, the DRB was Arbitrary in ignoring the fact that a 15 ft. sidewalk gap already exist between the neighbors to the east of my property, which constitutes an already existing Gap. The gap would make it impossible for a person in a wheel chair to traverse that distance between the neighbors existing sidewalk and the proposed sidewalk. See attached picture. (Attachment A. Picture) A person using a walker would find it extremely difficult to traverse that distance, if not outright dangerous. The Gap I am talking about is an alley, with a drop off the sidewalk on one edge and slight asphalt incline on to a combination of dirt and asphalt. I specifically asked the DRB for a definition of the Term Gap and none was given. From a technical and physical perspective, a Gap already exist and is inaccessible for disabled or handicap individuals requiring a walker or wheel chair.

The initial contention of the Traffic recommendation was that there was plenty of sidewalk in the area and there was no need for a Sidewalk Waiver. After showing, Google Earth pictures of surrounding areas with no sidewalk. Refer to attachments B-1 –B-7. Many of the various sidewalk areas are within one to two blocks of my and have no sidewalks, staff had to drop that contention. This is but one example of an arbitrary decision that one department of the DRB came to that had to change due to existing evidence to the contrary.

The DRB contends that my request will create a GAP in the sidewalk system and that there is sidewalk to the east and south of my property. With regard to the south of me, that is correct, but that arbitrarily ignores and discounts the fact there is no sidewalk to the north on my block from Granite to Mountain Rd. There is no sidewalk and at the end of 15th on the east side of the street which I live on. In addition, there is no sidewalk to the west of me. At the end of 15th and Mountain Rd. there is a Driveway pad for a commercial property, but no sidewalk. Refer to attachment C. The city can force me to install sidewalk On 15th, but to what end? All you've done is continued a piece meal approach, that places a significant financial burden on me and the remaining property owners have no incentive to voluntarily install sidewalk and no reason to see become ensnared in the DRB process.

DRBs contention that "Additionally, the area has high degree of pedestrian activity and the sidewalk will contribute to a safe pedestrian environment" assumes that the current situation is dangerous for pedestrians. That is a very arbitrary statement, what entity has designated my street a danger to pedestrian, how many fatal pedestrian accidents have occurred, or, and how many accidents with pedestrians have been reported? The answer to these questions is no designation of a Traffic hazard for pedestrians and no accidents identified involving pedestrian traffic.

The other issue is having a fence in the city right away and my appeal is based on meeting the requirement of Subsection 1 (a) of 6-6(L) (3)(b) and section a of 6-6(L)(3)(b). The fencing within the right away that the city is referring to was Grandfathered into place back to 1961. This is when Storm Sewers were installed along 15th Street. My folks property at the time, along with all the property owners on the east side of the street between Mountain Rd and Marble were required to pay off their portion of curb and gutter. Refer to attachments D-1 –D-3 pictures. The reason the properties fence line were Grandfathered in, was due to the financial commitment that property owners along the east side of the street between Marble and Mountain had to commit to pay off for installation of curb and gutter. At no time am I aware that when the city decided to update their sidewalk and setback requirement that encroached on existing property lines did the city reimburse any of the property owners for the property that was lost due to the new setback requirements. In fact, there would be no continuation of sidewalk beyond my property. There no plans by neighbors to voluntarily install sidewalk or request a sub-divide that would allow city staff to ensnare property owner to comply with city requirements.

The reason I call this an arbitrary decision is that my neighbor have no incentive for them to install sidewalk on their own. The other problem this decision creates for me is that it makes street traffic more accessible to my front door, which creates easier access for my home to be burglarized, or provide easy access to porch pirates. I understand the cities need to install sidewalk throughout the city, but the current standards for a sidewalk and set back were designed for new areas or exiting areas with plenty of land to accommodate these standards. The problem with these standards is that areas like Barrelas, Martinez Town, San Jose and the Old Town areas, these standards in themselves are arbitrary and make no exception or accommodation for those areas. The problem that this creates for city staff is Common sense will not be applied because staff will use the regulations as their hammer for enforcing these types of regulations and codes. What this creates are arbitrary decision that staff has to use to justify their position. DRB staff did recommend that I could maintain an existing sidewalk on 15th St. with a variance to accommodate a 3 ft sidewalk, through a Revocable Permit Process, but I would be assessed an initial Assessment Fee and then be taxed on an annual basis based on square footage of the area to be enclosed. All I am asking for is to maintain the Status Que of the block and not impose an island of sidewalk that does not tie into another sidewalk on the block.

If the city were serious about installing sidewalk throughout the area, two actions that the city could take would be much more logical and fair to property owners. 1. Seek Capital Infrastructure funding from a GO Bond election specifically to address sidewalk, since the city does this for streets and other infrastructure, 2. Create a Special Assessment District in which everyone pays an established amount for installation of sidewalk in the areas that need it. You may ask why someone would pay for sidewalk to be installed that they don't need, but they will at some point in time, utilize that sidewalk in their general area. This would be more of a fair process for all property owners rather than an arbitrary process of requesting a Sidewalk Waiver to snare a property owner, drag them through the process and then, make them pay for it.

I understand that the financial burden and implications of installing sidewalk are of no concern to the city staff and DRB, but I currently pay $6,500.00 in property taxes, which constitutes one third of my mortgage payment. The cost to install new sidewalk will run in the area of $16K, based on a quote. That means with interest of 15% over ten years at $153.00 a month, my property taxes will be over half of my mortgage payment. In conclusion, in my opinion this decision was an arbitrary decision in order to accommodate the city's need for sidewalks and staffs zeal to meet policy requirements with no

consideration of the reality to the existing conditions on my block. The only existing sidewalk on my block is a commercial property at the very end of the west side of the block off Mountain Rd.

A question I keep asking that no one has answered for me is why am I being required to pay for sidewalk installation, when every commercial and residential property owner along Mountain Rd from Broadway to 20th street, received sidewalk, in some cases new sidewalk, curb and gutter and lamppost? I live one block from where this project was done. This was also done along Lomas from Broadway to 20th street, not once but twice in a 20-year period. If the city can afford to fund these projects, why is it ok to ignore other residential areas?

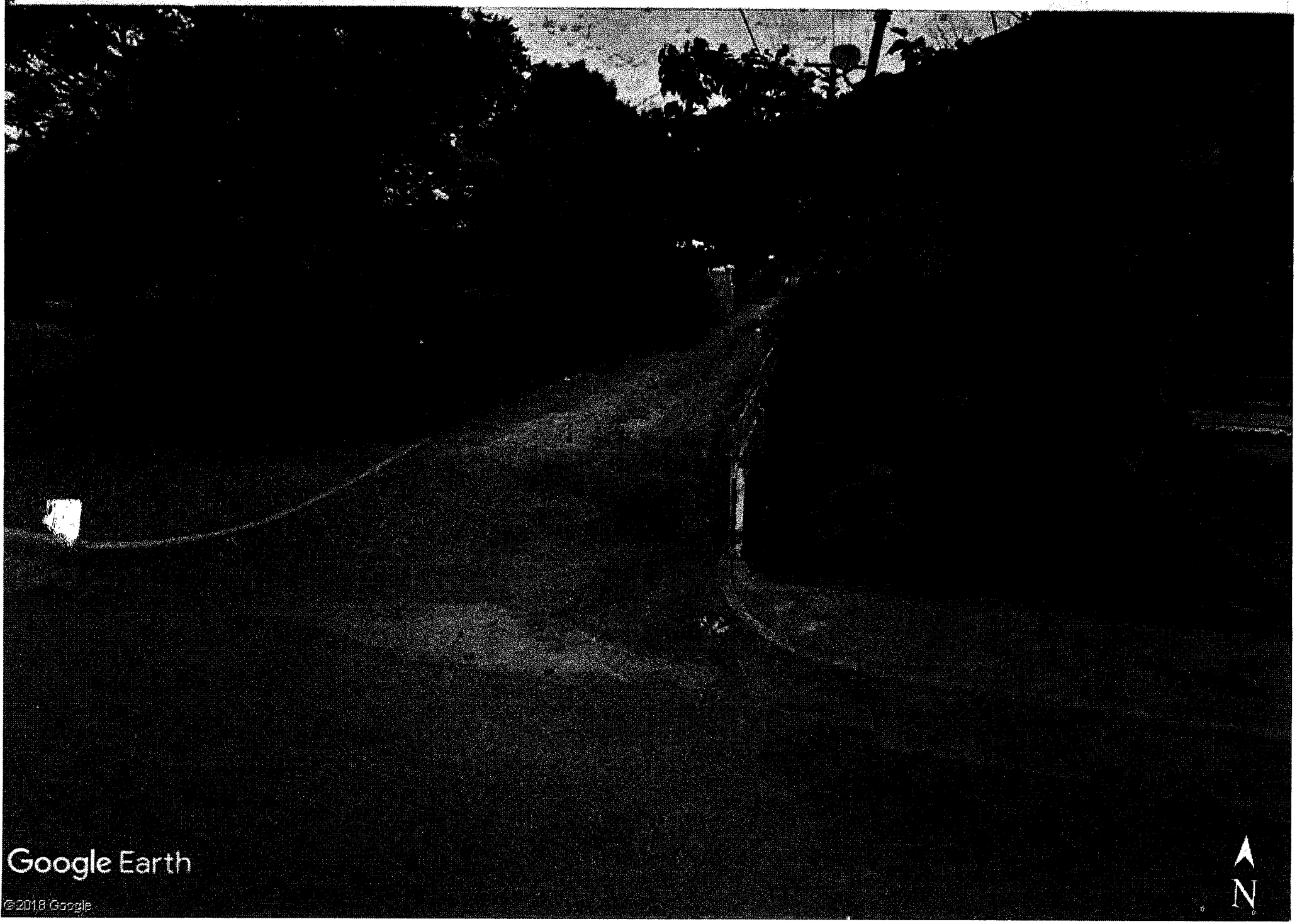
ATTACHMENT A.

Untitled Map

Existing Gap in accessible sidewalk between neighbor and my property. Alley Entry Between Neighbor on east side and my property. S

Legend

906 15th St NW



DEVELOPMENT REVIEW BOARD

TRANSPORTATION DEVELOPMENT

DRB Project Number: 2019-002811
Project Name: 15th Street and Granite Avenue

AGENDA ITEM NO: 12

SUBJECT: Waiver, Preliminary/Final Plat

ENGINEERING COMMENTS:

1. Sidewalk waiver is not granted along frontage of property. Much of the area already has sidewalk, and a 4-foot sidewalk is needed along the residential streets. Provide a sidewalk exhibit showing dimensions from curb to property line, dimension of sidewalk and setback from the curb. Added infrastructure will be required prior to final plat.

2. On an exhibit, show sight distance triangles at each of the driveway entrances. Add the following note as well: "Landscaping, fencing and signing will not interfere with clear sight requirements. Therefore, signs, walls, trees, and shrubbery between 3 and 8 feet tall (as measured from the gutter pan) will not be acceptable in the clear sight triangle."

3. It appears from the plat that there is fencing within the right-of-way that will need to be removed.

Disclaimer: The comments provided are based upon the information received from the applicant. If new or revised information is submitted, additional comments may be provided by Transportation Development.

FROM: Jeanne Wolfenbarger, P.E.
Transportation Development
505-924-3991 or jwolfenbarger@cabq.gov

DATE: September 11, 2019

ACTION:

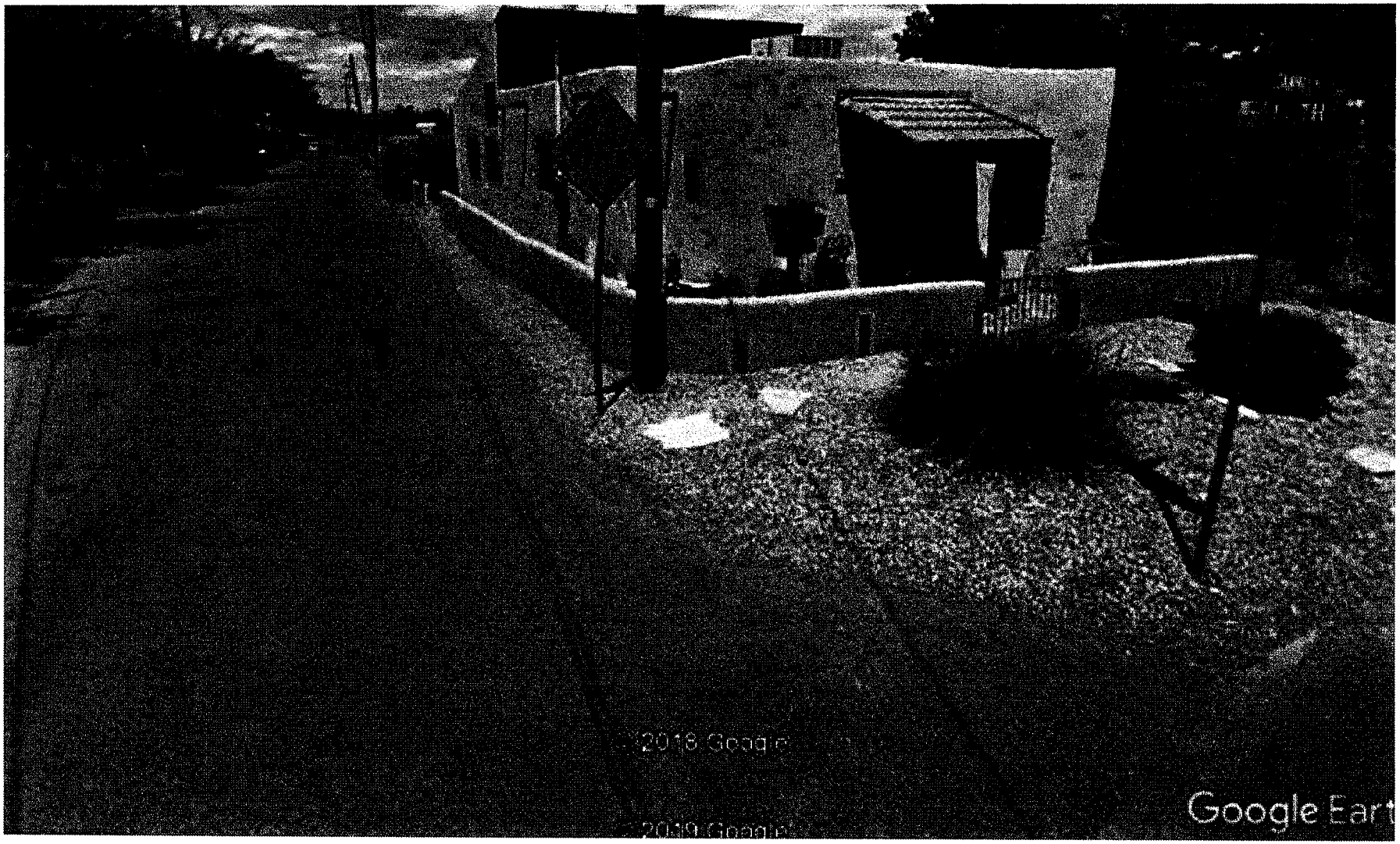
APPROVED __; DENIED __; DEFERRED __; COMMENTS PROVIDED __; WITHDRAWN __

DELEGATED: _____ TO: (TRANS) (HYD) (WUA) (PRKS) (CE) (PLNG)

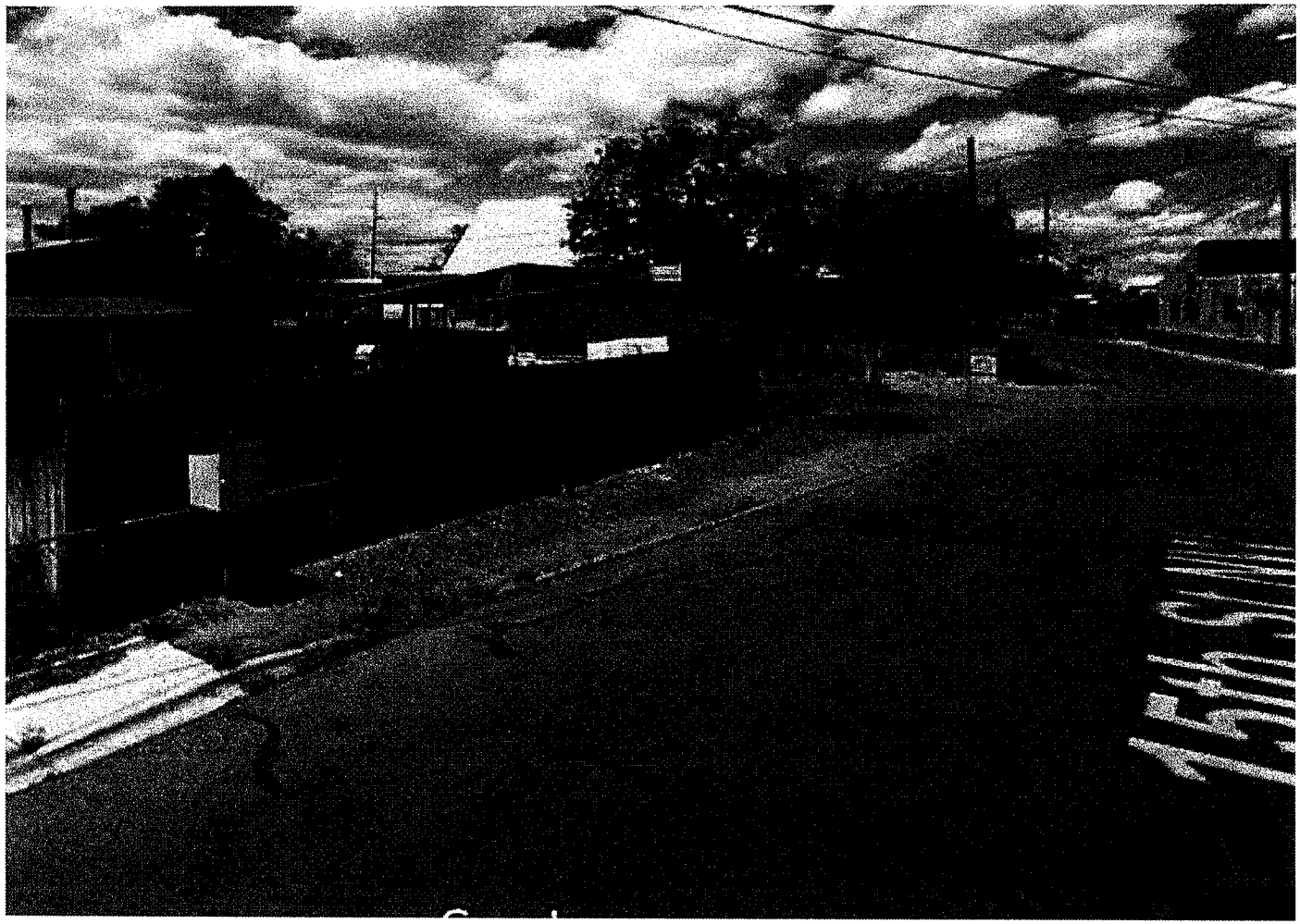
B-7 ⇨ 15th split w/ Sumner 1 block north of MOUNTAIN Rd.

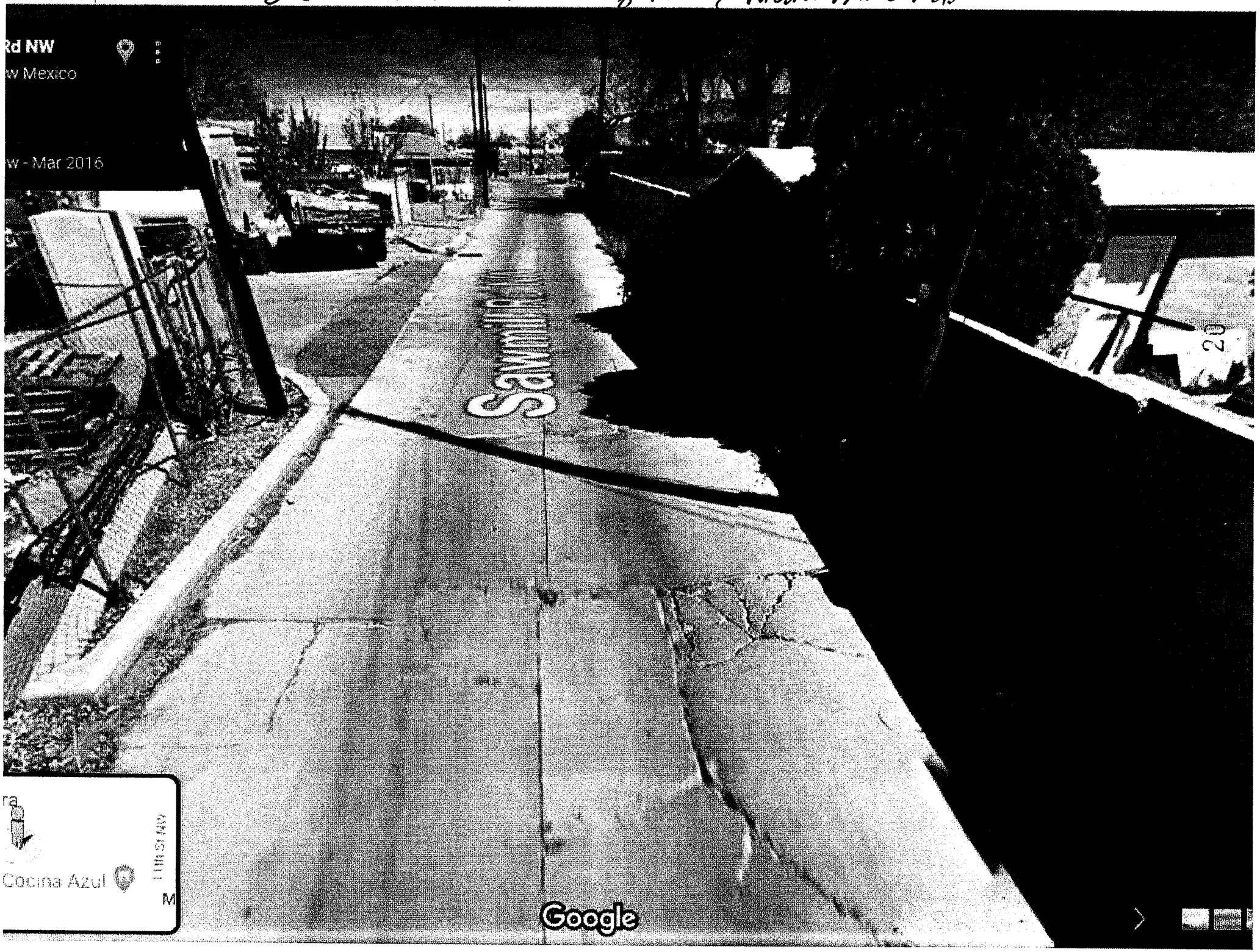
D-6 7 DIEFS NORTH ON 15th, 1 block EAST of Museum

B-5 END of 2nd Block on 15th & Summer

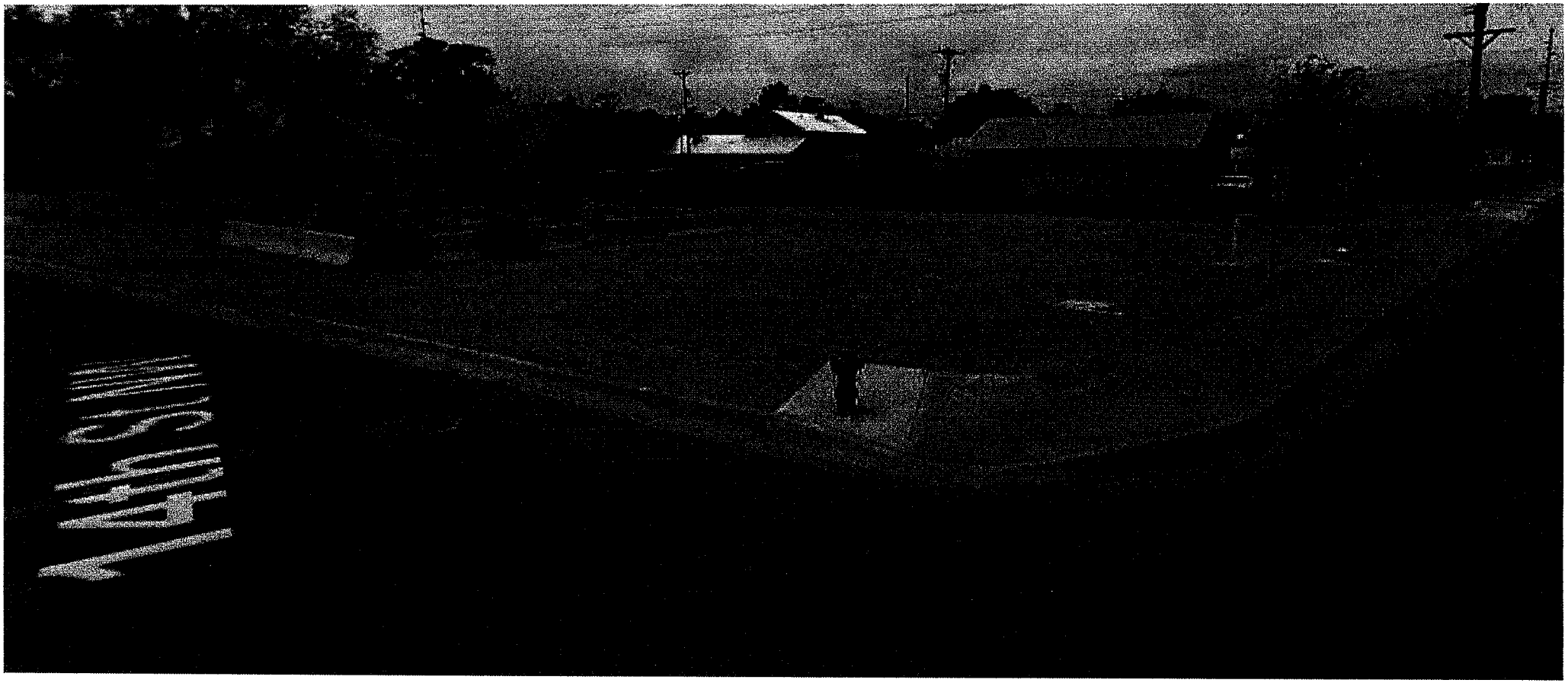


B4 15th 2 blocks North of Mountain Rd



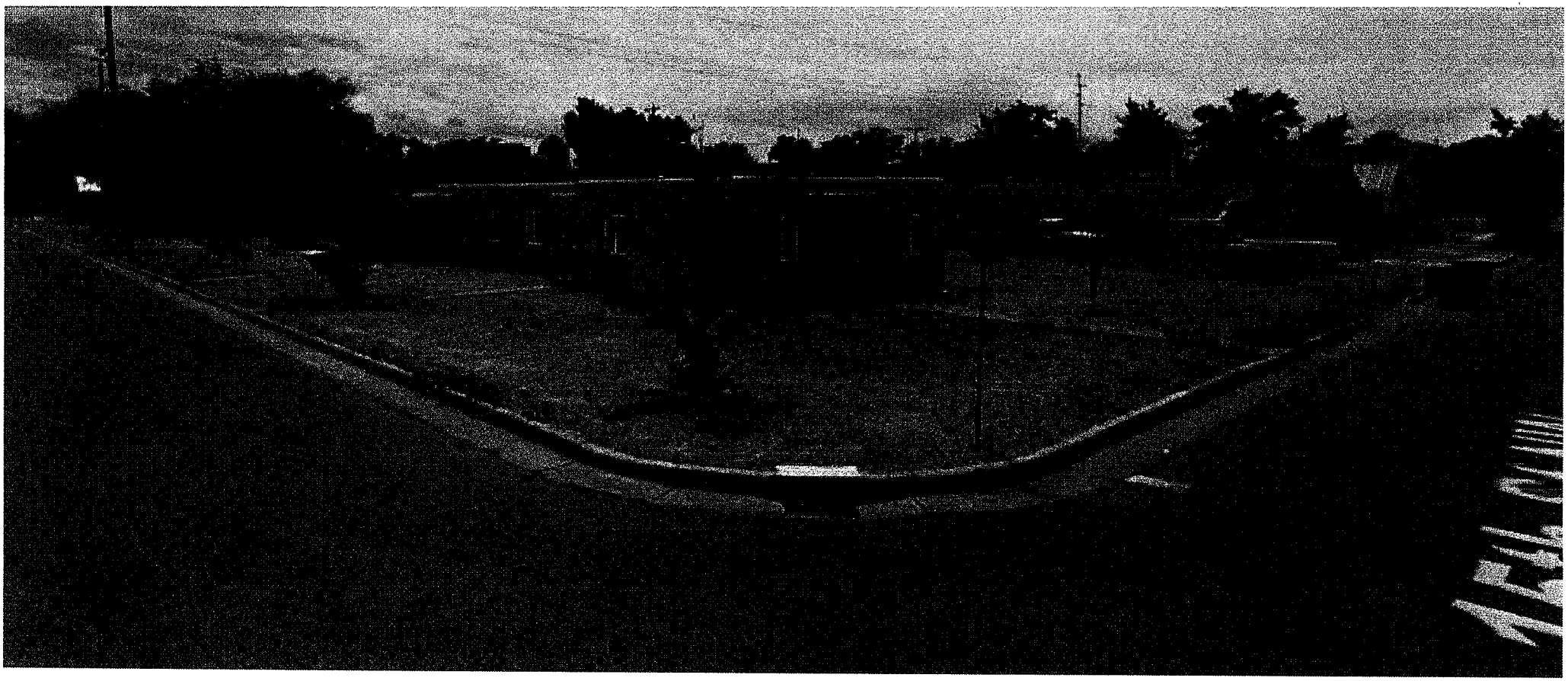

Rd NW
w Mexico
w - Mar 2016
SEWAGE
20
Cocina Azul
Google

ATTACHMENT B2
ONE BLOCK EAST of 15th & MOUNTAIN RD

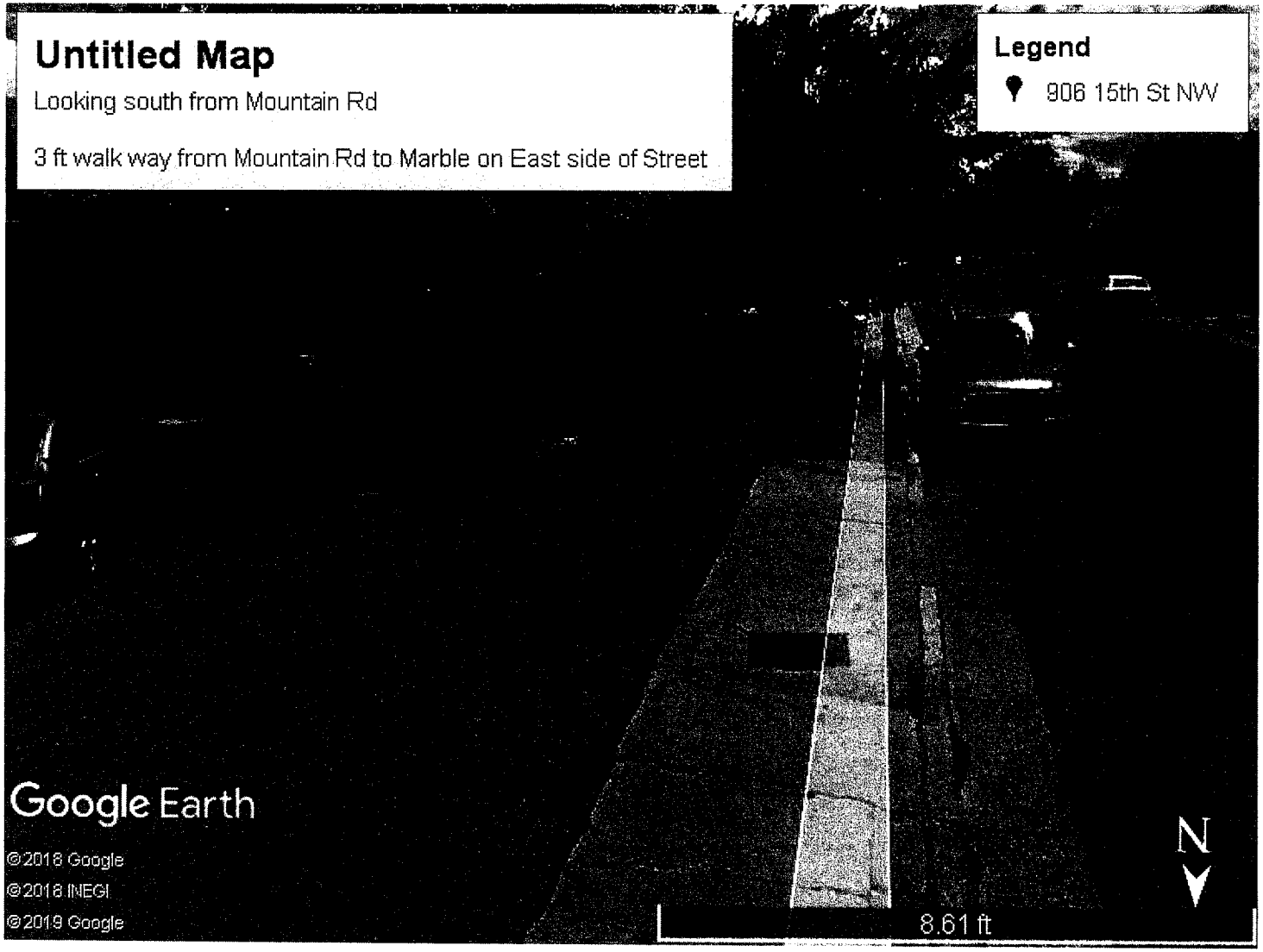


ATTACHMENT B1

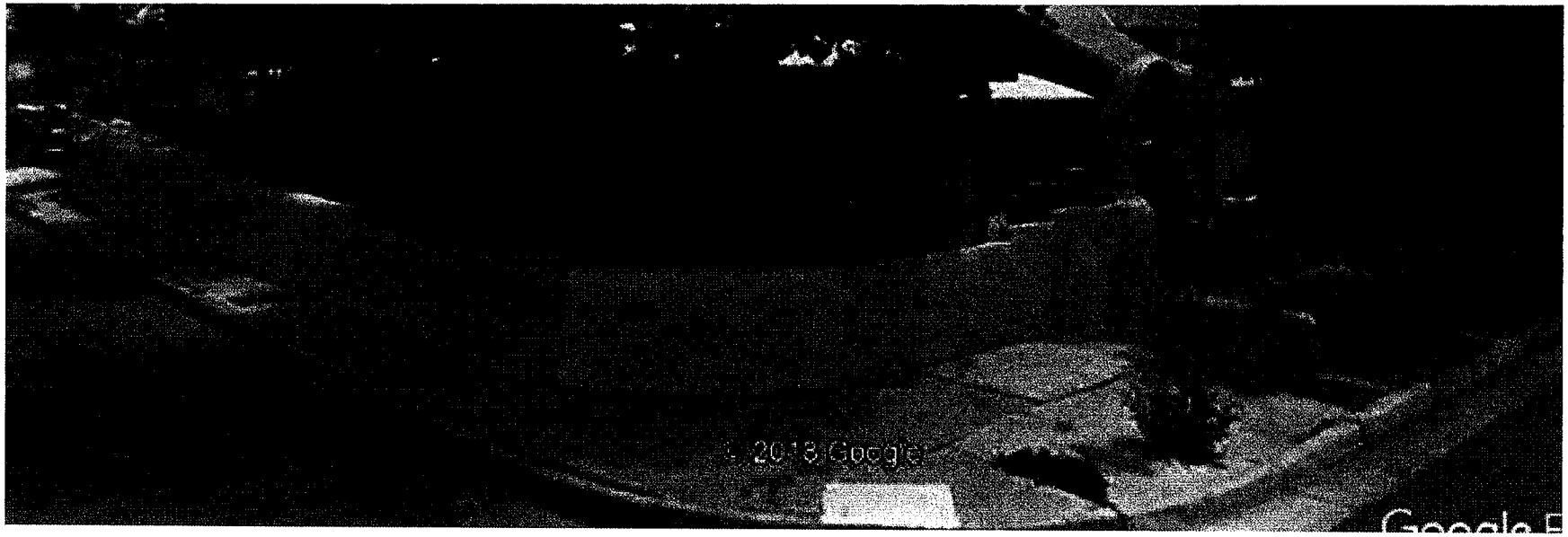
ONE BLOCK SOUTH of GRANITE



ATTACHMENT C DRIVEWAY PAD AT NORTH END of 15th & MOUNTAIN Rd.



ATTACHMENT D-1 3 Ft. fence line on 15th & MARBle



PROPERTY from MARble
To Mountain Rd w/3 ft.
Fence line from Curbing

D-2 Property between 15th & MARBLE & GRANITE

PROPERTY w/3 Ft.
Fence line to curb
between MARBLE & GRANITE

D-3 property at end of 15th & Granite

Property w/3ft Fenceline
From Curb. ~~North~~ off
Granite & 15th

Google Definition of Arbitrary

1. Based on random choice or personal whim, rather than any reason or system

2. (of power of ruling body) unrestrained and automatic in the use of authority

Webster's Definition of Arbitrary

1. Depending on individual discretion and not fixed by law
2. Autocratic, despotic
3. Based on or determined by individual preference convenience rather than by necessity or intrinsic nature of something

PLANNING DEPARTMENT
DEVELOPMENT SERVICES DIVISION
600 2nd Street NW, Ground Floor, 87102
P.O. Box 1293, Albuquerque, NM 87103
Office (505) 924-3946

OFFICIAL NOTIFICATION OF DECISION

Richard Chavez
906 15th Street NW
ABQ NM 87104

Project# PR-2019-002811
Application#
SI-2019-00158 PRELIMINARY /FINAL PLAT
VA-2019-00288 SIDEWALK WAIVER
LEGAL DESCRIPTION:
All or a portion of LOTS 7-10 BLOCK 44 PEREA ADDITION, zoned R-1A, located at NEC of 15th ST NW and GRANITE AVE NW, containing approximately 0.32 acre(s). J-13

On October 30, 2019, the Development Review Board (DRB) held a public meeting concerning the above referenced application and deferred the Preliminary and Final Plat and denied the waiver request based on the following Findings:

SI-2019-00158 PRELIMINARY /FINAL PLAT

1. This preliminary/final plat is attached to the waiver request and was deferred to the meeting of November 20, 2019.

VA-2019-00288 SIDEWALK WAIVER

1. The applicant requested a waiver to the required frontage sidewalk.
2. The DRB denied the waiver of the IDO requirement 14-16-5-3(D)(1) for a perimeter sidewalk because the request did not meet all of the criteria in 6-6(L)(3), specifically, 6-6(L)(3)(b), the request will create a gap in the sidewalk system because there are existing sidewalks to the east and south of the site. Additionally, the area has a high degree of pedestrian activity and the sidewalk will contribute to a safe pedestrian environment.
3. The applicant did not request a waiver to the width of the sidewalk.
4. The applicant followed the required notice procedure in IDO Table 6-1-1.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the DRB's decision or by

NOVEMBER 14, 2019. The date of the DRB's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-6-4(U) of the Integrated Development Ordinance (IDO). A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed.

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Applicants submitting for building permit prior to the completion of the appeal period do so at their own risk. Successful applicants are reminded that there may be other City regulations of the IDO that must be complied with, even after approval of the referenced application(s).

Sincerely,

Jolene Wolfley
DRB Chair

JW/mg

Chavez, Richard G, NMDOT

From: Gould, Maggie S. <MGould@cabq.gov>
Sent: Monday, October 28, 2019 4:07 PM
To: Chavez, Richard G, NMDOT
Cc: Gomez, Angela J.; Wolfley, Jolene
Subject: [EXT] RE: DBR Platt & Related Docs for next Meeting

Hello Mr. Chavez,
I am responding to your letter of October 25th in which you asked about the waiver criteria.
The IDO requires a perimeter sidewalk for residential development.
A waiver to the requirement for this sidewalk is a waiver to an IDO standard and must follow the IDO waiver criteria. The standard that you are using is from the Development Process Manual.
A waiver to the width of the sidewalk would be waiver to a Development Process Manual Standard and would follow the criteria that you are referencing. If you are asking for a waiver to the sidewalk width, please let us know.
The waiver criteria in 6-6(L)(3)(b) requires that the waiver will not create a gap in the existing system. Because there is existing sidewalk to the east of your property, the lack of sidewalk creates a gap.
See Citations below:
5-3(D) PEDESTRIAN CIRCULATION 5-3(D)(1) Sidewalks in Residential Development 5-3(D)(1)(a) Perimeter sidewalks shall be provided in accordance with the DPM, exclusive of the exception noted in Subsection (b) below
6-6(L)(3)(a) General Except as indicated in (d) below, an application for a Waiver – DRB shall be approved if it complies with the following criteria, as applicable:
1. Any of the following applies:
a. 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 district and vicinity, including but not limited to size, shape, topography, location, surroundings, and physical characteristics, and such special circumstances were created either by natural forces or by government eminent domain actions 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.
b. There are pre-existing obstructions that cannot be easily or economically relocated or should not be altered, such as grades, fills, water courses, natural topographic features, man-made obstructions, or utility lines.
c. The area or site has been recognized as having historical, archeological, and/or architectural significance by the City, state, or federal government, and a Variance is needed and appropriate to maintain such historical, archeological, and/or architectural significance.
d. The established neighborhood character or landscaping on the site would be damaged to a degree that outweighs the public interest in the City's normal technical standards in that location.
e. Varying from the normal requirements and standards will encourage flexibility, economy, effective use of open space, or ingenuity in design of a subdivision, in accordance with accepted principles of site planning.
2. The Waiver will not be materially contrary to the public safety, health, or welfare.
3. The Waiver does not cause significant material adverse impacts on surrounding properties.
4. The Waiver will not hinder future planning, public right-of way acquisition, or the financing or building of public infrastructure improvements.
5. The Waiver will not conflict significantly with the goals and provisions of any city, county, or AMAFCA adopted plan or policy, this IDO, or any other City code or ordinance.
6. The Waiver will not allow, encourage, or make possible undesired development in the 100-year Floodplain.
7. The Waiver will not materially undermine the intent and purpose of this IDO or the applicable zone district.
8. The Waiver does not allow a lot or type of development that does not meet the applicable size, area, and development standards applicable in the zone district where the lot is located, unless a Deviation to such standards is

within the thresholds established by Subsection 14-16-6-4(O) (Deviations) and is granted by the DRB as part of this approval.
9. The Waiver approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.
10. The Waiver for Sidewalk Requirements meets the criteria in (b) below.
11. The Waiver for Front Yard Parking meets the criteria in (c) below
6-6(L)(3)(b) Waiver to Sidewalk Requirements A request for a Variance to sidewalk requirements, shall be approved if it meets all of the applicable criteria in Subsection (a) above and all of the following criteria:
a. The area is of low-intensity land use to an extent that the normal installation of sidewalks will not contribute to the public welfare, and the absence of a sidewalk will not create a gap in an existing sidewalk system extended to 1 or more sides of the subject property or area.
b. The City's right-of-way is insufficient in width to permit the construction of a sidewalk of standard dimension and placement, but there is sufficient right-of-way to meet minimum ADA or PROWAG guidance.
c. The adjoining sidewalks are non-standard as to width and/or location, and the Variance would enable the new and existing sidewalks to match in width and/or location, or could create a smooth transition between areas of different width and/or character.

Please let me know if this answers your question.

ONE ALBUQUERQUE planning

MAGGIE GOULD
planner
o 505.924-3910
e mgould@cabq.gov
cabq.gov/planning

From: Chavez, Richard G, NMDOT [mailto:RichardG.Chavez@state.nm.us]
Sent: Friday, October 25, 2019 4:04 PM
To: Gould, Maggie S.
Subject: DBR Platt & Related Docs for next Meeting

Maggie, hopefully I have submitted everything you need for review. I do have a City Surveyor signed Mylar that I will have for the meting.I do have some questions regarding the DRBs interpretation of my project which I have stated to the board in a letter to you. I'm sure you've had to deal with other confused and discouraged applicants, so I do appreciate everyone's patience with me and my project.

Richard G. Chavez
906 15th St NW\Albuquerque, NM 87104
505-934-5979

==========
This message has been analyzed by Deep Discovery Email Inspector.

P265

2. Directly remand an appeal for reconsideration or further review by the lower decision-making body if a remand is necessary to clarify or supplement the record or if remand would more expeditiously dispose of the matter.

6-4(U)(2) Who May Appeal

6-4(U)(2)(a) Standing

Standing to appeal a final decision may be granted to any of the following parties.

1. The owner of the property listed in the application.
2. A representative of any City department, City agency, or other governmental or quasi-governmental agency whose services, properties, facilities, interest, or operations may be affected by the application.
3. Any party appealing the following decisions:
   a. Declaratory Ruling
   b. Adoption or Amendment of Albuquerque/Bernalillo County Comprehensive Plan
4. Any other person or organization that can demonstrate that his/her/its property rights or other legal rights have been specially and adversely affected by the decision.
   a. Such showing must be presented by the appellant as part of the appeal, and the LUHO or City Council shall enter a finding or findings as to whether this requirement has been met.
   b. If it is found that the appellant cannot satisfy this standard, the appeal shall be denied.
5. Property owners (other than the applicant) and Neighborhood Associations on the basis of proximity for decisions as specified in Table 6-4-3.
   a. Distances noted in feet in Table 6-4-3 are measured from the nearest lot line of the subject property. Where public right-of-way is greater than the specified distance, standing shall be granted to property owners adjacent to the subject property.
   b. Distances for Neighborhood Associations are based on the boundary on file with the ONC at the time the application for decision related to the subject property was accepted as complete.
   c. Where proximity is noted as "Includes or Is Adjacent," the Neighborhood Association boundary includes or is adjacent to the subject property.
   d. For application types with no distance specified, the final decision may be appealed pursuant to the Subsection indicated in Table 6-4-3.

Table 6-4-3: Standing for Appeals Based on Proximity to Subject Property		
Application Type	[illegible] Distance Specified	[illegible] Distance Specified
Adoption or Amendment of Historic Designation	330 ft.	660 ft.
Amendment to IDO Text	14-16-6-4(U)(2)(a)4	
Annexation of Land	330 ft.	660 ft.
Zoning Map Amendment – EPC	330 ft.	660 ft.
Zoning Map Amendment – Council	330 ft.	660 ft.
[1] This decision is not appealable because it is not a final decision.		

6-4(U)(2)(b) Appearance of Record Required

1. For Decisions Requiring a Public Meeting or Hearing and Policy Decisions (per Table 6-1-1), the appellant must have made an appearance of record to have standing to appeal, except in cases where an appellant is alleging improper notice.
2. An appearance of record can be made through any of the following:
   a. The initial submittal of an application for a decision listed in Table 6-1-1.
   b. The submittal of written comments that include the eventual appellant's name and contact information about the subject case submitted to the relevant decision-making body during the review process within the deadline for written comments prior to the decision.
   c. Verbal comments made by the eventual appellant or appellant's agent provided at a public meeting or hearing about the subject case during the review process before the relevant decision-making body.

6-4(U)(3) Procedure

6-4(U)(3)(a) Filing an Appeal

1. An appeal must be filed with the Planning Director within 15 consecutive days, excluding holidays listed in Part 3-1-12 of ROA 1994 (Legal Holidays), after the decision.
   a. The date that the decision was made is not included in the 15-day period for filing an appeal.
   b. The Planning Director shall not accept appeals filed after the 15-day deadline in Subsection a above has passed.
2. For Declaratory Rulings, there is no deadline for appealing the decision.
3. The appeal shall specifically state the section of this IDO, City regulation, or condition attached to a decision that has not been interpreted or applied correctly.

the EPC so long as the written argument is received by EPC staff at least 10 consecutive days prior to the hearing.

2. The EPC may accept new evidence into the record if it appears that such additional evidence is necessary for the proper disposition of the matter and could not have been placed into the record during the previous decision-making process. New evidence that clarifies evidence already in the record, that is offered to contradict evidence in the record, or that is offered on a key factual issue, may be allowed or may justify remand.
3. The EPC may impose reasonable limitations on the number of witnesses heard and on the nature and length of their testimony and cross-examination.
4. The EPC shall make findings exclusively on the record of the decision appealed, supplemented by any evidence allowed at the hearing.
5. The EPC may affirm, reverse, or otherwise modify the lower decision to bring it into compliance with the standards and criteria of this IDO, applicable City regulations, and any prior approvals related to the property.
6. If the EPC determines that the matter should be remanded, the EPC shall set forth the reason(s) for the remand and the matters to be reconsidered and may order such remand. The matter must be heard and decided by the original decision-making body prior to any further appeal of the matter.

6-4(U)(3)(d) Land Use Hearing Officer (LUHO)

1. Once an appeal has been accepted by the Planning Director, the Planning Director shall prepare and transmit a record of the appeal together with all appeal material received from the appellant to impacted parties and to the LUHO through the Clerk of the City Council. The LUHO shall schedule a hearing on the matter within 30 consecutive days of receipt and notify the parties. Appellants and parties to the appeal may submit written arguments to the LUHO through the Clerk of the City Council so long as the written argument is received by the Clerk of the City Council at least 10 consecutive days prior to the hearing.
2. The LUHO may accept new evidence into the record if it appears that such additional evidence is necessary for the proper disposition of the matter and could not have been placed into the record during the previous decision-making process. New evidence that clarifies evidence already in the record, that is offered to contradict evidence in the record, or that is offered on a key factual issue, may be allowed or may justify remand.

26 5.00

b. Make a final determination on the appeal and adopt findings in support of its determination based only on the record without any additional hearings.

c. If the Council determines that it cannot properly dispose of the appeal without additional hearings on the matter, schedule a full hearing on the matter no earlier than the next regular meeting at which land use matters are heard.

5. If the matter is scheduled for a hearing before the Council, the Clerk of the Council shall notify the parties to the appeal. The parties may present oral argument at the hearing pursuant to hearing procedures as established by rule of the Council. However, the City Council shall not accept new evidence and shall make its final decision based solely on the evidence in the record at the close of the LUHO's hearing and the oral arguments of the parties.

6. If the City Council holds a public hearing on the appeal, the City Council shall adopt written findings at the conclusion of that hearing or at the next scheduled meeting of the City Council; however, a Councilor who did not participate in the action taken on the appeal may not participate in the action to adopt the findings at a subsequent meeting.

6-4(U)(4) Criteria for Decision

The criteria for review of an appeal shall be whether the decision-making body or the prior appeal body made 1 of the following mistakes:

6-4(U)(4)(a) The decision-making body or the prior appeal body acted fraudulently, arbitrarily, or capriciously.

6-4(U)(4)(b) The decision being appealed is not supported by substantial evidence.

6-4(U)(4)(c) The decision-making body or the prior appeal body erred in applying the requirements of this IDO (or a plan, policy, or regulation referenced in the review and decision-making criteria for the type of decision being appealed).

6-4(V) JUDICIAL REVIEW

A decision of the City Council is final but is subject to judicial review pursuant to New Mexico law.

6-4(W) EXPIRATION OF APPROVALS

6-4(W)(1) Permits and Approvals Run With the Land

Unless specified otherwise on the permit or approval document for a specific type of development approval, permits and approvals run with the land and are not affected by changes in ownership or the form of ownership of the property.

6-4(W)(2) Period of Validity

Unless specified otherwise in this IDO, the DPM, an IIA, a Development Agreement approved by the City, or the terms attached to a permit or approval, each permit or approval shall be valid for the period of time shown in Table 6-4-

existing sidewalk system extended to 1 or more sides of the subject property or area.
b. The City's right-of-way is insufficient in width to permit the construction of a sidewalk of standard dimension and placement, but there is sufficient right-of-way to meet minimum ADA or PROWAG guidance.
c. The adjoining sidewalks are non-standard as to width and/or location, and the Variance would enable the new and existing sidewalks to match in width and/or location, or could create a smooth transition between areas of different width and/or character.

Please let me know if this answers your question.

Disclaimer: The comments provided are based upon the information received from the applicant/agent. If new or revised information is submitted, additional comments may be provided by Planning.

FROM: Maggie Gould
Planning Department
924-3910 mgould@cabq.gov

DATE: October 29, 2019

DEVELOPMENT REVIEW BOARD

Planning Dept. - Minor Case Comments

HEARING DATE/AGENDA ITEM NO. 10

Project Number: PR-2019-002211
Application Number: SD-2019-00158, VA-2019-00288

Project Name: Chavez replat

Request: Prelim/final plat, Sidewalk waiver

COMMENTS:

Hello Mr. Chavez,
I am responding to your letter of October 25th in which you asked about the waiver criteria.
The IDO requires a perimeter sidewalk for residential development.
A waiver to the requirement for this sidewalk is a waiver to an IDO standard and must follow the IDO waiver criteria. The standard that you are using is from the Development Process Manual.
A waiver to the width of the sidewalk would be waiver to a Development Process Manual Standard and would follow the criteria that you are referencing. If you are asking for a waiver to the sidewalk width, please let us know.
The waiver criteria in 6-6(L)(3)(b) requires that the waiver will not create a gap in the existing system. Because there is existing sidewalk to the east of your property, the lack of sidewalk creates a gap.
See Citations below:
5-3(D) PEDESTRIAN CIRCULATION 5-3(D)(1) Sidewalks in Residential Development 5-3(D)(1)(a) Perimeter sidewalks shall be provided in accordance with the DPM, exclusive of the exception noted in Subsection (b) below
6-6(L)(3)(a) General Except as indicated in (d) below, an application for a Waiver – DRB shall be approved if it complies with the following criteria, as applicable:
1. Any of the following applies:
a. 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 district and vicinity, including but not limited to size, shape, topography, location, surroundings, and physical characteristics, and such special circumstances were created either by natural forces or by government eminent domain actions 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.
b. There are pre-existing obstructions that cannot be easily or economically relocated or should not be altered, such as grades, fills, water courses, natural topographic features, man-made obstructions, or utility lines.
c. The area or site has been recognized as having historical, archeological, and/or architectural significance by the City, state, or federal government, and a Variance is needed and appropriate to maintain such historical, archeological, and/or architectural significance.
d. The established neighborhood character or landscaping on the site would be damaged to a degree that outweighs the public interest in the City's normal technical standards in that location.
e. Varying from the normal requirements and standards will encourage flexibility, economy, effective use of open space, or ingenuity in design of a subdivision, in accordance with accepted principles of site planning.
2. The Waiver will not be materially contrary to the public safety, health, or welfare.
3. The Waiver does not cause significant material adverse impacts on surrounding properties.
4. The Waiver will not hinder future planning, public right-of way acquisition, or the financing or building of public infrastructure improvements.
5. The Waiver will not conflict significantly with the goals and provisions of any city, county, or AMAFCA adopted plan or policy, this IDO, or any other City code or ordinance.
6. The Waiver will not allow, encourage, or make possible undesired development in the 100-year Floodplain.
7. The Waiver will not materially undermine the intent and purpose of this IDO or the applicable zone district.
8. The Waiver does not allow a lot or type of development that does not meet the applicable size, area, and development standards applicable in the zone district where the lot is located, unless a Deviation to such standards is within the thresholds established by Subsection 14-16-6-4(O) (Deviations) and is granted by the DRB as part of this approval.
9. The Waiver approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.
10. The Waiver for Sidewalk Requirements meets the criteria in (b) below.
11. The Waiver for Front Yard Parking meets the criteria in (c) below
6-6(L)(3)(b) Waiver to Sidewalk Requirements A request for a Variance to sidewalk requirements, shall be approved if it meets all of the applicable criteria in Subsection (a) above and all of the following criteria:
a. The area is of low-intensity land use to an extent that the normal installation of sidewalks will not contribute to the public welfare, and the absence of a sidewalk will not create a gap in an

REQUEST FOR APPEAL

FOR SIDEWALK VARIANCE, PROJECT # 2019-002811

906 15TH St NW

Response to SI-2019-00288 #2

Appeal based on 6-4(U) (4) (a) -&- 6-6(L) (3)(b)

I am requesting an appeal to the decision of the DRB to deny my request for a Sidewalk Variance based on 6-4(U) (4) (a) and 6-6(L)(3)(b). In my opinion, the DRB was Arbitrary in ignoring the fact that a 15 ft. sidewalk gap already exist between the neighbors to the east of my property, which constitutes an already existing Gap. The gap would make it impossible for a person in a wheel chair to traverse that distance between the neighbors existing sidewalk and the proposed sidewalk. See attached picture (Attachment A. Picture) A person using a walker would find it extremely difficult to traverse that distance, if not outright dangerous. The Gap I am talking about is an alley, with a drop off the sidewalk on one edge and slight asphalt incline on to a combination of dirt and asphalt. I specifically asked the DRB for a definition of the Term Gap and none was given. From a technical and physical perspective, a Gap already exist and is inaccessible for disabled or handicap individuals requiring a walker or wheel chair.

The initial contention of the Traffic recommendation was that there was plenty of sidewalk in the area and there was no need for a Sidewalk Waiver. After showing, Google Earth pictures of surrounding areas with no sidewalk. Refer to attachments B-1 –B-7. Many of the various sidewalk areas are within one to two blocks of my and have no sidewalks, staff had to drop that contention. This is but one example of an arbitrary decision that one department of the DRB came to that had to change due to existing evidence to the contrary.

The DRB contends that my request will create a GAP in the sidewalk system and that there is sidewalk to the east and south of my property. With regard to the south of me, DRBs statement is inaccurate as stated in first paragraph. There is no sidewalk and at the end of 15th on the east side of the street which on live on, has no sidewalk. Alsop there is no sidewalk to the west of me. At the end of 15th and Mountain Rd. there is a Driveway pad for a commercial property, but no sidealk. Refer to attachment C

DRBs contention that "Additionally, the area has high degree of pedestrian activity and the sidewalk will contribute to a safe pedestrian environment" assumes that the current situation is dangerous for pedestrians. That is a very arbitrary statement, what entity has designated my street a danger to pedestrian, how many fatal pedestrian accidents have occurred, or, and how many accidents with pedestrians have been reported? The answer to these questions is no designation of a Traffic hazard for pedestrians and no accidents identified involving pedestrian traffic.

The other issue is having a fence in the city right away and my appeal is based on meeting the requirement of Subsection 1 (a) of 6-6(L) (3)(b) and section a of 6-6(L)(3)(b). The fencing within the right away that the city is referring to was Grandfathered into place back to 1961. This is when Storm Sewers were installed along 15th Street. My folks property at the time, along with all the property owners on the east side of the street between Mountain Rd and Marble were required to pay off their portion of curb

and gutter. Refer to attachments D-1 –D-3 pictures. The reason the properties fence line were Grandfathered in, was due to the financial commitment that property owners along the east side of the street between Marble and Mountain had to commit to pay off for installation of curb and gutter. At no time am I aware that when the city decided to update their sidewalk and setback requirement that encroached on existing property lines did the city reimburse any of the property owners for the property that was lost due to the new setback requirements. In fact, there would be no continuation of sidewalk beyond my property. There no plans by neighbors to voluntarily install sidewalk or request a sub-divide that would allow city staff to ensnare property owner to comply with city requirements.

The reason I call this an arbitrary decision is that my neighbor have no incentive for them to install sidewalk on their own. The other problem this decision creates for me is that it makes street traffic more accessible to my front door, which creates easier access for my home to be burglarized, or provide easy access to porch pirates. I understand the cities need to install sidewalk throughout the city, but the current standards for a sidewalk and set back were designed for new areas or exiting areas with plenty of land to accommodate these standards. The problem with these standards is that areas like Barrelas, Martinez Town, San Jose and the Old Town areas, these standards in themselves are arbitrary and make no exception or accommodation for those areas. The problem that this creates for city staff is Common sense will not be applied because staff will use the regulations as their hammer for enforcing these types of regulations and codes. What this creates are arbitrary decision that staff has to use to justify their position. DRB staff did recommend that I could maintain the existing sidewalk with a variance to accommodate a 3 ft sidewalk, through a Revocable Permit Process, but I would be assessed an initial Assessment Fee and then be taxed on an annual basis based on square footage of the area to be enclosed. All I am asking for is to maintain the Status Que of the block and not impose an island of sidewalk that does not tie into another sidewalk on the block.

If the city were serious about installing sidewalk throughout the area, two actions that the city could take would be much more logical and fair to property owners. 1. Seek Capital Infrastructure funding from a GO Bond election specifically to address sidewalk, since the city does this for streets and other infrastructure, 2. Create a Special Assessment District in which everyone pays an established amount for installation of sidewalk in the areas that need it. You may ask why someone would pay for sidewalk to be installed that they don't need, but they will at some point in time, utilize that sidewalk in their general area. This would be more of a fair process for all property owners rather than an arbitrary process of requesting a Sidewalk Waiver to snare a property owner, drag them through the process and then, make them pay for it.

I understand that the financial burden and implications of installing sidewalk are of no concern to the city staff and DRB, but I currently pay $6,500.00 in property taxes, which constitutes one third of my mortgage payment. The cost to install new sidewalk will run in the area of $16K, based on a quote. That means with interest of 15% over ten years at $153.00 a month, my property taxes will be over half of my mortgage payment. In conclusion, in my opinion this decision was an arbitrary decision in order to accommodate the city's need for sidewalks and staffs zeal to meet policy requirements with no consideration of the reality to the existing conditions on my block. The only existing sidewalk on my block is a commercial property at the very end of the west side of the block off Mountain Rd.

A question I keep asking that no one has answered for me is why am I being required to pay for sidewalk installation, when every commercial and residential property owner along Mountain Rd from Broadway

to 20th street, received sidewalk, in some cases new sidewalk, curb and gutter and lamppost? I live one block from where this project was done. This was also done along Lomas from Broadway to 20th street, not once but twice in a 20-year period. If the city can afford to fund these projects, why is it ok to ignore other residential areas?

Chavez, Richard G, NMDOT

From: Gould, Maggie S. <MGould@cabq.gov>
Sent: Monday, October 28, 2019 4:07 PM
To: Chavez, Richard G, NMDOT
Cc: Gomez, Angela J.; Wolfley, Jolene
Subject: [EXT] RE: DBR Platt & Related Docs for next Meeting

Hello Mr. Chavez,
I am responding to your letter of October 25th in which you asked about the waiver criteria.
The IDO requires a perimeter sidewalk for residential development.
A waiver to the requirement for this sidewalk is a waiver to an IDO standard and must follow the IDO waiver criteria. The standard that you are using is from the Development Process Manual.
A waiver to the width of the sidewalk would be waiver to a Development Process Manual Standard and would follow the criteria that you are referencing. If you are asking for a waiver to the sidewalk width, please let us know.
The waiver criteria in 6-6(L)(3)(b) requires that the waiver will not create a gap in the existing system. Because there is existing sidewalk to the east of your property, the lack of sidewalk creates a gap.
See Citations below:
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b. There are pre-existing obstructions that cannot be easily or economically relocated or should not be altered, such as grades, fills, water courses, natural topographic features, man-made obstructions, or utility lines.
c. The area or site has been recognized as having historical, archeological, and/or architectural significance by the City, state, or federal government, and a Variance is needed and appropriate to maintain such historical, archeological, and/or architectural significance.
d. The established neighborhood character or landscaping on the site would be damaged to a degree that outweighs the public interest in the City's normal technical standards in that location.
e. Varying from the normal requirements and standards will encourage flexibility, economy, effective use of open space, or ingenuity in design of a subdivision, in accordance with accepted principles of site planning.
2. The Waiver will not be materially contrary to the public safety, health, or welfare.
3. The Waiver does not cause significant material adverse impacts on surrounding properties.
4. The Waiver will not hinder future planning, public right-of way acquisition, or the financing or building of public infrastructure improvements.
5. The Waiver will not conflict significantly with the goals and provisions of any city, county, or AMAFCA adopted plan or policy, this IDO, or any other City code or ordinance.
6. The Waiver will not allow, encourage, or make possible undesired development in the 100-year Floodplain.
7. The Waiver will not materially undermine the intent and purpose of this IDO or the applicable zone district.
8. The Waiver does not allow a lot or type of development that does not meet the applicable size, area, and development standards applicable in the zone district where the lot is located, unless a Deviation to such standards is

within the thresholds established by Subsection 14-16-6-4(O) (Deviations) and is granted by the DRB as part of this approval.
9. The Waiver approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.
10. The Waiver for Sidewalk Requirements meets the criteria in (b) below.
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a. The area is of low-intensity land use to an extent that the normal installation of sidewalks will not contribute to the public welfare, and the absence of a sidewalk will not create a gap in an existing sidewalk system extended to 1 or more sides of the subject property or area.
b. The City's right-of-way is insufficient in width to permit the construction of a sidewalk of standard dimension and placement, but there is sufficient right-of-way to meet minimum ADA or PROWAG guidance.
c. The adjoining sidewalks are non-standard as to width and/or location, and the Variance would enable the new and existing sidewalks to match in width and/or location, or could create a smooth transition between areas of different width and/or character.

Please let me know if this answers your question.

ONE ALBUQUERQUE planning

MAGGIE GOULD
planner
o 505.924-3910
e mgould@cabq.gov
cabq.gov/planning

From: Chavez, Richard G, NMDOT [mailto:RichardG.Chavez@state.nm.us]
Sent: Friday, October 25, 2019 4:04 PM
To: Gould, Maggie S.
Subject: DBR Platt & Related Docs for next Meeting

Maggie, hopefully I have submitted everything you need for review. I do have a City Surveyor signed Mylar that I will have for the meting.I do have some questions regarding the DRBs interpretation of my project which I have stated to the board in a letter to you. I'm sure you've had to deal with other confused and discouraged applicants, so I do appreciate everyone's patience with me and my project.

Richard G. Chavez
906 15th St NW\Albuquerque, NM 87104
505-934-5979

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This message has been analyzed by Deep Discovery Email Inspector.

City of Albuquerque

DEVELOPMENT REVIEW BOARD APPLICATION

Please check the appropriate box(es) and refer to supplemental forms for submittal requirements. All fees must be paid at the time of application.

SUBDIVISIONS	☐ Final Sign off of EPC Site Plan(s) *(Form P2)*	☐ Variance for Carport within setback(s) *(Form V)*
☐ Major – Preliminary Plat *(Form P1)*	☐ Amendment to Site Plan *(Form P2)*	☐ Vacation of Public Right-of-way *(Form V)*
☒ Minor – Preliminary/Final Plat *(Form S2)*	**MISCELLANEOUS APPLICATIONS**	☐ Vacation of Public Easement(s) DRB *(Form V)*
☐ Major - Final Plat *(Form S1)*	☐ Extension of Infrastructure List *(Form S1)*	☐ Vacation of Private Easement(s) *(Form V)*
☐ Amendment to Preliminary Plat *(Form S2)*	☐ Amendment to Infrastructure List *(Form P1)*	**PRE-APPLICATIONS**
☐ Extension of Preliminary Plat *(FormS1)*	☐ Variance – Temporary Deferral of S/W *(Form P2)*	☒ Sketch Plat Review and Comment *(Form P2)*
	☒ Variance – Sidewalk Waiver *(Form V)*	
SITE PLANS	☐ Variance to IDO *(Form V)*	**APPEAL**
☒ DRB Site Plan *(Form P2)*	☐ Variance to DPM *(Form V)*	☐ Decision of DRB *(Form A)*

BRIEF DESCRIPTION OF REQUEST

APPLICATION INFORMATION

Applicant: RICHARD G. CHAVEZ		Phone: 505-934-5979
Address: 906 15th N.W.		Email: rceagle2sky@gmail.com
City: ALBUQUERQUE	State: NM	Zip: 87104
Professional/Agent (if any):		Phone:
Address:		Email:
City:	State:	Zip:
Proprietary Interest in Site:	List all owners:	

SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)

Lot or Tract No.: Lots 7A-10-A	Block: 44	Unit:
Subdivision/Addition: PEREA	MRGCD Map No.:	UPC Code: [redacted]
Zone Atlas Page(s): J 13	Existing Zoning: R 1-A	Proposed Zoning:
# of Existing Lots: 4	# of Proposed Lots: 2	Total Area of Site (acres): .32

LOCATION OF PROPERTY BY STREETS

Site Address/Street: 15th & GRANITE	Between:	and:

CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)

Signature: Richard G. Chavez	Date: 7-16-19
Printed Name: RICHARD G. CHAVEZ	☒ Applicant or ☐ Agent

FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees	Case Numbers	Action	Fees
SD-2019-00158	P&F	$500.00			
VA-2019-00288	waiver-IDO	$325.00			

Meeting/Hearing Date: September 11, 2019		Fee Total: $825.00
Staff Signature:	Date: 8-30-19	Project # PR-2019-002811

FORM S2: SUBDIVISION OF LAND – MINOR ACTIONS

Please refer to the DRB minor case schedule for meeting dates and deadlines unless noted differently below. Bring original Mylar of plat with property owner's and City Surveyor's signatures on it to the meeting. Your attendance is required.

A **Variance – DRB for the Bulk Transfer of Land** requires application on Form V in addition to this FORM S2.

>> INFORMATION REQUIRED FOR ALL MINOR SUBDIVISION APPLICATIONS

- __ Interpreter Needed for Hearing? ____ if yes, indicate language: _____
- __ A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD. PDF *shall be organized* with the Development Review Application and this Form S2 at the front followed by the remaining documents *in the order provided on this form.*
- X Zone Atlas map with the entire site clearly outlined and labeled

☐ **SKETCH PLAT REVIEW AND COMMENT**

- __ Letter describing, explaining, and justifying the request
- __ Scale drawing of the proposed subdivision plat (7 copies, folded)
- __ Site sketch with measurements showing structures, parking, building setbacks, adjacent rights-of-way and street improvements, if there is any existing land use (7 copies, folded)

☐ **MAJOR SUBDIVISION FINAL PLAT APPROVAL (requires published notice, heard on the DRB Major Case Schedule)**

- __ Letter describing, explaining, and justifying the request
- __ Copy of recorded IIA
- __ Proposed Final Plat (7 copies, 24" x 36" folded)
- __ Design elevations & cross sections of perimeter walls (3 copies)
- __ Landfill disclosure and EHD signature line on the Mylar if property is within a landfill buffer
- __ DXF file and hard copy of final plat data for AGIS submitted and approved

X **MINOR SUBDIVISION PRELIMINARY/FINAL PLAT APPROVAL**

- ✓ Letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-6(I)
- NA Sites 5 acres or greater: Archaeological Certificate in accordance with IDO Section 14-16-6-5(A)
- ✓ Form DRWS Drainage Report, Grading and Drainage Plan, and Water & Sewer Availability Statement submittal information
- ✓ Required notice with content per IDO Section 14-16-6-4(K)(6)
- → __ Office of Neighborhood Coordination Public Notice Inquiry response
- ✓ Proof of emailed notice to applicable Neighborhood Association representatives
- → ✓ Proposed Preliminary / Final Plat with property owner's and City Surveyor's signatures on the plat prior to submittal (7 copies, folded)
- ✓ Sidewalk Exhibit and/or cross sections of proposed streets (3 copies, 11" by 17" maximum)
- → __ Site sketch with measurements showing structures, parking, building setbacks, adjacent rights-of-way and street improvements (to include sidewalk, curb & gutter with distance to property line noted) if there is any existing land use (7 copies, folded)
- __ Landfill disclosure statement per IDO Section 14-16-5-2(G) if site is within a designated landfill buffer zone
- __ Proposed Infrastructure List, if applicable
- __ DXF file and hard copy of final plat data for AGIS submitted and approved

☐ **MINOR AMENDMENT TO PRELIMINARY PLAT OR INFRASTRUCTURE LIST**

- __ Letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-4(X)(2)
- __ Original Preliminary Plat, Infrastructure List, and/or Grading Plan (7 copies, folded)
- __ Proposed Amended Preliminary Plat, Infrastructure List, and/or Grading Plan (7 copies, folded)

Note: Any application that does not qualify as a Minor Amendment in IDO Section 14-16-6-4(X) must be processed as a Major Amendment. See Form S1.

I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting or hearing, if required, or otherwise processed until it is complete.

Signature: Richard Chavez	Date: 7-16-19
Printed Name: Richard E. Chavez	☐ Applicant or ☐ Agent

FOR OFFICIAL USE ONLY

Case Numbers:	Project Number
SD-2019-00158	PR-2019-002811
Staff Signature:	
Date: 8-30-19	

FORM V2: Waiver– DRB

Please refer to the DRB case schedules for meeting dates and deadlines. Your attendance is required.

>> INFORMATION REQUIRED FOR ALL VARIANCE/WAIVER AND VACATION APPLICATIONS

__ Interpreter Needed for Meeting? ____ if yes, indicate language: _____

✓ A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD. PDF *shall be organized* with the Development Review Application and this Form V at the front followed by the remaining documents *in the order provided on this form.*

__ Zone Atlas map with the entire site clearly outlined and labeled

__ Letter of authorization from the property owner if application is submitted by an agent

☐ **WAIVER – IDO**

✓ Letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-6(L)(3), compliance with the DPM, and all improvements to be waived, as applicable. *Note: If the request is based on a bulk land transfer, an application for Subdivision of Land – Minor shall be filed concurrently with the variance request and notice shall be provided on that plat regarding the applicant's agreement that building permits shall not be issued before further action by the DRB.*

→ __ Scale drawing showing the location of the proposed variance or waiver, as applicable (7 copies, not to exceed 8.5" by 14")

✓ Proof of Neighborhood Meeting per IDO Section 14-16-6-4(C)

→ __ Office of Neighborhood Coordination neighborhood meeting inquiry response

✓ Proof of email with read receipt OR Certified Letter offering meeting to applicable associations

__ If a meeting was requested/held, copy of sign-in sheet and meeting notes

__ Required notices with content per IDO Section 14-16-6-4(K)(6)

__ Office of Neighborhood Coordination Public Notice Inquiry response

__ Proof of emailed notice to affected Neighborhood Association representatives

☐ **WAIVER – DPM *(MUST BE HEARD WITH SUBDIVISION/SITE PLAN ACTION)***

__ Justification letter describing, explaining, and justifying the request per the criteria in DPM – Chapter 2

__ Drawing showing the easement or right-of-way to be vacated (7 copies, not to exceed 8.5" by 11")

__ Required notices with content per IDO Section 14-16-6-4(K)(6)

__ Office of Neighborhood Coordination notice inquiry response, notifying letter, and proof of first class mailing

__ Proof of emailed notice to affected Neighborhood Association representatives

__ Buffer map and list of property owners within 100 feet (excluding public rights-of-way), notifying letter, and proof of first class mailing* ***this step is not required if variance is to be heard with minor subdivision plat***

__ Sign Posting Agreement - ***this step is not required if variance is to be heard with minor subdivision plat***

☐ **TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION**

☐ **EXTENSION OF THE IIA FOR TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION**

__ Letter describing, explaining, and justifying the deferral or extension

__ Drawing showing the sidewalks subject to the proposed deferral or extension (7 copies, not to exceed 8.5" by 14")

I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting, if required, or otherwise processed until it is complete.

Signature:	Date: 7-19-19
Printed Name: Richard A. Chavez	☐ Applicant or ☐ Agent

FOR OFFICIAL USE ONLY

Case Numbers:	Project Number:
VA-2019-00288	PR-2019-002811
Staff Signature:	
Date: 8-30-19	

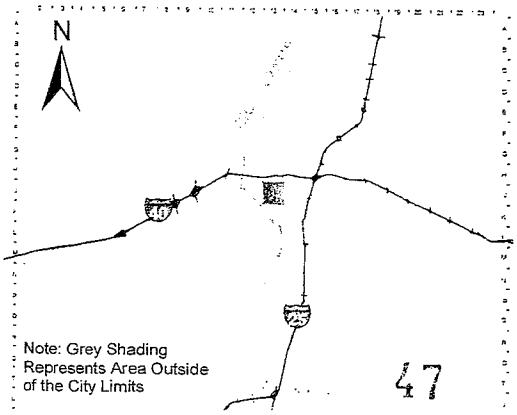
CITY OF ALBUQUERQUE NEW MEXICO 1706

Revised 2/8/19

For more current information and details visit: http://www.cabq.gov/gis

Albuquerque Geographic Information System

Map amended through: 9/2/2014



Zone Atlas Page:

J-13-Z

Selected Symbols

SECTOR PLANS
Design Overlay Zones
City Historic Zones
H-1 Buffer Zone
Petroglyph Mon.
Escarpment
2 Mile Airport Zone
Airport Noise Contours
Wall Overlay Zone

0 750 1,500 Feet

FORM DRWS: DRAINAGE REPORT/GRADING AND DRAINAGE PLAN / WATER & SANITARY SEWER AVAILABILITY
THIS FORM IS REQUIRED WITH THE DEVELOPMENT REVIEW BOARD APPLICATION FOR SUBDIVISIONS AND SITE PLANS.

PROJECT NAME: 906 15th NW 87104 Realignment of Property Lines

AGIS MAP # J13

LEGAL DESCRIPTIONS: PEREA Sub-division Sec. 18 Township T.10. N Range R. 3 E. GRANT - Town of Albq. N.M.P.M.

N/A **DRAINAGE REPORT/GRADING AND DRAINAGE PLAN**

A drainage report/grading and drainage plan, as per the Drainage Ordinance, was submitted to the City of Albuquerque Planning Department, Hydrology Division (2nd /Ground Floor, Plaza del Sol) on _____ (date).

Richard G. Gavey — Applicant/Agent — 8-30-19 Date

Lottie Elliott — Hydrology Division Representative — 7-30-19 Date

NOTE: A GRADING AND DRAINAGE PLAN MUST BE APPROVED PRIOR TO DRB APPROVAL

___ **WATER AND SEWER AVAILABILITY STATEMENT**

A Water and Sewer Availability Statement for this project was requested to the ABCWUA (2nd/Ground floor, Plaza del Sol) on N/A (date).

Richard G. Gavey — Applicant/Agent — 8-30-15 Date

[signature] — ABCWUA Representative — 7/30/19 Date

PROJECT # _____

Revised 5/18

REQUEST FOR LOT LINE REALIGNMENT AND SIDEWALK WAIVER FOR 906 15TH NW

I reside in the oldest sub-division in the city. The Perea Sub-division was established prior to 1900. I am requesting a Lot Line Realignment and a Waiver for sidewalk. The property in question was purchased in 1947 by my parents. This property is where I was raised and where I plan to retire. The property consists of two single dwelling residences, consisting of four lots for a total of 100' by 142' sq. ft. on the NE corner of the intersection of 15th and Granite NW. The second residence has a separate entrance on Granite. My current property taxes are $6,500.00 and consist approximately one third of my monthly mortgage payment of $1,697.00

The request for a Waiver is to allow the continuation of the Status Quo based on the following:

- The financial burden that will be required to cover the cost of sidewalk installation, not to mention the cost of submitting an application with no guarantee of approval.
- Over the years, the City has chosen to install sidewalks and lamppost at no cost to commercial or residential property owners along Mountain Road from Broadway. The City installed lamppost lighting, curb, gutter on properties with no existing curb, and gutter.
- From 15th & Granite to 15th & Mountain Rd, has no sidewalk until the end of the block where an attorney's office has approximately 30' to 50' of sidewalk as 15th merges with Mountain Rd.
- My neighbors, who have no sidewalk and do not intend to subdivide their properties and have no plans to install sidewalk along my street.
- The adjourning property east of the alley has a sidewalk that is non-conventional with 36" sidewalk and no easement.
- Sidewalks will not enhance the safety of my street as I have kept the sidewalk area free of debris, clutter and weeds for as long as I lived there.
- The area is a low-intensity land use to an extent that the normal installation of sidewalk will not contribute to the public welfare and the absence of a sidewalk will not create a gap in an existing sidewalk system extended to 1 or more sides of the subject property or area
- What sidewalks that do exist are non-standard as to width and easements and /or location. The Variance would maintain the status quo of the neighborhood. Of the four corners on my intersection, only one corner has a sidewalk and that does not meet current standards.
- Portion of existing fence on 15th approximately 50' was grandfathered in when storm sewers and curbing were
- The only consistency/standard about the sidewalks in my area or lack of, there is no standard. Throughout my neighborhood, you have whole blocks without sidewalk

PARCEL ID: **101305837530810901**

LOCATION and LEGAL DESCRIPTION:
906 15TH ST NW
ALBUQUERQUE NM 87104
* 007 044PEREA ADDN L7 , 8, 9 & 10

2018 Property Tax Summary

NANCY M. BEARCE
TREASURER
BERNALILLO COUNTY
ONE CIVIC PLAZA NW, BASEMENT
ALBUQUERQUE, NM
(505) 468-7031
http://www.bernco.gov/treasurer/
e-mail: treas@bernco.gov

CHAVEZ RICHARD GERARD
906 15TH ST NW
ALBUQUERQUE NM 87104

Today's Date JUL-05-19 03:53 PM

MTG COMPANY
FIFTH THIRD BANK
MTG COMPANY #
4457

Tax and Payment Summary

Year	Tax	Int	Pen	Fees	Paid	Due
1st half due	3,297.77	0.00	0.00	0.00	-3,297.77	0.00
2nd half due	3,297.77	0.00	0.00	0.00	-3,297.77	0.00
Total Due	6,595.54	0.00	0.00	0.00	-6,595.54	0.00

Sum of pending ONLINE payments not included above:	0.00
PreTax amount:	0.00
Total Due:	0.00

Assessor's Valuation

Tax Year	2018
Assessed	421142
Taxable	140367

EXEMPTIONS:

HOH	2000
VET	0
OTHER	0
Net Taxable	138367

Dist A1AM Rate 47.667
Class RES OvrClass

Owner Type

Tax bills are mailed November 1 of every year as required by state law. Taxes are due in two equal installments. The first half payment is due November 10 and must be paid by December 10 to avoid delinquency charges. Second half payments are due by April 10 of the following calendar year and must be made by May 10 to avoid delinquency charges.

PAYMENT COUPON

PLEASE MAKE YOUR CHECK PAYABLE TO THE BERNALILLO COUNTY TREASURER AND MAIL TO :

BERNALILLO COUNTY TREASURER
NANCY M. BEARCE
PO BOX 627
ALBUQUERQUE, NM 87103-0627

PRINT THIS PARCEL NO. ON YOUR CHECK — 101305837530810901

CHAVEZ RICHARD GERARD

1st half due	.00	
2nd half due	.00	
Total Due	.00	

AMOUNT ENCLOSED__$_____

18 5101305837530810901 00 00000000000 00000000000 00000000000

50

Quevedo, Vicente M.

From: Quevedo, Vicente M.
Sent: Monday, July 08, 2019 2:51 PM
To: 'rceagle2sky@gmail.com'
Subject: Public Notice Inquiry_906 15th ST NW_DRB
Attachments: Public Notice Inquiry_906 15th ST NW_DRB.xlsx

Richard,

See list of associations below and attached regarding your DRB submittal. In addition, we have included web links below that will provide you with additional details about the new Integrated Development Ordinance (IDO) requirements. The web links also include notification templates that you may utilize when contacting each association. Thank you.

Association Name	First Name	Last Name	Email	Address Line 1	City	State	Zip	Mobile Phone
Downtown Neighborhoods Association	Jim	Clark	treasurer@abqdna.com	516 11th Street NW	Albuquerque	NM	87102	5052421866
Downtown Neighborhoods Association	Daniel	Gutierrez	zoning@abqdna.com	902 6th Street NW	Albuquerque	NM	87102	5054498658

IDO – Public Notice Requirements & Template: https://www.cabq.gov/planning/urban-design-development/public-notice

IDO – Neighborhood Meeting Requirements & Template: https://www.cabq.gov/planning/urban-design-development/neighborhood-meeting-requirement-in-the-integrated-development-ordinance

IDO - Administration & Enforcement section: http://documents.cabq.gov/planning/IDO/IDO-Effective-2018-05-17-Part6.pdf

Respectfully,

Vicente M. Quevedo, MCRP
Neighborhood Liaison
Office of Neighborhood Coordination
City of Albuquerque – City Council
(505) 768-3332

Website: www.cabq.gov/neighborhoods

Chavez, Richard G, NMDOT

From: Richard Chavez <rceagle2sky@gmail.com>
Sent: Tuesday, July 30, 2019 12:01 PM
To: Chavez, Richard G, NMDOT
Subject: [EXT] Fwd: Lot line Realignment & Request for Sidewalk Waiver @906 15th St NW 87104

---------- Forwarded message ---------
From: **Richard Chavez** <rceagle2sky@gmail.com>
Date: Tue, Jul 30, 2019 at 10:59 AM
Subject: Lot line Realignment & Request for Sidewalk Waiver @906 15th St NW 87104
To: <treasurer@abqdna.com>

It is my understanding that I have to request a meeting to discuss my request if you so desire. The Status Quo meaning to leave as is since my neighbors do not have any sidewalk or if they do, they do not have conforming traditional sidewalks. I can be contacted at 505-934-5979

Thank you

Chavez, Richard G, NMDOT

From: Richard Chavez <rceagle2sky@gmail.com>
Sent: Tuesday, July 30, 2019 12:02 PM
To: Chavez, Richard G, NMDOT
Subject: [EXT] Fwd: Lot Line Realignment and Request for Waiver for Sidewalk to rermain Status Quo @906 15th St. NW

---------- Forwarded message ---------
From: **Richard Chavez** <rceagle2sky@gmail.com>
Date: Tue, Jul 30, 2019 at 10:52 AM
Subject: Lot Line Realignment and Request for Waiver for Sidewalk to rermain Status Quo @906 15th St. NW
To: <zoning@abqdna.com>

It's my understanding I have to request a meeting if you so desire to discuss my lot realignment and waiver for Sidewalk as I'd like to maintain the Status Quo. Status Quo meaning to leave as is since no one around me has sidewalk. I can be contacted at 505-934-5979

July 12, 2019

Daniel Gutierrez, Downton Neighborhood Association

902 6th St NW

Albuquerque, New Mexico 87102

RE: Lot Line Realignment & Sidewalk Waiver at 906 15th St NW

Dear Mr. Gutierrez

I am writing this letter to notify the Downtown Neighborhood Association of my intent to submit to the DRB, the realignment of my property lines to accommodate the separation of two single-family dwellings. I'm also asking a for a Waiver of Sidewalks so as to remain in the current Status Quo. There is one corner at 15th & Granite with a nontraditional sidewalk (meaning not to current standards) and 3 corners with no sidewalks and the 1 adjoining neighbor that has a non-traditional sidewalk. There is no sidewalk from Granite to Mountain Rd. on both sides of the street until the very end where an attorney's office is located.

My folks purchased this property in 1947 and I built the second dwelling in 2004. After the passing of my mother in October of 2013. I'd like to separate the properties so I can move back into my folks house. Let me know if you should have any questions.

Sincerely,

Richard G. Chavez

906 15th St NW

Albuquerque, New Mexico 87104

505-934-5979

July 12, 2019

Jim Clark, Treasurer, Downton Neighborhood Association

516 11th St NW

Albuquerque, New Mexico 87102

RE: Lot Line Realignment & Sidewalk Waiver at 906 15th St NW

Dear Mr. Clark

I am writing this letter to notify the Downtown Neighborhood Association of my intent to submit to the DRB, the realignment of my property lines to accommodate the separation of two single-family dwellings. I'm also asking a for a Waiver of Sidewalks so as to remain in the current Status Quo. There is one corner at 15th & Granite with a nontraditional sidewalk (meaning not to current standards) and three corners with no sidewalks and the one adjoining neighbor that has a non-traditional sidewalk. There is no sidewalk from Granite to Mountain Rd. on both sides of the street until the very end where an attorney's office is located.

My folks purchased this property in 1947 and I built the second dwelling in 2004. After the passing of my mother in October of 2013, I'd like to separate the properties so I can move back into my folks house. Let me know if you should have any questions.

Sincerely,

Richard G. Chavez

906 15th St NW

Albuquerque, New Mexico 87104

505-934-5979

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jim Clark
516 11th St. NW
Alb, NM 87102

9590 9402 4995 9063 8569 87

2. Article Number

7018 0680 0000 1391 3074

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Jim B Clark

☐ Agent
☐ Addressee

B. Received by (Printed Name) JAMES [illegible]

C. Date of Delivery 13 July 19

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☑ No

3. Service Type

☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ [illegible]n Delivery
☐ [illegible]n Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over $500)
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

Photos ARE Examples

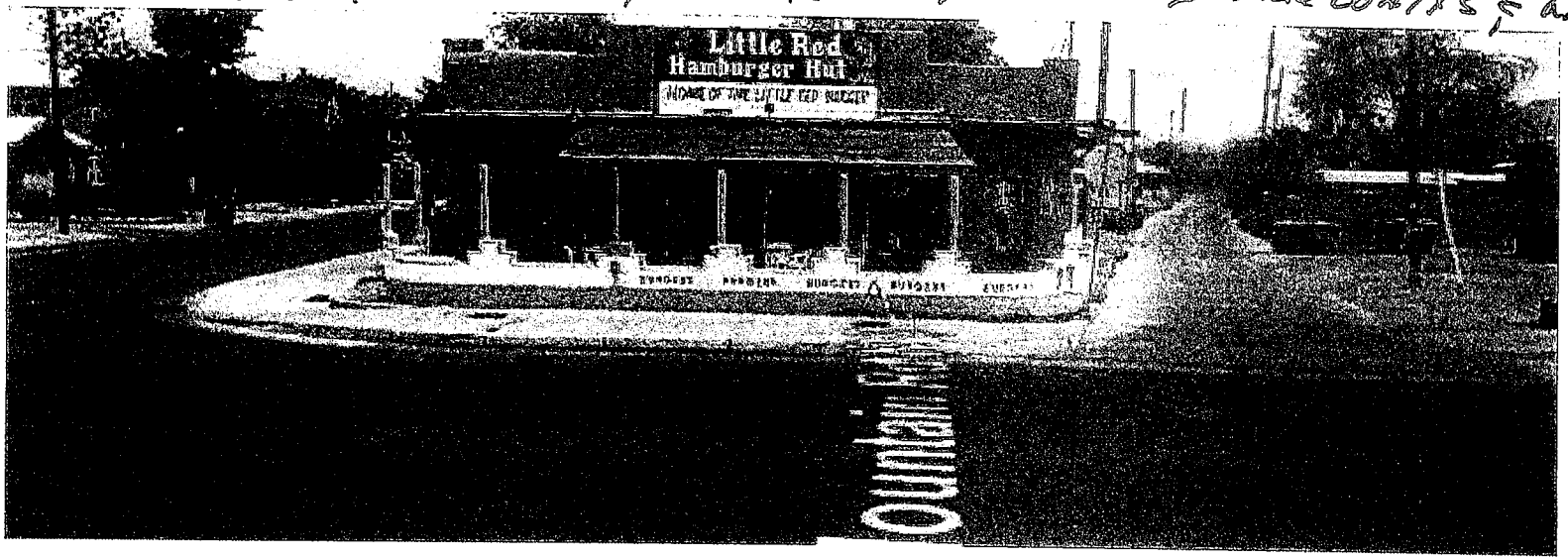
of surronding Properties w/no

Sidewalk & Sidewalk city installed

& paid For.

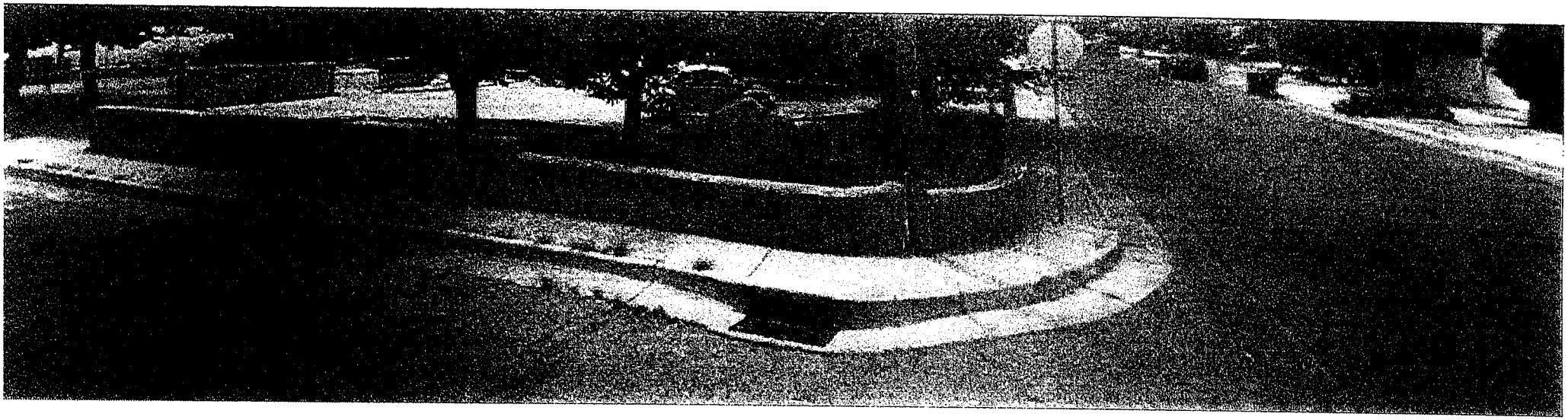
End of 15th & Mountain Rd.

Sidewalk did not exist prior to city installing sidewalks & ramps.

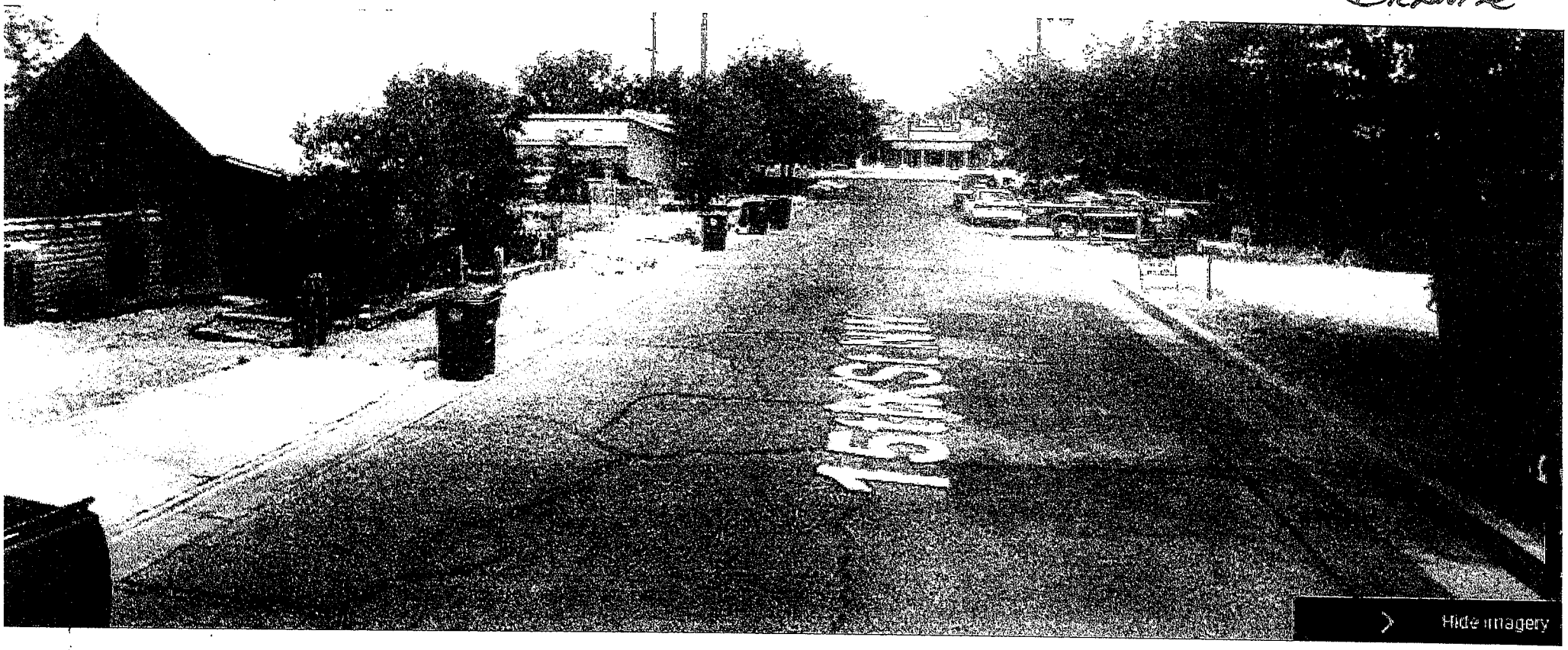


CORNER of 15th & GRANITE, looking WEST to old town

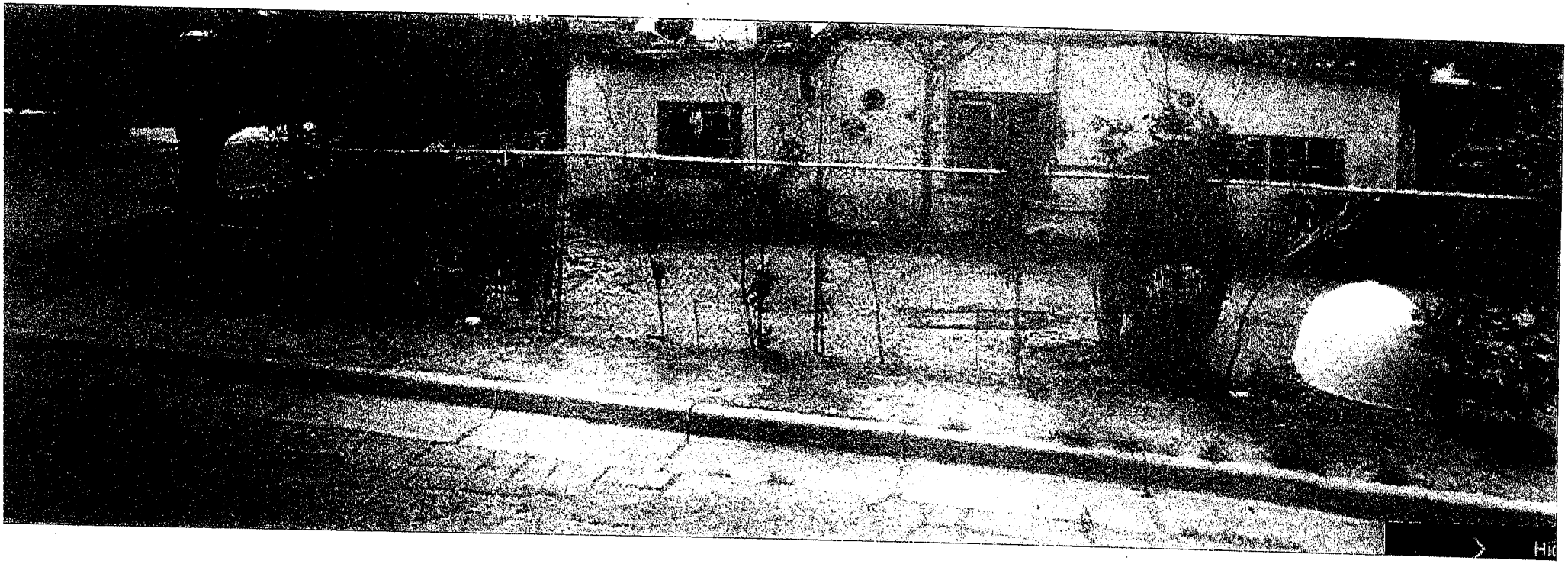
S.E. CORNER of 15th & Granite



Looking North to Mountain Rd on 15th From Granite

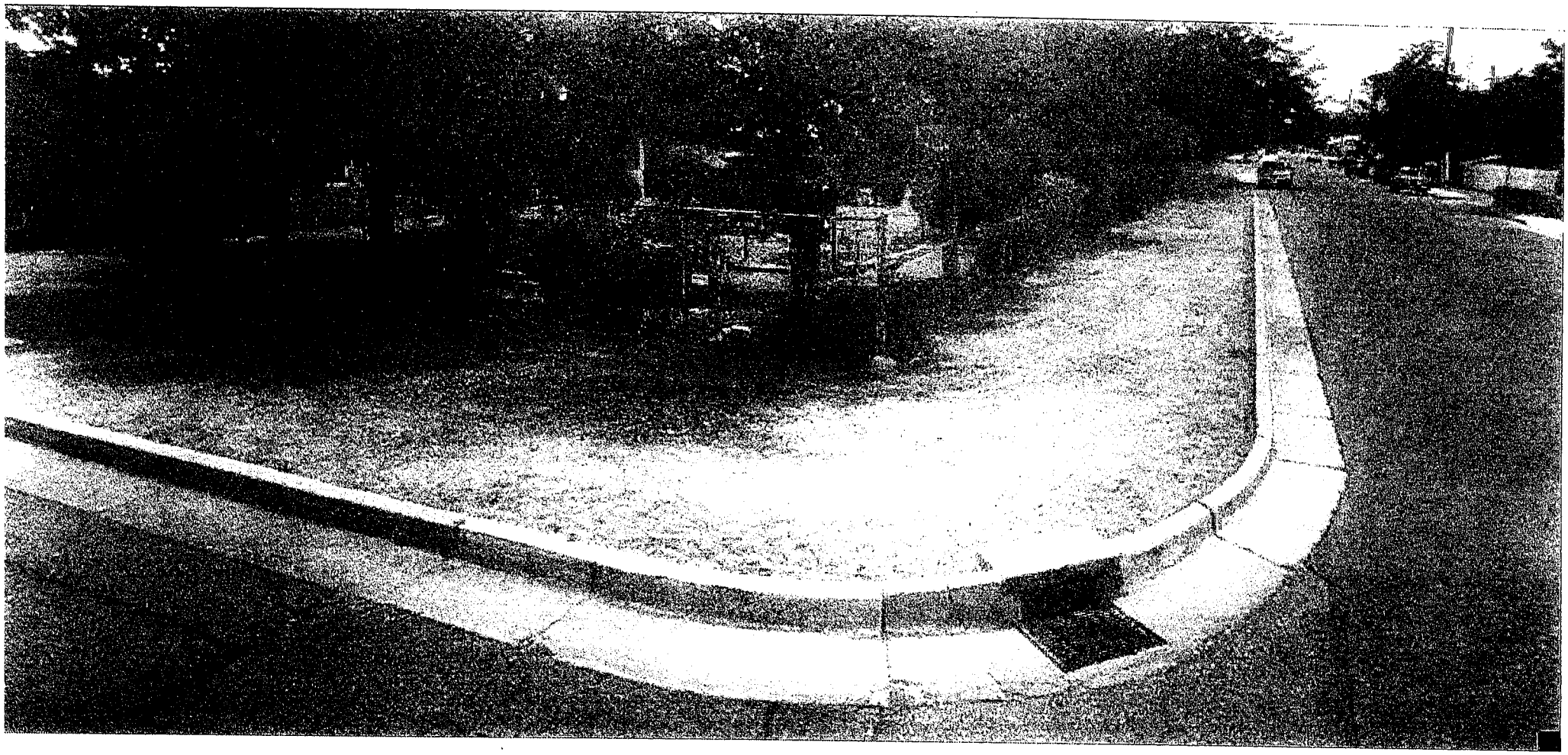


SW CORNER 15th & GRANITE

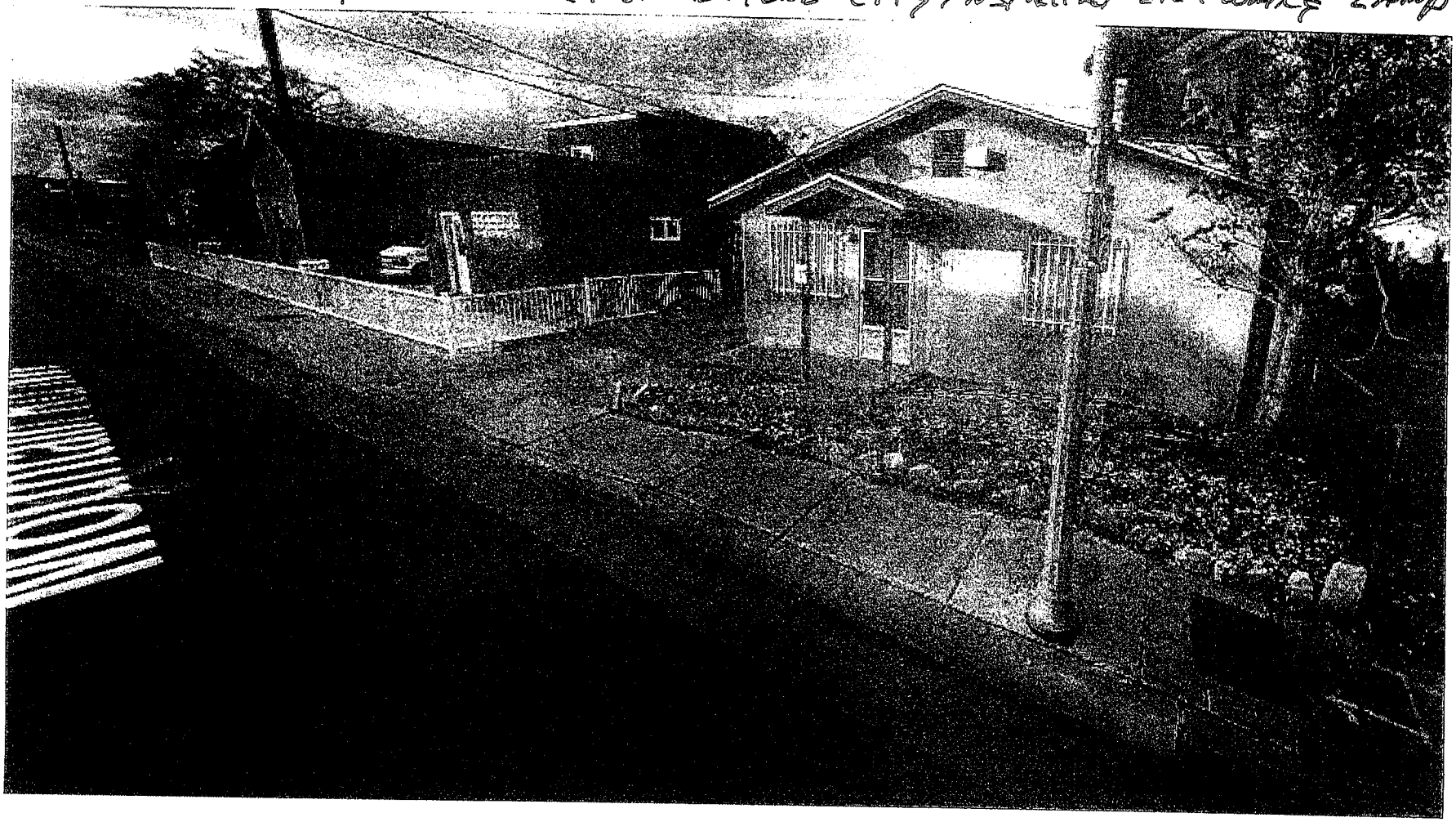


NEIGHBOR, DIRECTLY EAST OF OWNERS PROPERTY.
NON-CONVENTIONAL SIDEWALK.

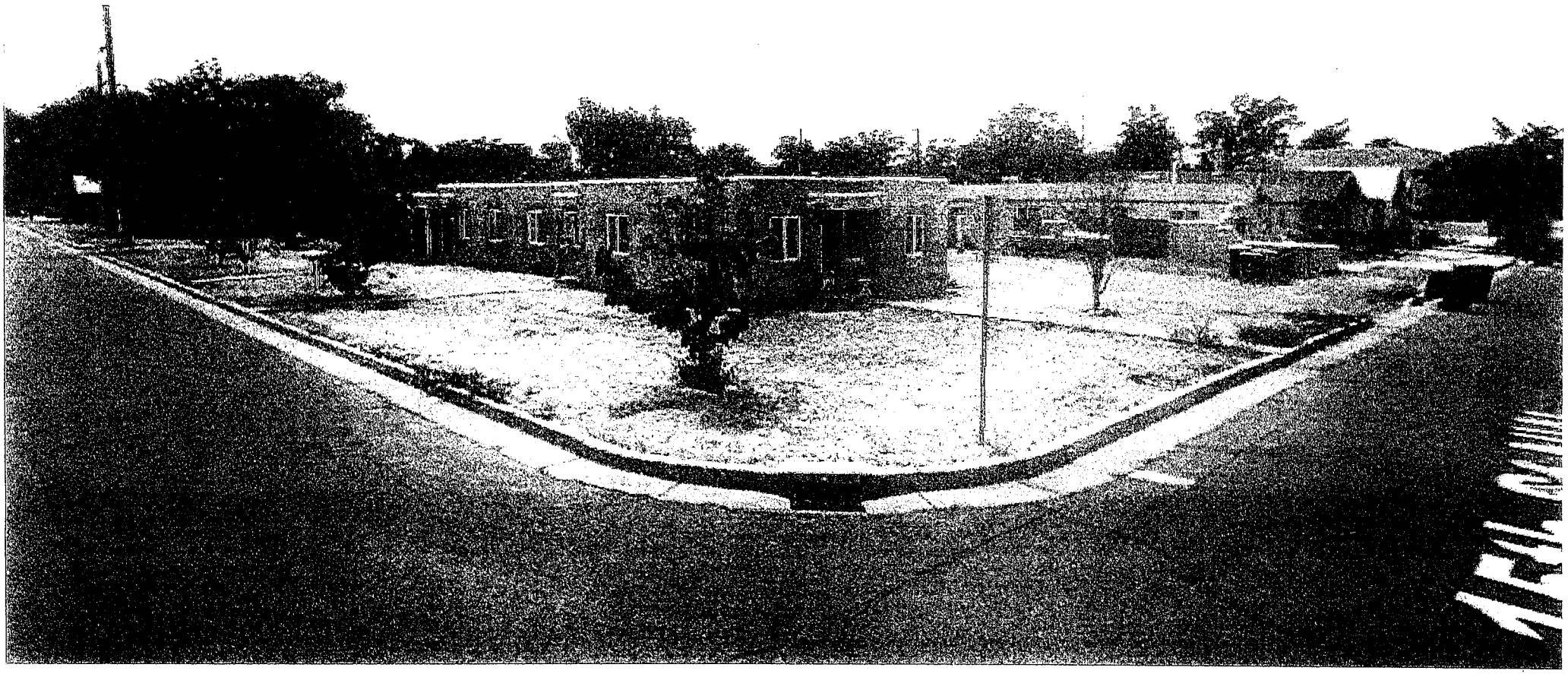
N.E. CORNER 15th & Granite



BETWEEN 10th & Forester on Mountain Rd.
Sidewalk did not exist before City installed sidewalk & lamp



J. E. CORNER 15th & Marble
1 block away



14th & Mountain Rd. Commercial Property
City installed Sidewalks, as part of Sidewalk/Curb project.

DRB TRACKING SHEET

DRB Project Number: PR-2019-002811

Hearing Date: September 11th -2019

~~~~~~

Vanessa ○

Date: ______ **Notes:** ______

~~~~~~

Annette ○

Date: ______ **Notes:** ______

~~~~~~

Angela ⊗

Date: Sept. 3rd **Notes:** ______

Description: P&F, Waiver

Application #s: SD-2019-00158, VA-2019-00288

~~~~~~

Maggie ○

Date: 9-5 **Notes:** missing E-mail to NAs - emailed

~~~~~~

Kym ○

Date: ______ **Notes:** ______
~~~~~~

DEVELOPMENT REVIEW BOARD

SUPPLEMENTAL SUBMITTAL

(Deadline is Friday at noon unless noted on 2019 agenda – late submittals will not be accepted unless approved by the DRB)

PROJECT NO. PR-2019-002811

Application No. _____

TO:

___ Planning Department/Chair

___ Hydrology

___ Transportation Development

___ Albuquerque/ Bernalillo Co. WUA

___ Code Enforcement

___ Parks & Rec

*(Please attach this sheet with each collated set for each board member)

NOTE: ELECTRONIC VERSION (ie disk, thumbdrive) is Required. Submittal will not be accepted without.

DRB SCHEDULED HEARING DATE: _____ HEARING DATE OF DEFERRAL: 10-30-19

SUBMITTAL DESCRIPTION: _____

RECEIVED
OCT 29 2019
LAND DEVELOPMENT SECTION

CONTACT NAME: Richard Chavez

TELEPHONE: 934-5979 EMAIL: _____

October 25, 2019

Maggie Gould, Planner

City of Albuquerque, Planning Department

Development Review Board

Dear Maggie:

Could you provide me with the specific language in the Sidewalk Waiver Ordinance that stipulates as to why my project does not meet any of the Chapter 12 Sidewalk Variance criteria? If you could explain why I do not meet criteria # 3, criteria # 4, criteria # 6 and criteria #8, I would appreciate that. The explanation that I was given at the last DRB Board meeting was rather confusing. Based on the conversation with staff, I was left with the impression that the city does not provide waivers for not putting in sidewalk. The only waiver Chapter 12 of the Sidewalk Variance that was applicable to my project was to request a waiver of the dimensions of the sidewalk for property owners wishing to install sidewalk, which is not my intention.

What is confusing is that you have an Ordinance Intro chapter that spells out the process and criteria for waivers for requiring Sidewalk construction and you assess a fee of $325.00 to apply for a waiver as part of that process. From what I have read the only reference to the Development Process Manual has to do with a request to the dimension of the sidewalk to be installed. What I got out of our conversation is that the city does not provide a Variance for not putting in Sidewalks and that the criteria in Chapter 12 does not apply to my project. If I have miscommunicated my understanding of what is being communicated to me, please enlighten me so that I can clearly see the direct connection between the Chapter 12 criteria and the wording in the ordinance that disqualifies my project from Chapter 12 criteria.

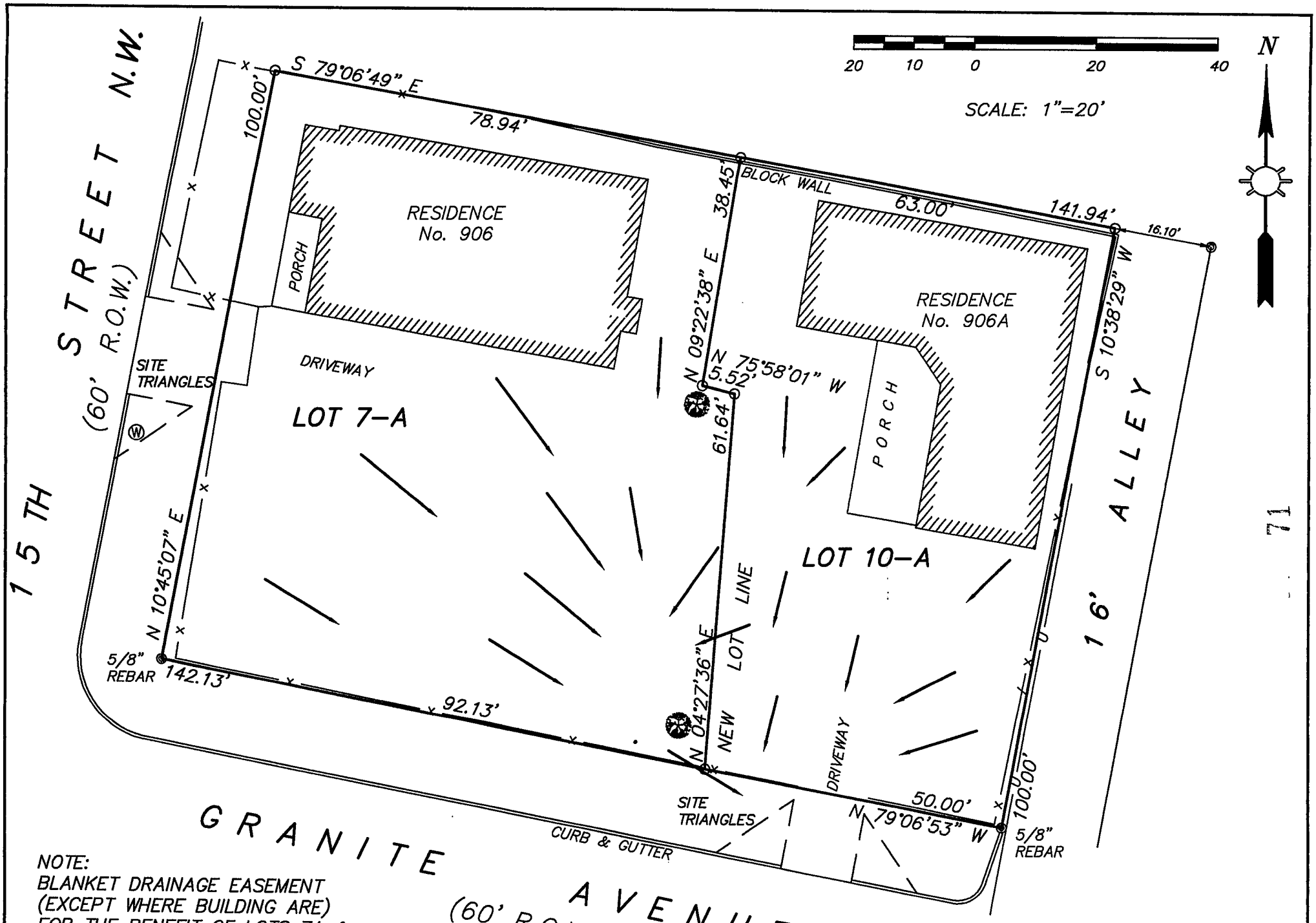
I have said this before, this process for a sidewalk variance that elected officials have created, is nothing more than a process for additional taxes on a property owner and in my case, I already pay a third of my mortgage in property taxes. There is a much smarter way to achieve the cities goals of installing sidewalks throughout the Old Town area that spreads cost out over the entire area without creating a punitive process by paying an additional tax for sidewalks by the property owner. I hope you understand that I am not trying to be obstinate, I would like to be able to articulate to someone why my project doesn't meet Chapter 12 criteria and I'm unable to do that with the explanations I've been given.

Sincerely

Richard G. Chavez

906 15th St NW 934-5979

CC: DRB Board Members

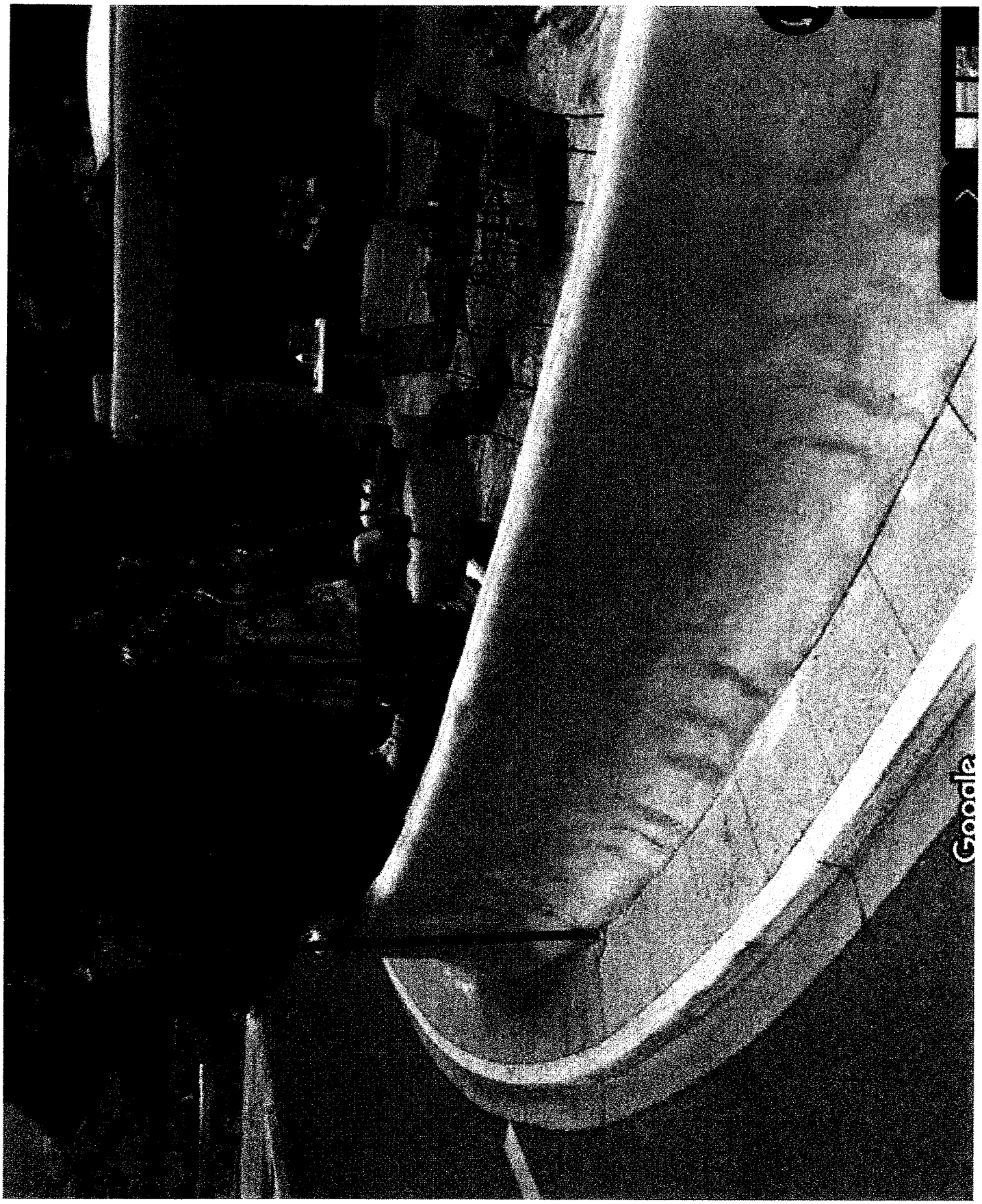


NOTE:
BLANKET DRAINAGE EASEMENT (EXCEPT WHERE BUILDING ARE) FOR THE BENEFIT OF LOTS 7A & 10 A AND TO BE MAINTAINED BY LOTS 7A & 10A.

EXHIBIT "A"
SHOWING LOT DRAINAGE LOCATION

71

Google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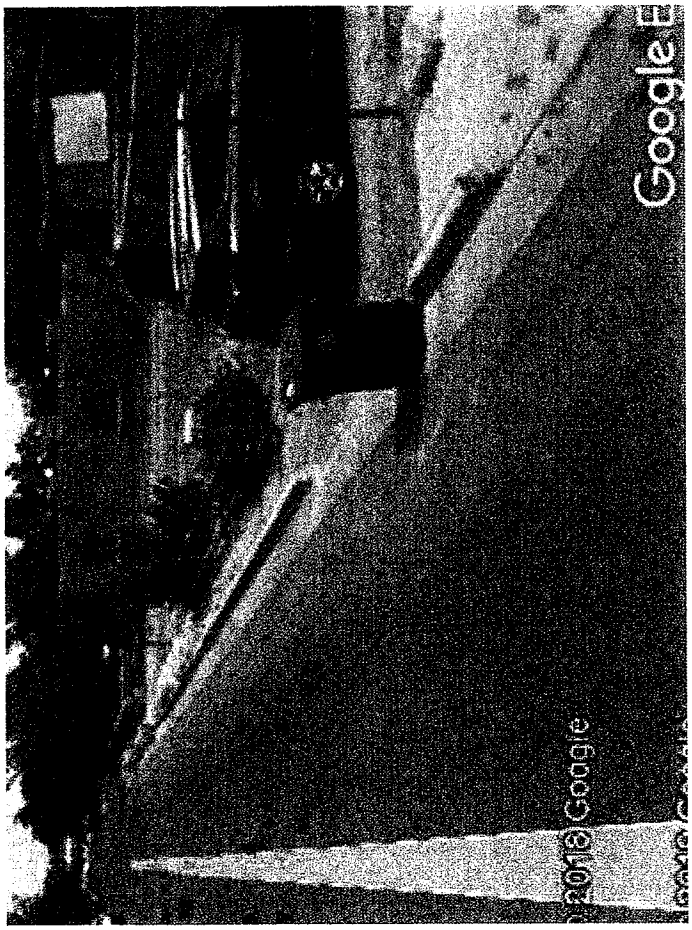
Google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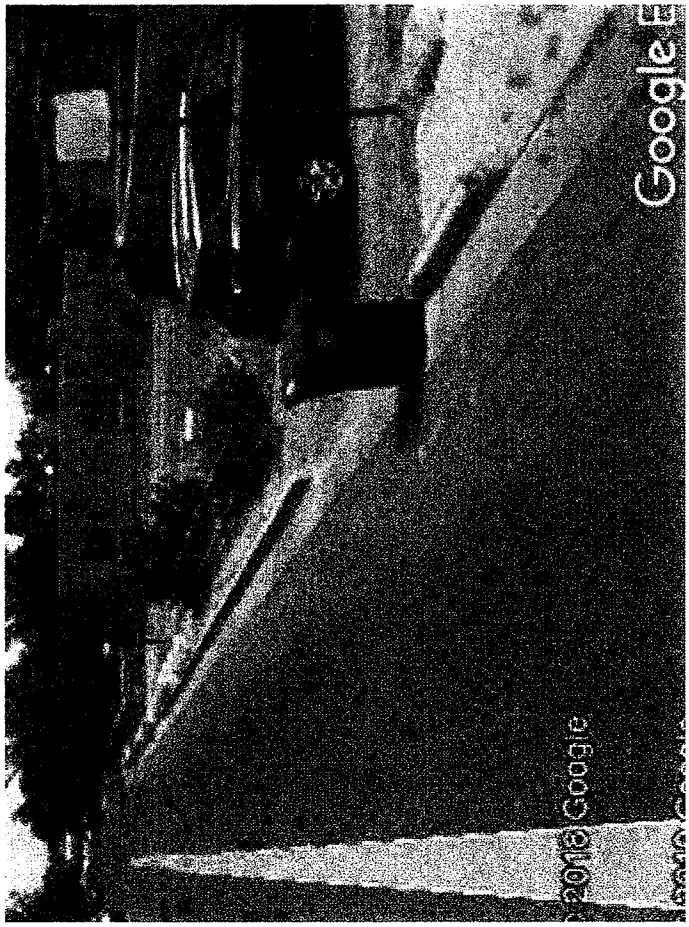
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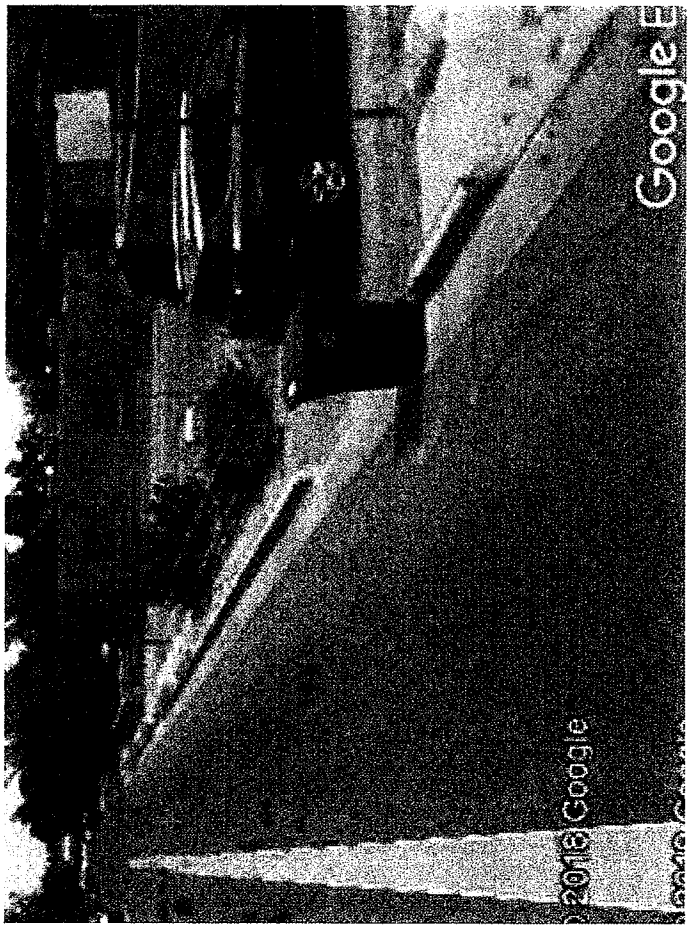
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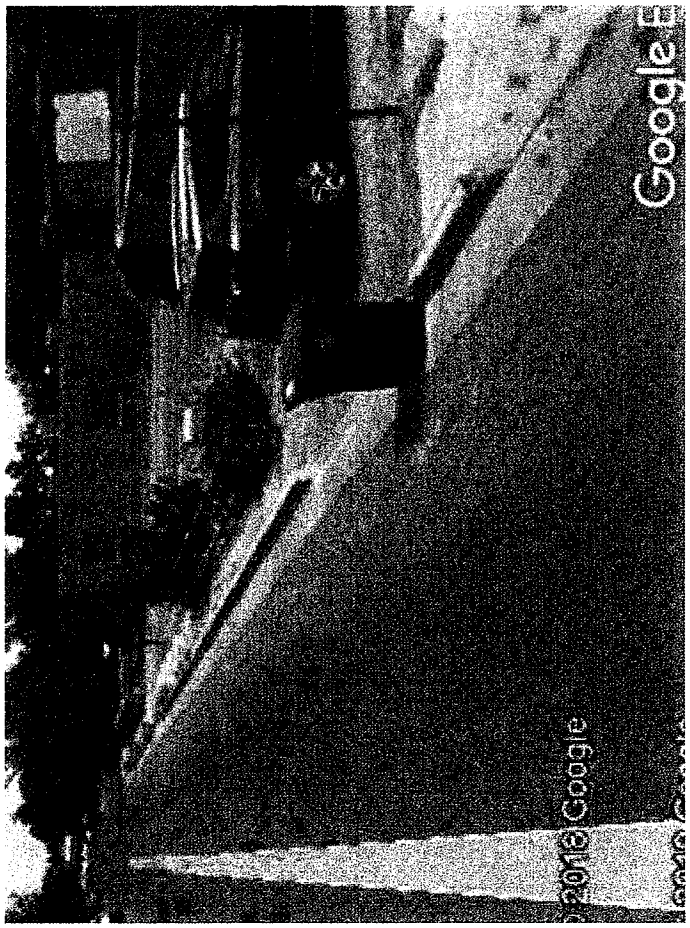
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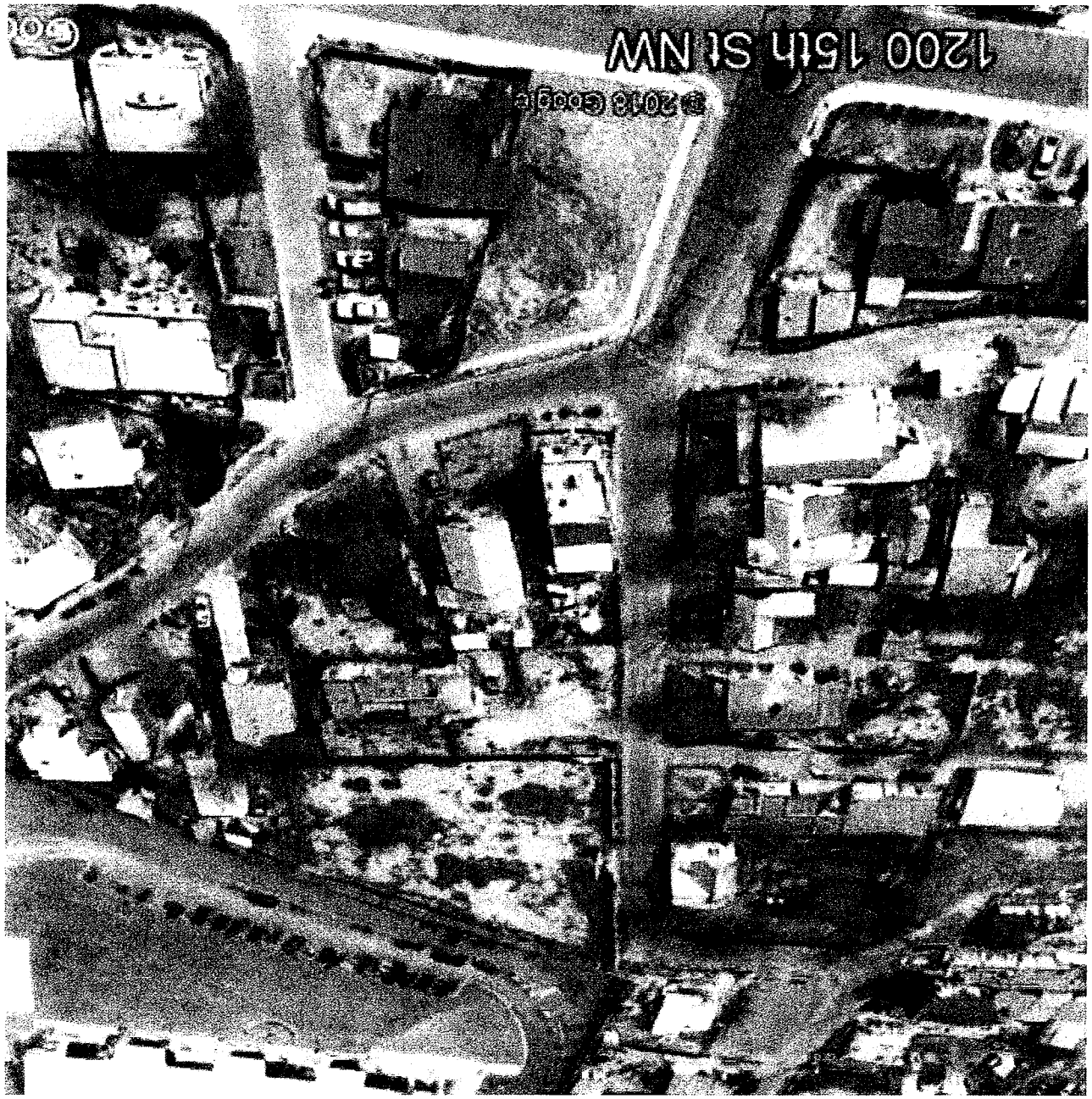
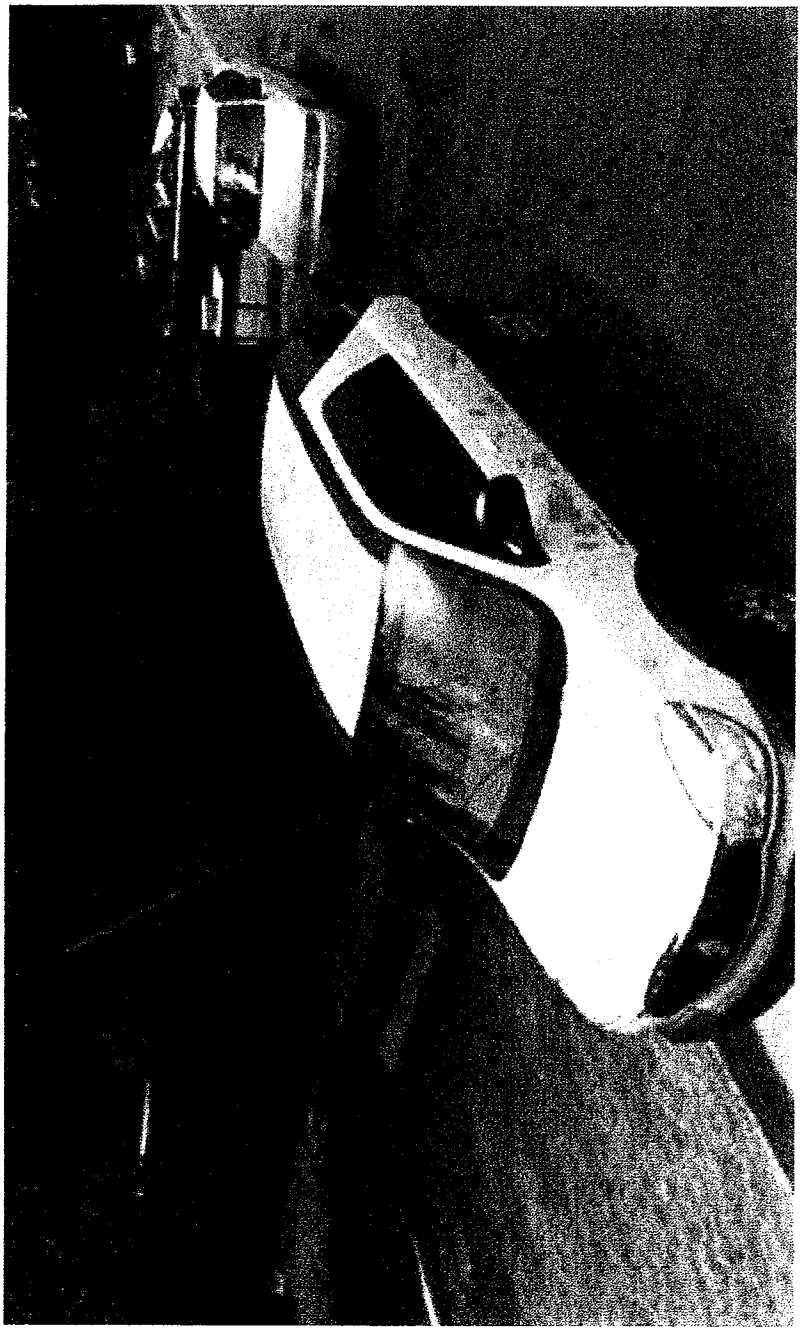
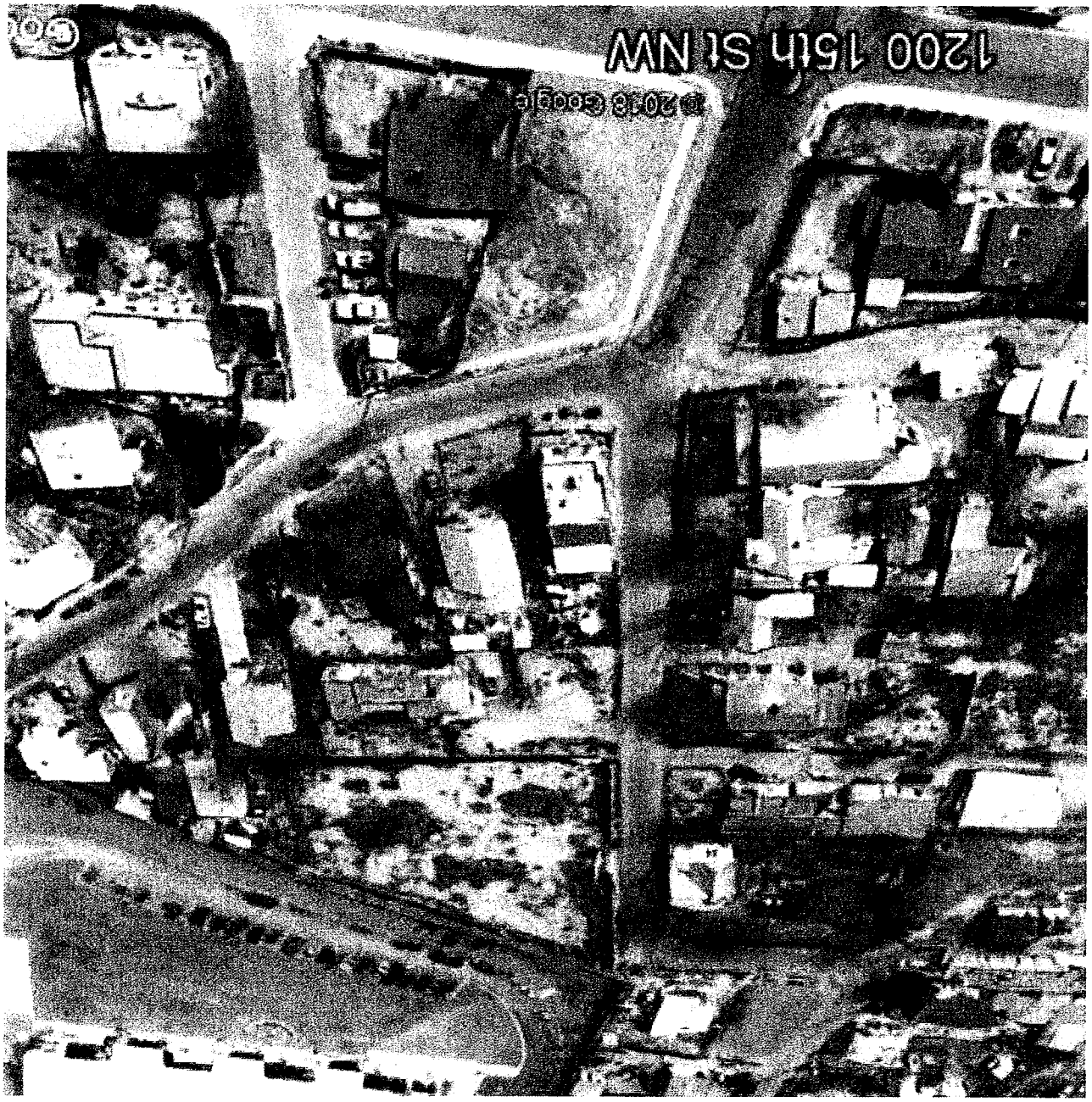

1200 15th St NW
© 2016 Google

1200 15th St NW
© 2016 Google

1200 15th St NW
© 2016 Google



© 2018 Google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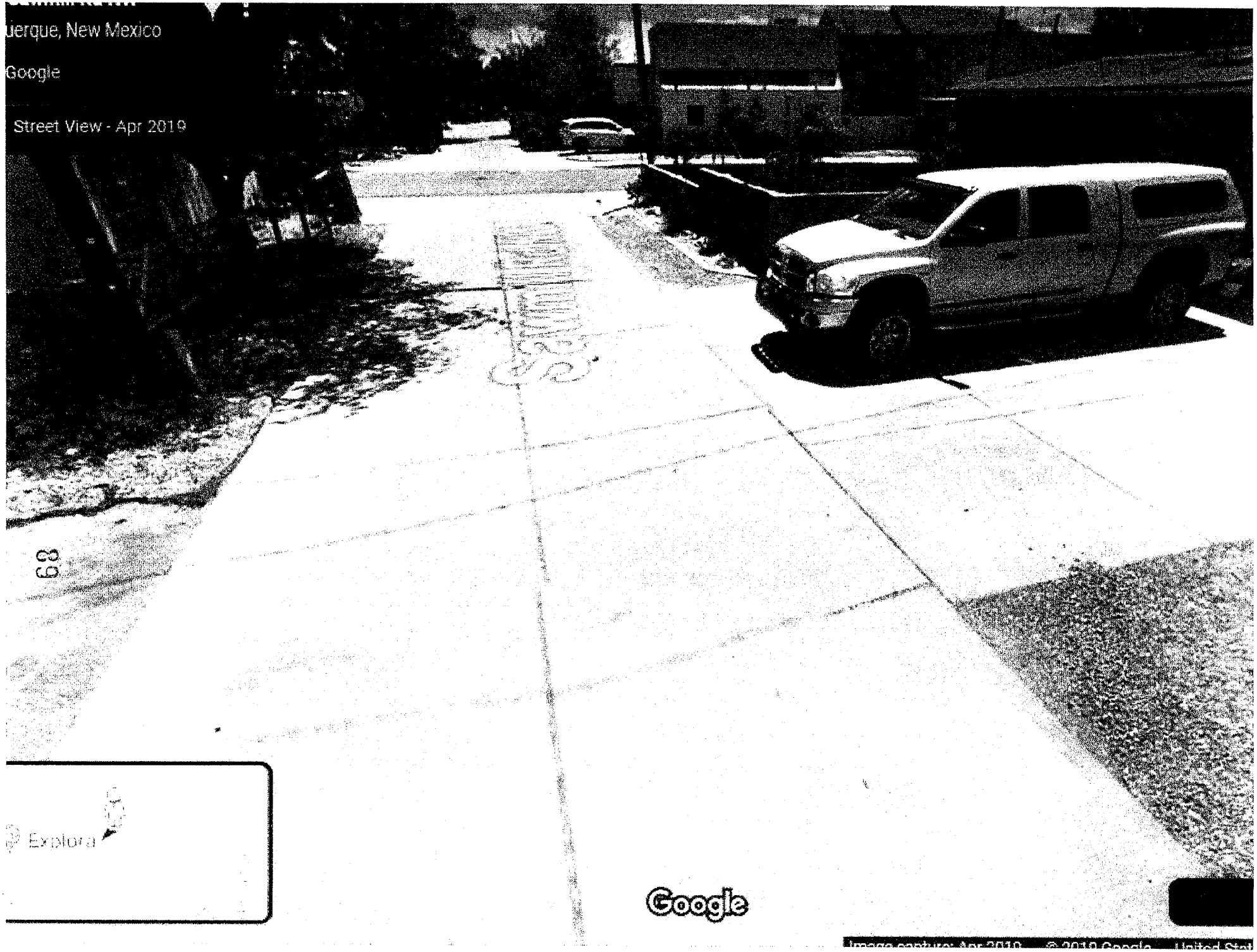
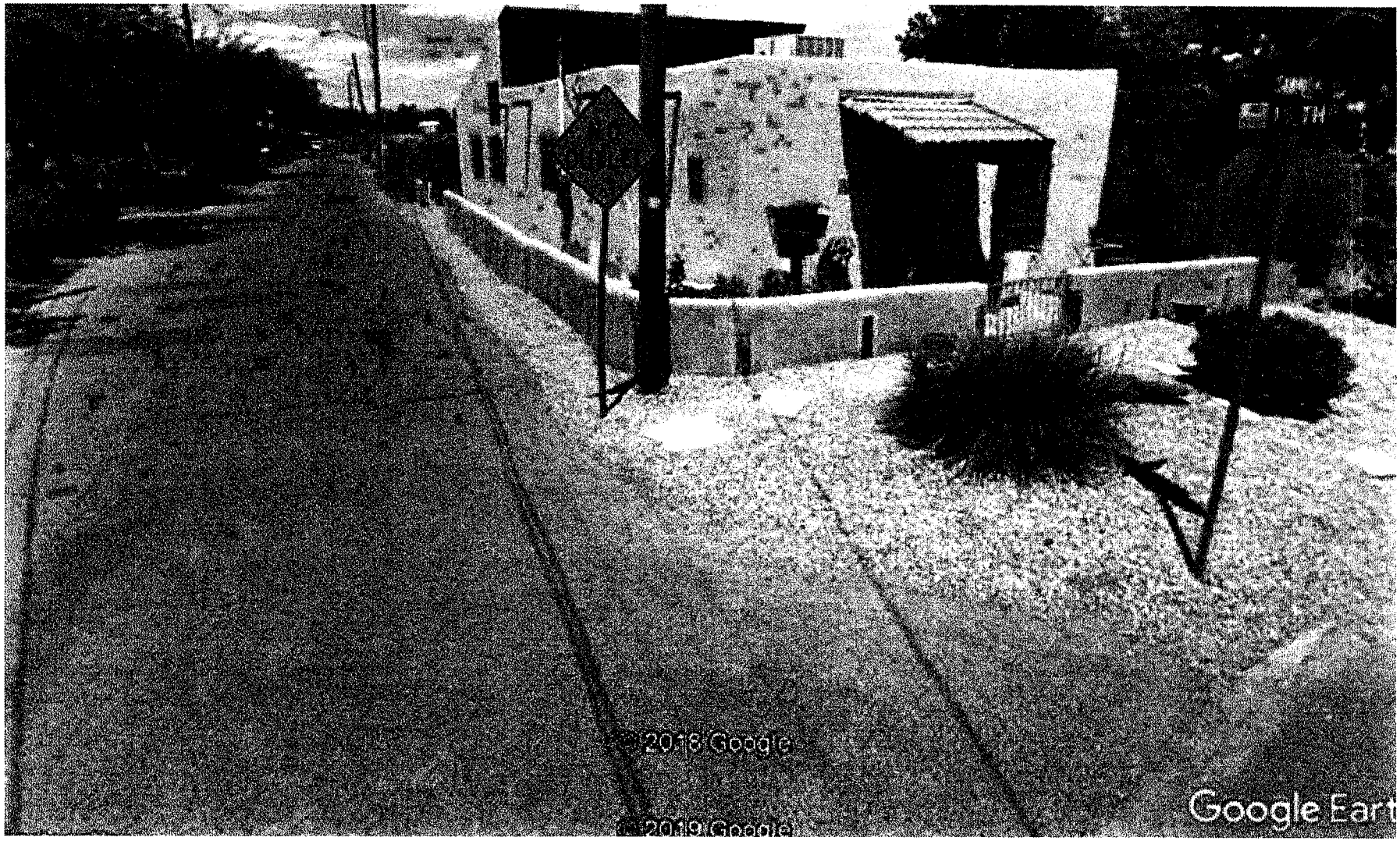
© 2018 Google


uerque, New Mexico
Google
Street View - Apr 2019
Explore
Google


© 2018 Google
© 2019 Google
Google Eart

Hide imagery
15th St NW

14th St NW

Rd NW
w Mexico
w - Mar 2016
Google

91

Rosemont Avenue
Google

Chapter 12. Sidewalk Variance

INTRODUCTION

The Sidewalk Ordinance states that "all properties within the City of Albuquerque shall have sidewalk, drivepad and curb and gutter in accordance with the standards set forth by the Sidewalk Ordinance, unless a variance from these standards is allowed through the procedures established by the Sidewalk Ordinance or unless such facilities were constructed under differing standards previously in force." In addition, sidewalk design must be in accordance with the criteria presented in Chapter 23, Volume 2 of the Development Process Manual. General sidewalk design criteria promotes mobility, safety and comfort of the pedestrian and allows adequate pedestrian access to abutting property.

While the City encourages compliance with the standards and design criteria, there are certain circumstances under which a variance from the standards and design criteria is appropriate. The sidewalk variance procedure was established to provide for possible departure from normal standards under specific circumstances and to protect unique characteristics of certain neighborhoods.

Any property owner who wishes to install a sidewalk which does not conform to the standards in the Sidewalk Ordinance or the design criteria in the DPM, Chapter 23, Volume 2 must apply for a variance. The single exception is use of material other than standard material as described

in Chapter 23, Volume 2. In this case only the review and signatures of the City Engineer and Traffic Engineer are required.

Variance applications are evaluated based on the following criteria set forth in the Sidewalk Ordinance:

"A. The Mayor, upon application of the owners or upon institution of an improvement district, may give a variance from any requirements of this ordinance, if it is found that:

1. The area is one which is subject to site development plan review as a planned unit development as provided in the Zoning Code, Article 7-14 R.O.A. 1994) , or

2. The area is one in which, because of special functional conditions, it is desirable to maintain or develop a design plan not consistent with uniform sidewalk installation as set forth in Section 14 of the Sidewalk Ordinance, or

3. The area or site has been recognized as having historical, archeological, and/or architectural significance by the City of Albuquerque, the State of New Mexico, or the United States of America and in order to maintain such historical, archeological, and/or architectural significance a variance is appropriate, or

4. The area is of low intensity land use to an extent that the normal installation of sidewalks will not contribute to the public welfare, or

5. The City's right-of-way is insufficient in width to permit the construction of a sidewalk of standard dimension and placement, or

6. A sidewalk variance would preserve trees possessing the following characteristics:

(1) Adaptability to the particular soil, climate, and moisture conditions of this City;

(2) High resistance to gas, smoke, and disease;

(3) Freedom from litter and offensive odors;

(4) Wood that is not brittle and thereby easily broken by wind and sleet;

(5) A root structure compatible with planting in confined areas;

(6) Long normal life; or

7. There are pre-existing obstructions that cannot be easily or economically relocated or should no be altered, such as grades, fills, water courses, natural topographic features or man-made obstructions, or

8. The adjoining sidewalks are non-standard as to width and/or location, or

9. The established neighborhood character or mature landscaping on the site would be damaged to a degree that outweighs the public utility of the normal sidewalk requirement."

DEVELOPMENT REVIEW BOARD

MINUTES

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

October 30, 2019

MEMBERS:

Jolene Wolfley, DRB Chair, Planning Department
Angela Gomez, DRB Hearing Monitor

Jeanne Wolfenbarger, P.E., Transportation Development
Shahab Biazar, P.E., Hydrology/ City Engineer
Jacobo Martinez, Code Enforcement
Kristopher Cadena, P.E., Water Utility Authority
Cheryl Somerfeldt, Parks/Municipal Development
Santiago Chavez, Ex-Officio Member, CAO

Project #PR-2019-002811
SD-2019-00158 - **PRELIMINARY/FINAL PLAT**
VA-2019-00288 - **WAIVER**

RICHARD CHAVEZ request(s) the aforementioned action(s) for all or a portion of **LOTS 7-10 BLOCK 44 PEREA ADDITION,** zoned R-1A, located at **NEC of 15th ST NW** and **GRANITE AVE NW**, containing approximately 0.32 acre(s). (J-13)

PROPERTY OWNERS: CHAVEZ RICHARD GERARD
REQUEST: REPLAT 4 LOTS INTO 2 AND S/W WAIVER

PERSONS SPEAKING ON BEHALF OF THE REQUEST:

Mr. Richard Chavez

MS. JOLENE WOLFLEY, DRB CHAIR: Item number 10 is project 2019-002811, preliminary and final plat and waiver and this is Richard Chavez.

MR. RICHARD CHAVEZ: Good morning folks. First of all I'd like to say I appreciate your patience with this project and me. This has been a new experience for me, it's been an extremely discouraging experience because I find this process very punitive. And as a taxpayer, it's really difficult to swallow, but having said that, the last meeting I was very confused. I'd requested some additional information from Maggie which she provided and I appreciate that. But in the meantime when I submitted my pdf I think I forgot to include private sewer agreement so if you could just take one and pass it along. I had provided that earlier but just so you know that is there. The other concern that I've had with this project is cost. And I contacted 3 contractors to give me some quotes. This Saturday they came by, two of them, one of the three didn't show up or get back to me, two of them did show up but only one of them had the appropriate license which I didn't realize you have to have a special license to do sidewalk and curb so I want to show you what that cost is because to me it's significant. Now this quote I had to re-type this quote because he texted it to me so, he contact information is there. I'm sorry I'm one short here...

MR. SHAHAB BIAZAR, CITY ENGINEER/HYDROLOGY: That's alright we'll share.

MR. CHAVEZ: And he was pretty adamant about how expensive this was going to be and so these are his quotes for the cost and so this doesn't include the tax, he didn't include the tax on it. This also doesn't include the cost of having to remove the fence that you've been asking about, and to replace it. That's just a guestimate for removing approximately 50 feet of fence and then replacing that 50 feet of fence. What I did was I took, just rounded off to about $16,000 dollars. I don't have that kind of money in my bank account. I would have to go out and get a loan. So I basically figured out about a 15% interest over 10 years. That total cost over a ten year period would be $18,400 dollars. Based on a monthly cost that would be another $153 dollars to my existing....

CHAIR WOLFLEY: Mr. Chavez we need to start focusing on your request and I appreciate the information

MR. CHAVEZ: Well part of that information, because of the substantial financial burden that you're imposing upon me. So the information that Maggie sent to me was...

CHAIR WOLFLEY: Why don't we go through first and get comments and then you can respond to those comments. I think that will be our order, so thank you for your information. The portion of it that is, that we're able to consider we will consider. Let's start with Water.

MR. KRIS CADENA, WATER AUTHORITY ENGINEER: Hello, good morning. I got a copy of the plat but I didn't see the easement, did you put the easement on there?

MR. CHAVEZ: It's on the top right hand under notes.

MR. CADENA: Could you show me real quick? So the sewer is along the alley...

MR. CHAVEZ: Correct. That was going to be that we were going to use a...

MR. CADENA: A shared sewer service, but where is the easement? Okay, I guess that works there. And what were you going to do? The idea was you were going to record this (unintelligible) you could have the recording information of the sewer easement on here or what's your thought?

MR. CHAVEZ: Well I'm not...

MR. CADENA: It's chicken or the egg, I don't know which...

MR. CHAVEZ: You probably would know better than I do but I was just, I'm just thinking that this gets recorded along with this when this gets....

MR. CADENA: Because this essentially creates two separate lots so you need to reference those new lots on this....?

MR. CHAVEZ: Yes, yes because each lot would be referenced specific to that.

MR. CADENA: That sounds fine. I don't know how to require, well I obviously have to understand, and if you'll get that done and that will obviously be a...can I do...well do you have final sign-off or what's beside here, you (unintelligible) what goes to the recording, get the recording information for the plat right?

CHAIR WOLFLEY: Right once I have signed it.

MS. MAGGIE GOULD, PLANNER: Yeah, once it gets final signature.

MR. CADENA: Yeah, the requirement is, he needs to subdivide that to then reference those lots on this agreement, so it's just, I guess it's just part of the process right?

CHAIR WOLFLEY: Could they be brought in at the same time?

MR. CHAVEZ: I'm sorry what was that?

MR. CADENA: Yeah, the process is fine, is that fine Shahab? We just don't...

MR. BIAZAR: We cannot add those notes to the plat?

MR. CADENA: He did include a note but he didn't...it's like the chicken or the egg, I don't know if he includes the recording information for the agreement.

MR. BIAZAR: I'm saying that the stuff that's in the agreement, just have those on the plat.

MS. NICOLE SANCHEZ: ASSISTANT CITY ATTORNEY: It's a private agreement so it would be a separate document.

MR. CADENA: Do you think it's better to subdivide it and then reference those new lots....

MS. SANCHEZ: The new lots need to be referenced...

MR. CADENA: On the agreement, so then just record the agreement the moment after...

MS. SANCHEZ: They can go together of after.

MR. CADENA: Okay. I just don't know how to enforce that because I can sign the plat but I don't know if, how to enforce the record...

MS. SANCHEZ: Yeah a private agreement would be signed by the new owners on the new lot.

MR. CHAVEZ: But a question, so this wouldn't be recorded until when and if the property were to be sold correct?

MR. CADENA: No it will be, the requirement is that we do it (unintelligible) record the plat but...

MR. CHAVEZ: With submission of...

MR. CADENA: I can't walk with you and ensure that that happens, that's my only concern.

MR. BIAZAR: That's what I'm saying. If you put it on the plat, the maintenance responsibility, it doesn't matter who the owner is going to be in the future. If it's on the plat, that this person is responsible for maintaining this easement...

MR. CADENA: And, but he's providing a document for the maintenance of the actual pipe itself.

MR. BIAZAR: And that could be added to the plat, I don't see why not. This way you don't have two different documents floating around and when you record it, it goes to the plat and whoever buys the property. It's a note on the plat so...

MR. CADENA: Yeah, it's just weird for me to say include the infrastructure on platting, but I don't want to make him go through more hoops....I guess I'll trust that you'll...

MR. CHAVEZ: So I mean I could provide some sort of verification that it did get recorded...

MR. CADENA: Yeah if you could just (unintelligible) that would be helpful.

MR. CHAVEZ: When that time comes up, yeah.

MR. CADENA: Well it would be (unintelligible) with the plat...

MR CHAVEZ: When this gets recorded...

MR. BIAZAR: Basically at the same time almost, yeah.

MR. CHAVEZ: I'll be happy to provide a copy of that.

MR. CADENA: Thank you very much:

MR. CHAVEZ: You bet.

CHAIR WOLFLEY: Thank you. I neglected to introduce Nicole Sanchez. She is the Assistant City Attorney and will be the staff attorney for the DRB and we appreciate her commenting. Alright, Code Enforcement?

MR. JACOBO MARTINEZ, CODE ENFORCEMENT: Hi Mr. Chavez. I know we had a conversation last week. I just want to be clear on what you're asking for, the waiver. Are you asking not to put the sidewalks or are you asking for the 3 foot waiver?

MR. CHAVEZ: No, I'm asking for not to put the sidewalks.

MR. MARTINEZ: Just want to make that clear. Thank you.

CHAIR WOLFLEY: Okay, Parks?

MS. CHERYL SOMERFELDT, PARKS AND RECREATION: Parks has no objection.

CHAIR WOLFLEY: Hydrology?

MR. BIAZAR: No objection.

CHAIR WOLFLEY: Transportation?

MS. JEANNE WOLFENBARGER, TRANSPORTATION ENGINEER: Transportation is asking for the sidewalk to be put in, but you can also request to a waiver from the 4 foot width as we discussed last time. Also the revocable permit will be for any fencing within the right-of-way.

CHAIR WOLFLEY: Okay. And Maggie is going to give the Planning comments.

MS. MAGGIE GOULD, PLANNER: And so this is basically the same letter that I sent which simply goes through the waiver criteria for the provision of a perimeter sidewalk, comes from the IDO therefore the waiver criteria as the IDO waiver criteria regarding sidewalk waiver and regarding the general waiver process. If you want, as they were discussing a waiver to the sidewalk width, then that's a standard that comes from the development process manual and the criteria that you're referencing is development process criteria, and so we would apply that criteria to a request for a waiver to the width of the sidewalk.

MR. CHAVEZ: I understand, thank you.

CHAIR WOLFLEY: Okay. Do you have any comments?

MR. CHAVEZ: Yes I do.

CHAIR WOLFLEY: Okay, go ahead.

MR. CHAVEZ: So Maggie provided me with 6-6L3B in parentheses, waiver to sidewalk requirements. And number (unintelligible) says "requests for variance to sidewalk requirements shall be approved if it meets the following applicable criteria in sub-section "A" above. Sub-section "A", you don't have that language in front of you I assume?

CHAIR WOLFLEY: Code has it…

MS. GOULD: I've got it here.

MR. CHAVEZ: The question I had in sub-section "A" is towards the end. Or towards the end of the page it says: "such (unintelligible) an extraordinary hardship in the form of a substantial (unintelligible) limitations on the reasonable use for return on a property or practical difficulties result from strict compliance within the minimum standards." Can somebody explain that statement to me because I'm struggling trying to understand exactly what it's saying.

CHAIR WOLFLEY: So basically that's saying that in looking at the waiver would applying the standard be so onerous as to you know, deny you use of the property and…

MR. CHAVEZ: And what does it mean for use for return on the property?

CHAIR WOLFLEY: Use or return on the property.

MR. CHAVEZ: I guess what I'm looking at is that basically…

CHAIR WOLFLEY: Yeah, let's just go ahead and get your question answered directly.

MS. SANCHEZ: So it looks like it's referencing when there's eminent domain and so return on the property would be like when you're paid for the value of that…

MR. CHAVEZ: Based on eminent domain?

MS. SANCHEZ: It's an eminent domain is what I'm seeing here, what it seems to be referencing.

MR. CHAVEZ: And then this last portion here?

MS. SANCHEZ: So there would be special circumstances creating and extraordinary hardship or there's difficulties in complying with the minimum standards. So that would be in a request for the waiver if there's something preventing you from meeting the sidewalk requirements.

MR. CHAVEZ: Okay, thank you.

CHAIR WOLFLEY: And also with those standards it's important to note that they are not self-imposed, the special circumstances are not self-imposed.

MR. CHAVEZ: Well when you say they are not self-imposed, that means that I'm not?

MS. SANCHEZ: Exactly.

MR. CHAVEZ: Okay. The reason why I'm asking about those issues is because under the, under "A" the or under the variance requirement's, number "A" the area is of low intensity land use to the extent that normal installation of sidewalks will not contribute to the public welfare" and this portion that Maggie was able to highlight for me: "absence of a sidewalk will not create a gap in an existing sidewalk system extended to one or more sides of the subject property or area." So on 15th street there is going to be a big gap between what I install and at the end of the street, that's a big gap. On Granite, I guess, I have a question. Do you have a definition for the term "gap?" Is there some sort of definition as to how to define what that is?

CHAIR WOLFLEY: Okay if you can pause for a minute I know that Jeanne has reviewed as well, the sidewalk layout in your area, and so she can respond to her judgement...

MR. CHAVEZ: A question that I have....

CHAIR WOLFLEY: Let her go ahead and give her analysis of that and that might help clarify what the judgement is regarding a gap.

MS. WOLFENBARGER: So the sidewalk will provide connectivity to the property to the east. And I believe you also have sidewalk going to the south as well. I realize there's a lot of properties without sidewalk...

MR. CHAVEZ: So there's a big gap. There's like 4, there's a 3 house gap...

CHAIR WOLFLEY: Okay Mr. Chavez can you please let her finish and then we'll let you respond.

MS. WOLFENBARGER: But, so there is connectivity to the east on Granite itself and I believe there's also connectivity to the south plus one of the reasons we made the decision was because of the amount of pedestrian traffic that's on, that's in that area, it's the Old Town area so there were reasons for why we denied the sidewalk waiver.

CHAIR WOLFLEY: Okay. Do you have anything else to add Maggie?

MS. GOULD: Just, when we go through the waiver criteria, the waiver to sidewalk requirement says "a request for waiver to the sidewalk requirement shall be approved if it meets all of the applicable criteria above in section "A" so that's what we were just talking about, and "all of the following criteria" and so that's that A, B and C, and so that goes back to the discussion that we are having about the gap. So if it doesn't meet all three of A, B and C, because the intent is to have that full sidewalk coverage and as new properties come in to develop, you get that sidewalk coverage so that you close all of the existing gaps and you have a functional sidewalk system. I will defer to Jean on the specifics of that, but that's, it is my understanding that's our intent.

CHAIR WOLFLEY: If you can go ahead and give us a brief response to that.

MR. CHAVEZ: Sure. So you keep referring to the property to the east of me. Technically there is a gap there. It's called an alley between the property to the east of me and my property. It's about 22 feet of gap between that property and my property. The reason why I was asking you what is the definition of "gap"...

MS. WOLFENBARGER: Is because of the alley.

MR. CHAVEZ: And if, so if we say the alley doesn't count then, 15th street shouldn't count because across the street from me is another gap that would be without sidewalk. So, I mean, you're asking me to put the sidewalk in with all these big gaps and yet that doesn't comply to this criteria. So I'm, that's my biggest issue.

CHAIR WOLFLEY: Right okay.

MR. CHAVEZ: And my concern and confusion.

CHAIR WOLFLEY: Okay. Jean do you have any follow-up? Do you have any different perspective on your comments?

MS. WOLFENBARGER: Well I have gone through I suppose all of the criteria so I was looking at all of it together, the amount of sidewalk in the area. I understand your question about the alley but no we were not counting the alley in that instance. We also are looking at pedestrian traffic and whether or not you have sufficient room to build the sidewalk, that was another one of the criteria that was in there and typically in an area like this, it is expected to fill, to try to fill out at some point in the future. Will that not happen? I mean that remains to be seen, but that's what we look at when we look at these…

MR. CHAVEZ: So being realistic…

CHAIR WOLFLEY: Okay, Mr. Chavez I think if you want to have more discussion on this, you might need to do it at another time because we've heard your presentation, we've responded, we've heard from you again and we've responded okay…

MR. CHAVEZ: Well nobody responded to the definition of "gap" and how that is not being used or it is being used between the east property and my property because there's a gap of an alley there. And so there's no sidewalk there, there's no continuity, there's no…it, doesn't abut against my property, it's not contiguous to my property so there is a gap.

MR. BIAZAR: If I may add, you know we get projects here at the City a lot of times and you know people come in and they are required to build their sidewalk. If you are on the Westside and there is nothing around you, there is going to be a huge gap for a long time and they are required to build their sidewalk and basically that is what we are asking. As part of the ordinance, you are supposed to have your sidewalk built in front of your property.

MR. CHAVEZ: But the waiver requirements do say if there is a hardship which one, financially it is, second the sidewalk that you are asking me to install on 15th is going to end into my neighbor's tree. Now my neighbor is not going to

volunteer to put sidewalk to run in around the tree. It literally ends at a tree, what sense does that make?

CHAIR WOLFLEY: Okay...do you have more to respond to...

MR. BIAZAR: So ultimately if there's issues with trees, stuff like that we'll go...

MR. CHAVEZ: I don't mean to...

MR. BIAZAR: I mean I understand what you're saying...

MR. CHAVEZ: My neighbor is not going to build sidewalk so my sidewalk end in front of their tree. They're not required to build sidewalk, they're not going to come in to subdivide so that sidewalk will always end at my neighbor's tree.

CHAIR WOLFLEY: Okay. Thank you Mr. Chavez did you complete your comments on the totality...I just, I'm not sure if I had heard something about a revocable permit, is that applicable?

MS. WOLFENBARGER: Correct, I've completed my comments.

CHAIR WOLFLEY: You've completed your comments about that, okay. So let's see where we stand of this then. With regard to the preliminary/final plat is that a delegation item? The revocable permit...I'm trying to figure out where we stand if...

MS. WOLFENBARGER: I believe we're looking at deferral on this one. There may be more discussion, maybe more information.

MR. BIAZAR: I don't know I disagree. I don't think we need to discuss this anymore at this point. And then if Mr. Chavez doesn't agree with us, with our decision basically may, has the right to appeal that decision. I think that's where we need to...we've discussed this several times I think we need to move on with a yes or no at this point.

CHAIR WOLFLEY: Is the revocable permit tied to the waiver or to the plat?

MS. WOLFENBARGER: It's a separate issue because it's tied to the plat.

MR. CHAVEZ: It's tied to (unintelligible) to keep the fence and (unintelligible) 36" of sidewalk then that's where that would come into play.

CHAIR WOLFLEY: Okay. So it look like me might take action, we could take action separately on your preliminary/final plat and waiver as a different action.

MR. BIAZAR: So if we decide to move forward, we deny the waiver then (unintelligible) for the improvements and infrastructure list would be required for the sidewalk improvements.

CHAIR WOLFLEY: Okay.

MR. BIAZAR: So we will have to defer the plat and then we will require and infrastructure list for the sidewalk improvements and then a revocable permit will have to happen prior to preliminary plat approval.

CHAIR WOLFLEY: Okay. Do you understand what Shahab just said?

MR. CHAVEZ: Yes.

CHAIR WOLFLEY: Okay, so in order of business I'm going to ask Ms. Dicome to help us on her last day. Can separate these items and take, and which one should we take action on first, the deferral or the…

MS. KYM DICOME, DRB PLANNING MANAGER: The waiver.

CHAIR WOLFLEY: The waiver? Okay so Jean could you just state your recommendation to the board with regard to a waiver of a sidewalk for this project.

MS. WOLFENBARGER: Well, I think per prior discussions internally and (unintelligible) we discussed a waiver from the 4 foot width is something we're willing to look at based on the area characteristics. And that's something we talked about and that will…

CHAIR WOLFLEY: But a complete waiver of the sidewalk is not your recommendation, a waiver to the width would be considered?

MS. WOLFENBARGER: Correct.

CHAIR WOLFLEY: Okay, alright.

MS. DICOME: But his request is for the sidewalk, not for the width so you can take action on to sidewalk or not to sidewalk.

CHAIR WOLFLEY: Not for the width, okay, alright. So your recommendation to the board is to not approve a waiver to the sidewalk, correct?

MS. WOLFENBARGER: Correct.

CHAIR WOLFLEY: Okay.

MS. GOULD: To the provision of sidewalk, we…

CHAIR WOLFLEY: Provision of sidewalk.

MS. GOULD: I mean there was some discussion about the width waiver and it sounds like that's not…

MR. CHAVEZ: I may have to reconsider that at some point in time if my appeal is (unintelligible) then I may want to look at that.

MS. GOULD: Okay, but just to clarify that the issue before us is the provision of the sidewalk.

CHAIR WOLFLEY: Okay and you could (unintelligible) at a later date then…

MR. CHAVEZ: Correct.

CHAIR WOLFLEY: Okay. So based on the recommendation of Transportation is it the consensus of this board to deny the provision of a sidewalk, a waiver to…

MS. GOULD: Yes, a waiver to the provision of sidewalk, yes.

CHAIR WOLFLEY: Deny the waiver to the provision of sidewalk?

EACH BOARD MEMBER ANSWERS IN THE AFFIRMATIVE

CHAIR WOLFLEY: I guess I actually am a voting person, I better say yes, okay. So thank you for all your hard work on that. Now is it, how much time do you need to look at your infrastructure list for the required sidewalk to consider I guess if you want to apply for a narrower width, looking at your revocable permit, how much time…

MR. CHAVEZ: How does the timeframe if I want to appeal this do I appeal this first and then come back or do I, I mean how does that work? I understand I have 15 days to request an appeal. Who do I request that to?

CHAIR WOLFLEY: I'll go ahead and let Ms. Gould give you a best answer.

MS. GOULD: The appeal has to be filed at that same counter that you brought everything else to and you address the appeal criteria in the IDO and we can send that to you but it's basically your stating how the DRB errored in it's decision, you write us a letter that says that. You get it in within 15 days. We can get you the application at the ground floor if you'd like.

MR. CHAVEZ: So there's an application?

CHAIR WOLFLEY: And you could, what might be good just to keep us moving in this hearing is, well I guess in terms of deferral, I would imagine that if you're planning to appeal, that would need to be resolved before your plat can be approved, so we might want to defer out a ways and then we can be in conversation with you about when that should come up...

MR. CHAVEZ: (Unintelligible)...

CHAIR WOLFLEY: What I'd like to do Mr. Chavez is I think it's important for you to get a complete understanding of that appeal process and the costs and all of that and I might have Ms. Dicome talk to you about that after we take and action on your deferral and you can do that...

MR. BIAZAR: So what I was going to do on your platting action itself is defer it to maybe a couple of weeks or 3 weeks and if you do submit an appeal then basically we have to ask additional deferral to a couple of months or something like that.

MR. CHAVEZ: Who does the appeal go to? I mean who actually hears the appeal?

MS. GOULD: We can go through the whole process with you.

CHAIR WOLFLEY: Yeah, there's kind of a lot of details and it's best to have it clear so the deferral, I mean, ultimately the City Council just to help you understand.

MR. CHAVEZ: Okay.

CHAIR WOLFLEY: So the deferral would be for a DRB meeting on November 20th, would be the action we'd be taking. So is it the consensus of this board to defer item 10 to...

MR. BIAZAR: For preliminary plat...

CHAIR WOLFLEY: For just the preliminary and final plat to the November 20th DRB meeting?

EACH BOARD MEMBER ANSWERS IN THE AFFIRMATIVE

CHAIR WOLFLEY: Alright, then your preliminary/final plat is deferred, your waiver is denied.

DEVELOPMENT REVIEW BOARD

MINUTES

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

October 23, 2019

MEMBERS:

Maggie Gould, Acting DRB Chair, Planning Department
Angela Gomez, DRB Hearing Monitor

Jeanne Wolfenbarger, P.E., Transportation Development

Shahab Biazar, P.E., Hydrology/ City Engineer

Jacobo Martinez, Code Enforcement

Kristopher Cadena, P.E., Water Utility Authority

Cheryl Somerfeldt, Parks/Municipal Development

Santiago Chavez, Ex-Officio Member, CAO

Project #PR-2019-002811
SD-2019-00158 - **PRELIMINARY/FINAL PLAT**
VA-2019-00288 - **WAIVER**

RICHARD CHAVEZ request(s) the aforementioned action(s) for all or a portion of **LOTS 7-10 BLOCK 44 PEREA ADDITION,** zoned R-1A, located at **NEC of 15th ST NW** and **GRANITE AVE NW**, containing approximately 0.32 acre(s). (J-13)

PROPERTY OWNERS: CHAVEZ RICHARD GERARD
REQUEST: REPLAT 4 LOTS INTO 2 AND S/W WAIVER

PERSONS SPEAKING ON BEHALF OF THE REQUEST:

Mr. Richard Chavez

MS. MAGGIE GOULD, ACTING DRB CHAIR: Item number seven, PR-2019-002811.

MR. RICHARD CHAVEZ: Good morning.

CHAIR GOULD: Good Morning.

MR. CHAVEZ: I just got my PDF into Mr. (unintelligible) and what he said is he would take a look, check it. If I were to run the mylar over to him after the meeting he would, if everything checks out he would sign it. I'm not quite sure where to go from today.

CHAIR GOULD: So usually, I mean we can go through sort of the board comments and see what's existing, but we can't sign it until the City Surveyor has signed it so....

MR. CHAVEZ: Correct, no I understand.

CHAIR GOULD: Again we can go through out comments so you know where things are and then you'll need to get the city surveyor's signature and then address whatever outstanding board comments are left. We can begin by going through those. Water authority?

MR. KRIS CADENA, WATER AUTHORITY ENGINEER: Hello. I haven't seen the private utility easements (unintelligible) or the (unintelligible) services...

MR. CHAVEZ: It would be here on the plat.

MR. CADENA: Okay, I just wanted to make sure it's there

MR. CHAVEZ: We did...

MR. CADENA: You did? Do you mind if I take a look? ....Just to protect those existing services

MR. CHAVEZ: I understand.

MR. CADENA: (unintelligible) signature lines for the utilities but the services, the service easements?

MR. CHAVEZ: So the easements, here's the note on the easements. (Unintelligible) that is the solar note, (unintelligible)...I don't think it's, I don't see it.

MR. CADENA: I think you would want to just preserve ease...or preserve the existing services that cross the other property.

MR. CHAVEZ: What about up here (unintelligible)...

MR. CADENA: I think that's all for these folks, that's all the dry utilities but really just figure out where your private water services are, it they're crossing another lot and you'll just provide an easement. I think you'll want to preserve this shared sewer...

MR. CHAVEZ: Correct.

MR. CADENA: I think it would also be helpful to include an easement that talks about the sharing of that easement but also I thought of the previous comment was also that you get that shared maintenance agreement filed, ready to go and then recorded...

MR. CHAVEZ: So I guess when I submit all this that's when I'll submit the agreement with this...

MR. CADENA: I don't know really what comes first because if you do a shared maintenance agreement before, I guess you're not reflecting the lot split, you know lot A and B.

MR. CHAVEZ: So would it be at the same time as...

MR. CADENA: I don't know if, technically it has to come immediately first though. Kathy, would you be able to weigh in?

MS. KATHY AHGHAR, CITY ATTORNEY: The plat would come first and then the agreement would be immediately after.

MR. CADENA: And then it would, cause it's your language, the language on the shared maintenance agreement would just speak to the mean lots that you're creating but it would literally be recorded after the plat so that you can...

MR. CHAVEZ: So it would (unintelligible) after the fact...?

MR. CADENA: Exactly.

MR. CHAVEZ: Okay.

MR. CADENA: Thank you. In regards to the waiver, no objection from water authority.

CHAIR GOULD: Code enforcement?

MR. JACOBO MARTINEZ, CODE ENFORCEMENT: Code Enforcement didn't have any objection to the re-plat request. We still think that the sidewalk should be required.

MR. CHAVEZ: So can I ask you a question? I mean, introduction chapter it's pretty specific about what the exemptions are. Why would that not be an exemption?

MR. MARTINEZ: Mr. Chavez, I think that I had you give me a call. I have not received a phone call from you...

MR. CHAVEZ: I haven't had a chance no....

MR. MARTINEZ: So that we can explain this off line but there's 6-6-L38 for reviewed decision criteria for a waiver for DRB sets out all the following topics must apply and there's about 14, 15 of them and I don't believe that it meets every single one of those. I'd like to talk with you off line so that I can show you which ones I don't think it meets.

MR. CHAVEZ: Because in the introduction chapter there's 9 criteria that you have to meet and it only says, you only to meet one of those items?

MR. MARTINEZ: Pursuant to the IDO under 6-6-L3 review and decision criteria the application for a waiver DRB shall be approved if it complies with the following criteria as applicable and it lists again...

MR. CHAVEZ: The 14 that you're talking about?

MR. MARTINEZ: Yeah...

MR. CHAVEZ: Okay...

MR. MARTINEZ: And those are the ones that we are looking at.

MR. CHAVEZ: Okay.

CHAIR GOULD: Okay. Parks?

MS. CHERYL SOMERFELDT, PARKS AND RECREATION: Parks has no objection.

CHAIR GOULD: Hydrology?

MR. SHAHAB BIAZAR, CITY ENGINEER/HYDROLOGY: Just needed to see if you added the drainage easement notes on there.

MR. CHAVEZ: And I did it both on the exhibit and on the...should be on the top right hand corner.

MR. BIAZAR: Perfect. That's all I needed. No further comments. May I keep this because I don't think I got one?

MR. CHAVEZ: Sure. I need to get you a pdf of everything I...

CHAIR GOULD: Okay, Transportation?

MS. JEANNE WOLFENBARGER, TRANSPORTATION ENGINEER: Yes I'll need a copy of a pdf because it looks like you did include the site distance triangle and I wasn't sure if a note was also included or not, that's why I included a note about that in my last comments.

MR. CHAVEZ: No it wasn't but we will get that included.

MS. WOLFENBARGER: A sidewalk waiver isn't granted, but again we would be willing to meet with you off line to discuss all the various criteria and how we rose to the decision that we did after some internal discussions, however we're willing to look at a waiver on the width as well and perhaps we could discuss that off line as well, and then of course we still have to have either the fencing in the right-of-way either taken out or put back...

MR. CHAVEZ: I'm not sure what you are talking about, I'm kind of, if you could point out.. because if this is the area that you're talking about here...is that where you're talking about?

MS. WOLFENBARGER: Oh no this is the area right here that we're talking about.

MR. CHAVEZ: Right, and so there's 2 blocks of people with that line there, with that property line that we'd have to address.

MS. WOLFENBARGER: Yes but as part of the application process we have to consider that as part of the action so....

MR. CHAVEZ: Understandable, I understand.

MS. WOLFENBARGER: So I'd be willing to also discuss that with you. You know as far as minimizing impact just so we can, just discuss your options, what's best for you but we still need to address it.

MR. CHAVEZ: Okay.

CHAIR GOULD: So it sounds like we need to defer item number 7 and the question is the amount of time for that deferral. It sounds like you need to meet with Code and Transportation and you have some work on the plat. Do you think a week, two weeks...?

MR. CHAVEZ: A week should do it. I will get it done within a week.

CHAIR GOULD: Okay. So you'll be able to circle back with these guys?

MR. CHAVEZ: Yes.

CHAIR GOULD: Okay. Do we then have a consensus to defer item number 7 to the meeting of October 30th?

ALL MEMBERS ANSWER IN THE AFFIRMATIVE

CHAIR GOULD: Just make sure the other part of this is that we need the re-submittals by Friday afternoon so that we have time to review them.

MR. CHAVEZ: I understand.

CHAIR GOULD: Okay.

MR. CADENA: We need to have that shared maintenance agreement completed....

MR. CHAVEZ: It's already, Maggie already has it but I need to check for you specify with regard to the, I'm pretty sure I addressed the different lots and whose responsible for what.

MR. CADENA: The one I saw was just a draft, a word document...

MR. CHAVEZ: Correct...

MR. CADENA: But if you have the final....

MR. CHAVEZ: It just depends on what you are willing to accept or not in that document.

MR. CADENA: We I just wanted to make sure something is in place, it's really private so it doesn't concern the water authority I'm just trying to make sure both lots are protected.

MR. CHAVEZ: I thought I addressed that in the agreement...

MR. CADENA: Sure.

MR. CHAVEZ: But...

MR. CADENA: I'm just trying to make sure something's in place...

MR. CHAVEZ: Yeah, no I definitely have something in place.

MR. CADENA: Okay.

CHAIR GOULD: Alright then we will see you next week.

MR. BIAZAR: Thank you sir.

MR. CHAVEZ: Thank you.

DEVELOPMENT REVIEW BOARD

MINUTES

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

October 2, 2019

MEMBERS:

Maggie Gould, Acting DRB Chair, Planning Department
Angela Gomez, DRB Hearing Monitor

Jeanne Wolfenbarger, P.E., Transportation Development
Shahab Biazar, P.E., Hydrology/ City Engineer
Jacobo Martinez, Code Enforcement
Kristopher Cadena, P.E., Water Utility Authority
Christina Sandoval, Parks/Municipal Development
Santiago Chavez, Ex-Officio Member, CAO

Project #PR-2019-002811
SD-2019-00158 - **PRELIMINARY/FINAL PLAT**
VA-2019-00288 - **WAIVER**

RICHARD CHAVEZ request(s) the aforementioned action(s) for all or a portion of **LOTS 7-10 BLOCK 44 PEREA ADDITION,** zoned R-1A, located at **NEC of 15th ST NW** and **GRANITE AVE NW**, containing approximately 0.32 acre(s). (J-13)

PROPERTY OWNERS: CHAVEZ RICHARD GERARD
REQUEST: REPLAT 4 LOTS INTO 2 AND S/W WAIVER

PERSONS SPEAKING ON BEHALF OF THE REQUEST:

Mr. Richard Chavez

MS. MAGGIE GOULD, ACTING DRB CHAIR: Good morning.

MR. RICHARD CHAVEZ: Good morning folks. Last time that I was here I did not have the comments from staff in front of me so I would like to be able to address those comments today if that's okay?

CHAIR GOULD: Sure. Why don't you walk us through what's happened since your deferral and then we'll go through the board's comments and we'll see where we are.

MR. CHAVEZ: Okay, so there was some additional information request of me, in particular the hydrology issue. We've had extreme difficulty getting information on what exactly is it that you're asking for. I live on a corner with 4 drains to the river. There's no drainage issues coming into my yard. About 5-6 years ago we had that massive rain with the five hundred, the thousand year rain.

MR. SHAHAB BIAZAR, CITY ENGINEER/HYDROLOGY: Yes sir.

MR. CHAVEZ: My yard did puddle up but basically to get it out of the yard I just took a hoe down my driveway to the street and it drained from there so I'm really confused as to what it is exactly you're asking for. My surveyor went to the hydrology site there was nothing specific to yard drainage so we were confused, don't have any idea what you're asking for....

MR. BIAZAR: Sure, I mean I thought I was clear last time, and I apologize I wish you would have called me and told me....

MR. CHAVEZ: Well I did try to. And it's just very difficult. I'm gone from 6 in the morning until 6 in the evening. I work in Santa Fe so I'm commuting every day so it's extremely difficult to try and work through this process. The secondary was in the, you were asking for in Transportation for a sketch of setbacks and the, that would be required for the yard. I went to zoning, they didn't know what the setback requirements were, they sent me upstairs to the 4th floor to DPC I guess and the gentleman up there, Jim he had no clue so he sent me back to zoning. Then zoning talked to a couple people, they said no I need to go to the 8th floor to find out what the requirements are for the setbacks so as of right now...

MS. JEANNE WOLFENBARGER, TRANSPORTATION ENGINEER: So setbacks would have been by you, I hadn't made comments on setbacks.

CHAIR GOULD: Yeah, for...

MR. CHAVEZ: Well whoever made, I'm just saying that it's been extremely difficult to find exactly what those are because if you go to chapter 23, there's nothing there specifically that says, I mean it's pretty confusing to try and figure out what those set...so that was one issue that I've had difficulty trying to address. So we did revise the plat, I just got it turned into the surveyor this morning so I apologize for the delay but again it's just because we are having

trouble trying to get the information that you're seeking from us. So the surveyor does have the plat, I did forward a copy of that to Maggie. Now Maggie has made some comments that I received last night, or yesterday afternoon. Unfortunately I'm unable to access them because what I typically have to do is I have to forward…I'm having troubles with my computer so I'm having to forward from my phone to my work to get things, I'm not at work today so I wasn't able to see what you, what comments you've forwarded me last night, or yesterday afternoon. So I'd like to start addressing, I'd like to address some of the comments that were made previously. And I was told at one time that pictures were very important so I did bring a lot. I'd like to start with the engineering comments. One of the statements says much of the area already has sidewalk. We can say that about the City of Albuquerque, that's a very broad statement. The City of Albuquerque has a lot of sidewalk, there's no need for a variance. So what I want to show you is my street. Both sides of the street do not have any sidewalk. And that's for the entire length of the block. Now one block away from me on the corner of 14th and Mountain Road there's no sidewalk there on one side of the street, okay. Now the corner, caddy corner from my corner, yeah take copies I tried to make plenty, enough copies for you. This is caddy corner from my corner of my house, there's no sidewalk here. One block away, from my house on Marble there's no sidewalk on either side of that corner. This is Sawmill Road. Sawmill Road starts on Mountain Road it's exactly one block from my house. There's no sidewalk, curbing or anything there, okay? Now this is 15th Street just north of Sumner, this is one block east of the museum. That starts the area where there is no sidewalk all the way through that area and I'll show you more, but this is that same street just one block further, no sidewalk, no gutter no curbing, nothing. This is also Sawmill Road, just one block from my house, no sidewalk, curbing, gutter or anything. Now this is Sawmill and Rosemont. Rosemont runs from Sawmill all the way to 12th street. No curb, gutter, sidewalk or anything on those streets all the way from Sawmill to 12th street so that's approximately 3+ blocks. This is actually a view of Rosemont, there's a whole set of apartment complexes on that, as I mentioned this goes from Sawmill Road to 12th street, no curbing no gutter, nothing. This is Sawmill Road where is diverts, or splits off of Sumner. In that area, there's no sidewalk, gutter or any kind of infrastructure. This is 15th street going north just east of the museum one block east of the museum…

CHAIR GOULD: Just a second because you're….

MR. CHAVEZ: So the whole point that I'm trying to make here if it's okay is that comment was extremely broad and if the person would have just taken the time to look on what's in that area, you can see that there's not plenty of sidewalk in the area. The second point that was made in that comment

CHAIR GOULD: On all of these, what I'm not seeing is the view along Granite to the east and I believe there is existing sidewalk.

MR. CHAVEZ: Granite to the east well, Granite to the east there is existing sidewalk across the street. It's 3 feet and there's a wall so it's only 3 feet of sidewalk and that's the only intersect, that's the only corner that has any sidewalk of the 4 corners on my, of Granite and 15th street.

CHAIR GOULD: Yeah, so, and I think what's, and please correct me if I'm wrong is that the most relevant information is going to be the information for that Granite and 15th area.

MS. WOLFENBARGER: And I was also looking beyond that area as well.

CHAIR GOULD: Okay.

MR. CHAVEZ: And that's when you said "in the area" so that's what I was looking at in the area to show you that no, there's not plenty of sidewalk, I'm sorry. So the next comment was about 4 foot sidewalk that is required. And I just wanted to show you that from Marble to Mountain Road there is no 4 foot, now if you recall I mentioned to you that back in late 50s early 60s storm sewers were laid all the way down 15th street. My folks had to pay curb and gutter assessment for a period of time based on the assessment district that they set up. At that time they grandfathered in those fence lines. This is Marble and 15th. Now as you see, that fence is not more than 3 feet from the curbing and what's kind of interesting about this fence is this fence was built up around a chain link fence. It was initially a chain link that they just built this up around it. So the middle of 15th between Marble and Granite, you can see those shrubs there they are part of the existing area, I mean part of the exiting easement that was given back in that day. So here's the corner picture of 15th and Granite where the sidewalk does exist with the wall and that wall now here, this is at the end of Mountain Road, I mean the end of 15th by Mountain Road, you'll see that that wall, that wall actually goes to within about 3 feet of the curbing. So when you say that you need 4 feet of sidewalk in the Old Town area, it's really (unintelligible). This is 17th and Granite. Do you see 4 feet of sidewalk there? So I understand what it is you're trying to accomplish through this sidewalk I mean, you create a whole ordinance because we have an issue here in Albuquerque. We don't have enough sidewalks in the general area. So the other comment I would like to address is with Code Enforcement. Code Enforcement basically stated that I only met 2 of the 3 criteria. Now I find it interesting because that criteria was also in chapter 11 of introduction. Now chapter 11 I probably shouldn't have to explain this to you guys because you guys are the experts here but chapter 11 of the introduction, it's pretty clear on what chapter 12 calls for. And it specifically states "unless a variance from these standards" this is from the first paragraph, "through the procedure established by a (unintelligible) or unless facilities were constructed under a different standard previously enforced" and that point goes to the grandfathered issue that I talked about with the fence lines along 15th street. Because in the engineer, the last number 3 comment "it appears from the plat that there is fencing within the right-of-way that will need to be removed." It doesn't say exactly where, I'm assuming that's just 8th street that

they're talking about. So in the second paragraph it states "there are certain circumstances under which the variance from the standards (unintelligible) is appropriate." Second page in chapter 23 volume 2, that's where I was looking for the standards. I could not figure out what the heck the standards were for the setback. Under that "variance applications are evaluated based on the following criteria set forth in the sidewalk ordinance." "A" talks about the mayor, number one, number two, number three is what I'm looking at. "The area or size has been recognized as having historical archeological and/or architectural significance by the City of Albuquerque state of New Mexico, United States of America. In order to maintain such historical archeological and/or architectural significance in variance is appropriate." I'm living in Old Town folks. I live in the Perea subdivision. The Perea subdivision if not the oldest subdivision, it's got to be the second, it's at least over a hundred years old. If that is not historical I'm not quite sure what is. Number 4, "the area is of low intensity land use to the extent that normal installation of sidewalks will not contribute to the public welfare. Mr. I'm sorry, Mr. Code Enforcement, I'm not sure what your name is?

MR. JACOBO MARTINEZ, CODE ENFORCEMENT: It's Mr. Martinez.

MR. CHAVEZ: Mr. Martinez, in your 6-6-1 I think,

MR. MARTINEZ: 6-6-L3B?

MR. CHAVEZ: Yes, this was one of the criteria in there that I did meet but because there was only two of three I didn't qualify under your ordinance. Now, you go to number 6, "the sidewalk variance will preserve trees possessing the following characteristics." These two trees are in my yard, they are over 45 close to 50 years old, both of them which would have to be removed to accommodate your request for sidewalk. So under this criteria it states, there's 6 different bullets to that particular criteria that I would have to meet. These trees I would think meet that criteria. Number 8 "the adjoining sidewalks are non-standard as to width or location." The adjoining sidewalk that I'm closest to is the address of 1409 Granite. They are the individuals east of the alley from me. Their sidewalk is only 36", it's been there, I learned how to skate on that piece of sidewalk with one skate because it was so small. It's been there that long so it doesn't even meet your current standards. The last number, number 9 "establish neighborhood character or mature landscaping on the site would be damage too (unintelligible) so the public utility and normal sidewalk (unintelligible). So what you're asking me to do is, in order to accommodate your sidewalk in this area, I would have to take all that hedge out, take those 2 trees out and then this is where the sidewalk would end up, on, with (unintelligible). My neighbor's sidewalk, I mean my sidewalk that you're asking me to put in would run directly into this tree that you see right there. Now my neighbor has no requirement to put sidewalk in. It's a rental property; they're never going to subdivide that. The neighbor down from me, same thing. He's an elderly veteran on disability income. He's not going to be putting sidewalk in there so the long story short, is the impression I get is that one, you're trying to make me change the character of

my neighborhood or of my block by putting in sidewalk that nobody has, nobody's going to put in and yet in my mind, I meet all this criteria. I at least meet 4 out of the 9 pieces of criteria.

CHAIR GOULD: Okay....

MR. CHAVEZ: One question please and then I will shut up I promise. Why was I not given this information at the very onset of this process? I was never given this information. I've been to the Planning Department at least 8 or 9 times interacting with planning staff. Never once did I get this information from planning staff. I was up here during this hearing, nobody ever directed me or told me to look at this information.

CHAIR GOULD: Because you were asking for a waiver of the perimeter sidewalk requirement under the IDO. So we gave you the waiver criteria for sidewalks under the IDO.

MR. CHAVEZ: And this does not apply?

CHAIR GOULD: I'm going to have to take a moment and talk to legal about that.

CATHY AGAR, CITY ATTORNEY: The IDO and the DPM need to work together.

CHAIR GOULD: We can perhaps talk a little more about this. But we gave you the waiver requirements for the sidewalk in the IDO.

MR. CHAVEZ: No I understand that, I understand that but this is the introduction chapter to your ordinance. And it's pretty clear what the exemptions to that ordinance are in this statement in the introduction, Mrs. Attorney. So I don't understand why this was not provided to me from the onset because really your going to have people come in from Barelas, Martineztown, East San Jose, these are historical areas and the first flag that should be raised when that application comes in, what part of town is this person residing in? Never raised, never brought to my attention that this was a potential issue for me that I could utilize with this review.

MR. BIAZAR: I do want to also mention one quick thing about your property. So some of these fences it is encroaching into the City right-of-way.

MR. CHAVEZ: Well yes it is because, and since 1958, 59, and 60 codes have changed.

MR. BIAZAR: And you are correct, but I mean, until you brought it to our attention we didn't know those things were encroaching into City right-of-way. And also...

MR. CHAVEZ: And the reason for that, because (unintelligible). This whole process is geared towards catching, so let me take a step back. If the City really wants to address the sidewalk issue, what you would do is everybody, create a special assessment district, spread that cost amongst everybody, get those sidewalks repaired and installed. When you are spreading that cost amongst everybody are people going to be mad, well yeah "my taxes just went up to pay for pay for sidewalk that I already have" but yet not knowing that that's going to accommodate their particular area. The trouble with that proposition is your elected officials don't want to do that because it means a tax increase. Well what am I looking at? You're basically applying another tax on me to install sidewalk. Above and beyond the $6500 dollars I already pay a year. Now my $6500 dollars in taxes have paid for a complete renovation of sidewalk, curbing and lamppost from Broadway to 20th, it's paid for the same thing on Lomas:

CHAIR GOULD: Right, but that's sort of something that is paid generally out of the City budget.

MR. CHAVEZ: I understand, so why can't the City...

CHAIR GOULD: Part of the issue with your project is that whenever you make a change to something, so your property, if you were leaving you property exactly the way it is, it's exactly what Shahab just said. We're not going to notice that encroachment we're not going to notice anything. When you change things, we are going to look at what are all of the applicable rules, what applies to your property and so your property that has been one property for a very long time, you are now trying to divide off.

MR. CHAVEZ: So nothing is changing other that the fact that I'm just doing this lot split.

CHAIR GOULD: Right but that lot split is a change and (unintelligible) get brought up to the new regulations.

MR. CHAVEZ: I understand that. That lot split becomes a subdivide and because we term it a subdivide and I would have a whole new set of regulations that we have to adhere to.

CHAIR GOULD: Right.

MR. CHAVEZ: I understand that. But again to me it's just, I mean, as a citizen, as a property tax paying person it just seems like it's very skewed against the property tax person because "a" this is a very expensive process, I'm already in to you for $925 dollars and that probably isn't the end of it as of yet. If I were a veteran on disability income, I could never go through this process; I would have to take a loan out on a bank just to go through the process. So that's my case.

CHAIR GOULD: What we will do because it sounds like there are, you have additional platting issues that we have to address, we will discuss with legal and with Transportation your question and we will get back to you. In the meantime I think we will go through the rest of the board's comments so we're clear. Before you leave we have one case after you and then we have minutes, I will make sure you have whatever contact information you need for the appropriate people. And if you have questions as the board is going through their comments, please ask.

MR. CHAVEZ: Okay.

CHAIR GOULD: Water Authority?

MR. KRIS CADENA, WATER AUTHORITY ENGINEER: We only have two comments. The first one is just providing utility easements for the private water and private sanitary sewer as they cross the....

MR. CHAVEZ: We did that and it's on the plat.

MR. CADENA: And we'll get the second one which is resolving the shared sanitary sewer service. Typically each lot is to have it's own separate sewer service and ....

MR. CHAVEZ: Now we did discuss that a maintenance agreement would suffice and

MR. CADENA: That could work...

MR. CHAVEZ: I did submit that to Maggie.

MR. CADENA: It would be with the Water Authority. (Unintelligible) that it's recorded as well as noted on the plat.

CHAIR GOULD: I believe Angela forwarded those last night.

MR. CADENA: Oh, okay. So those are the only two comments that I have.

CHAIR GOULD: Code Enforcement?

MR. MARTINEZ: Thank you. Mr. Chavez thank you, I appreciate your comments. Please, before we leave I'll make sure you have my telephone number so that we can speak directly and we can make sure we get you the person to talk to for the setbacks.

MR. CHAVEZ: I would appreciate that

MR. MARTINEZ: Code enforcement has the same comments as last time. I do want to point to you Mr. Chavez to 6-6-L3B, variance to sidewalk requirements that in that requirement the request for a variance to sidewalk requirements shall be approved if it meets all of the applicable criteria in sub-section "a" above and all the following criteria which is "a, b, and c below." Again, as we have this discussion I think in the next week or so we'll make sure that we through all those applicable requirements that the waiver has to meet.

MR. CHAVEZ: Thank you.

CHAIR GOULD: Hydrology?

MR. BIAZAR: Like I said, I apologize for the last time. I thought I was clear but right now basically I did a little sketch so all we need to do is just get a sketch from you to kind of show how the flows are going through your site. If this lot is draining to this lot or this lot is draining to this lot, you need ....

MR. CHAVEZ: Here's the confusion on my part.

MR. BIAZAR: Sure, sure.

MR. CHAVEZ: This was all one big lot. Basically it just sort of ponds in here, it just ponds there.

MR. BIAZAR: Yes sir.

MR. CHAVEZ: And so what I do is I get my hoe and it drains out there, so is that kind of what you want to see?

MR. BIAZAR. Yeah, I mean so if the water kind of ponds, I just need a drainage easement that benefits both lots so if somebody buys this lot I mean, the water comes in and sits on this lot or this lot, or the water from this lot sits on this lot they have a drainage easement that they are sharing.

MR. CHAVEZ: What is entailed with the drainage easement? Is it just some wording or...?

MR. BIAZAR: Yeah we could do a blanket drainage easement and I could give you the wording and yeah, it would be just a blanket drainage easement basically where the buildings are and you know I could just write the language over here.

MR. CHAVEZ: I would appreciate that, thank you.

CHAIR GOULD: Okay, Transportation?

MS. WOLFENBARGER: So yes we received the plat late last night. I see that you added the site distance triangles. I didn't get a chance to look at it further to see whether or not the language I wanted had it on that was also in there.

MR. CHAVEZ: And then, you know on the site we haven't really had to ask what are the dimensions (unintelligible) know, so Maggie did provide that information too.

MS. WOLFENBARGER: And then I appreciate the amount of effort that you put into the sidewalk waiver, both initially and with your pictures but I think as Maggie said, it sounds like we just need to discuss it further, the waiver and have and internal meeting and I'd like to exchange phone numbers with you so we can discuss it further. You're right, we are basically trying to upgrade the City....

MR. CHAVEZ: No I understand that. I...I'm sorry, I don't mean to interrupt.

MS. WOLFENBARGER: No, no and part of it is just you know the recent ADA requirements that weren't implemented way back before the 90s and so we, I realize there's much of the sidewalk that isn't in but and we have looked at the neighborhood and I realize there's not a lot to tie into but we do look at all the criteria and so, but if you would, we'll meet internally and I'd like to exchange phone numbers so we can continue those discussions with regard to that as well as the encroachment.

MR. CHAVEZ: I understand what you trying to do. I've sat on that side of the table. I know what you're dealing with. It's just when you're sitting on this side of the table and you're looking at the kind of cost that you folds require, I had to pay $110 dollars to get to this meeting because I couldn't get all the information that was being asked of me for the last meeting. And so it's just extremely frustrating as a private citizen who's up here. You know it's not like I'm looking to build Trump Towers and I'm asking for this variance to accommodate whatever I'm doing. I'm just asking to leave it as status quo. I mean, why do we want to change the character of my street because we have to meet your requirement for sidewalks? I mean, that's the bottom line for me. You see what my neighborhood looks like.

MS. WOLFENBARGER: Yes, I've looked at it extensively actually.

MR. CHAVEZ: Alright, good.

CHAIR GOULD: It sounds like we...

MR. BIAZAR: If I may...

CHAIR GOULD: Please.

MR. BIAZAR: A quick comment, regardless of what happens with the sidewalk your fences are still encroaching into the right-of-way so that needs to be pulled back.

MR. CHAVEZ: I'm sorry, what?

MR. BIAZAR: Your fences are still encroaching into the City right-of-way regardless of what happens with the sidewalk.

MR. CHAVEZ: So let me ask you this, because that's an interesting point. There's two blocks of fencing that's encroaching on that. What do we going to do to those other people that have fences up there? Are we going to ask them to remove those fences?

MR. BIAZAR: We're going to have to right them a letter if that's the case.

MR. CHAVEZ: That's two whole blocks that you're going to have to address. And they are going to be extremely upset with me because I pointed that out. But I'm just saying what's good for one is good for everybody so if I'm supposed to draw back, now here's one other issue that I hope you take into consideration. My neighbor on Granite has been broken into 4 times. 2 times they literally kicked in the front door because she's only about 20 feet off of the street. Now when you ask me to push my property line back to actually make it more accessible to my front door, there's a crime issue potential there because my house in the neighborhood is the only house that's never been broken into. And I've been there, I grew up in that house so I, but that's just a comment that I hope you'll consider when you start talking about removing fences and pushing back lot boundaries closer to the house.

CHAIR GOULD: Okay. It sounds like we need to do some meeting internally. Based on the comments that you have and the discussion we've had at this meeting, and one a question for the board, how much time do we think we need to kind of discuss this? We realistically probably need 2 or 3 weeks. Based on these comments, how much time you and your surveyor need?

MR. CHAVEZ: We just need to get the comments back from the City Surveyor and we can address those. He said he has about 2 or 3 plats in front of him. He's thinking about 2 or 3 days to complete his review. Once that review is completed we can address those fairly quickly, within a week.

MR. BIAZAR: Who was you surveyor?

MR. CHAVEZ: He's from Santa Fe so that's part of the other problem that I have.

MR. BIAZAR: Oh, okay.

MR. CHAVEZ: Yeah, he's not local.

MR. BIAZAR: Okay. I was going to say I could type your note and email it to him because my handwriting, I mean I wrote it down but if you have any questions let me know. It's a blanket drainage easement....

MR. CHAVEZ: Except where the buildings are for the benefit of lots (unintelligible) and to be maintained by lots.... Okay, thank you.

MR. BIAZAR: Alright, Sure.

CHAIR GOULD: Based on this it looks like we'd be looking at a deferral to the meeting of October 23rd. Does that seem acceptable?

MR. CHAVEZ: Yes.

CHAIR GOULD: Okay. Do we have a consensus to defer item number 7 to the meeting of October 23rd?

ALL BOARD MEMBERS ANSWER IN THE AFFIRMATIVE

CHAIR GOULD: Okay great. Since we are making that deferral you are not responsible for paying for that deferral.

MR. CHAVEZ: Thank you, I appreciate that.

CHAIR GOULD: And if you want to stick around we'll make sure that you have what you need.

MR. CHAVEZ: Thank you.

DEVELOPMENT REVIEW BOARD

MINUTES

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

September 11, 2019

MEMBERS:

Maggie Gould, Acting DRB Chair, Planning Department
Angela Gomez, DRB Hearing Monitor

Jeanne Wolfenbarger, P.E., Transportation Development
Shahab Biazar, P.E., Hydrology/ City Engineer
Jacobo Martinez, Code Enforcement
Kristopher Cadena, P.E., Water Utility Authority
Christina Sandoval, Parks/Municipal Development
Santiago Chavez, Ex-Officio Member, CAO

Project #PR-2019-002811

SD-2019-00158 - **PRELIMINARY/FINAL PLAT**
VA-2019-00288 - **WAIVER**

RICHARD CHAVEZ request(s) the aforementioned action(s) for all or a portion of **LOTS 7-10 BLOCK 44 PEREA ADDITION,** zoned R-1A, located at **NEC of 15th ST NW** and **GRANITE AVE NW**, containing approximately 0.32 acre(s). (J-13)

PROPERTY OWNERS: CHAVEZ RICHARD GERARD
REQUEST: REPLAT 4 LOTS INTO 2 AND S/W WAIVER

PERSONS SPEAKING ON BEHALF OF THE REQUEST:

Mr. Richard Chavez
Ms. Cathy Olson

MS. CATHY OLSON: My name is Cathy Olson, I am the realtor for Richard Chavez. Mr. Chavez resides in the Old Town area of Perea Subdivision. He is requesting a, the request is to replat 4 lots into 2 lots and a sidewalk waiver for today's request. So there's, everything is there, no new buildings or changes other than the site plan from 4 lots to 2 lots. The family has lived there since about 1927 and would like to go ahead and split the

property as there are now 2 residences on the corner. So in order for him to live in one and sell the other this will be required to get that done. Regarding the sidewalk waiver, it's in an area of Old Town where there are many, we have some exhibits for you, but there are sidewalks in some places and no sidewalks in other places and what he would like to do is get a sidewalk waiver with regard to the overall, I guess ambience of the property in general. We wanted to bring you some pictures as to what has happened over the last few years. The City of Albuquerque for instance, in this exhibit, did not have, there was no sidewalk until a light post was placed on the road.

MR. RICHARD CHAVEZ: Actually the whole of Mountain Road from Broadway to 20th was, they placed the sidewalk (unintelligible) at the cost of the City.

MS. OLSON: Right. Then there is, on 15th and Marble, there is no sidewalk. It is low density; people have live there for years, again 14th and Mountain Road, some sidewalk, no sidewalk.

MR. CHAVEZ: This is my adjacent neighbor, who has non-conventional sidewalk, it's 36 inch, no easement, and that's the closest sidewalk to my residence, and she's on the other side of the alley.

MS. OLSON: This is the end of 15th by the...

MR. CHAVEZ: This is the corner of Mountain Road and 15th where the City installed sidewalk along that commercial property.

MS. OLSON: And then the corner of 15th and Granite which is your property, again no sidewalks directly across...

MR. CHAVEZ: Of the 4 corners there's only one corner that has non-conventional sidewalk, 36 inch, no easement.

MS. OLSON: And then the southeast corner of Granite and 15th as well. So it doesn't impact per-sé anybody, it's a very pedestrian area, bicycles etcetera. Again no new construction, it was approved, the newer building was approved without the sidewalk as well and I think it would, you know not really contribute to public welfare etcetera. People like this neighborhood, and they like maintaining the historical aspect of it.

MR. CHAVEZ: So there was two points directly from the criteria that I was presented with. The area's low intensity to the extent that (unintelligible) sidewalk cannot contribute to the public welfare and the absence of sidewalk cannot create a gap (unintelligible) sidewalk (unintelligible). The other one is that the adjoining property (unintelligible) sidewalk is non-conventional (unintelligible). Overall, it's just I would be the only one on the block that would have sidewalk if it's required. With across the street, not having any sidewalk, down the street, around the block not having any sidewalks. Old Town is a very spotty area; it's that way throughout Old Town. I think if the City was really serious about wanting to a comprehensive plan of sidewalk, if that's

what they really need to look at and maybe establish an S.A.D to do that but to identify one individual to install a sidewalk I think is, it doesn't make sense.

MS. MAGGIE GOULD, ACTING DRB CHAIR: I don't believe we have anybody signed up for this. Okay, we are going to go through board comments and then we will see where we are, Water Authority?

MR. KRIS CADENA, WATER AUTHORITY: Hello good morning.

MR. CHAVEZ: Good morning.

MR. CADENA: It is recommended that private utility easements to be granted for the existing water service and sewer service just to preserve those existing services that are currently in place. It looks like, are the two lots sharing one service line for sewer?

MR. CHAVEZ: No, no. on the plot line...so there's a sewer line coming off of this house here, that connects right about here, and the other sewer lines comes off this house here, and connects right about here

MR. CADENA: So let's talk water really quick so you are going to need this water service to provide service to that lot. So you're going to get private water service easements to protect this and allow it to be there for the benefit of...

MR. CHAVEZ: Yes.

MR. CADENA: Okay, and then where is this one getting its water service?

MR. CHAVEZ: This water service is right here.

MR. CADENA: Oh, okay. It would be helpful if you could just show a water meter just so we know it goes there. Now in this one, for sewer, they're technically both sharing sewer, and if this were to break they would both be arguing and figuring out who is going to fix it.

MR. CHAVEZ: And that's why I am (unintelligible).

MR. CADENA: That's fine, it's a simple, even just a five foot easement just along here to preserve that, and here what I'm concerned about is we need to figure out a way to not, it's not an easement it's a shared (unintelligible) agreement, because in theory we need to

MR. CHAVEZ: Could that be part of the purchase agreement?

MR. CADENA: Well, I don't know, we've got to think about it because really this is not a proper set up because you have 2 residences sharing a plastic service (unintelligible), whatever the material is and if that thing breaks then you are going to have (unintelligible). So each lot shall have separate sewer service. So the way to remedy it is

to not, to preserve an easement to allow this to serve that lot and perhaps to a new service connection for this residence here as a way to separate them and have them all separate, with separate services and deal with one another, and we just put easements and everyone is protected. With regards to the waiver, we have no objection.

CHAIR GOULD: Code enforcement?

MR. JACOBO MARTINEZ, CODE ENFORCEMENT: The plat meets the contextual standards we don't have any objection about the plat itself. For the sidewalk waiver, I'll bring up 5-3-D1 again which require sidewalks on, within the IDO. I don't know, I don't think it meets the criteria of variance to sidewalk requirements of 6-6-L3B which you need to meet all 3 of the requirements not just one of the requirements for that variance.

MR. CHAVEZ: So there was 2 though that we met.

MR. MARTINEZ: There's 3 requirements.

MR. CHAVEZ: Well what is the third?

MR. MARTINEZ: A, B, and C requests for a variance to sidewalk requirements shall be (unintelligible) if it meets all the applicable criteria in sub-section "a" above and all of the following criteria has a, b, and c.

MR. CHAVEZ: Okay.

MR. MARTINEZ: Thank you.

CHAIR GOULD: Hydrology?

MR. SHAHAB BIAZAR, CITY ENGINEER: We just need some sort of exhibit to kind of show the drainage pattern on site to see if one lot might be draining to the other side. If that's the case then we are going to need a drainage easement, so we have to kind of show the drainage pattern on site, how this whole site drains…

MR. CHAVEZ: It just ponds right here is what happens.

MR. BIAZAR: Okay, so I need to see something that shows that, you know, does this water come to here?

MR. CHAVEZ: So these two residences are elevated and that's what's happened over the years when my folks first bought this property in '47, this was all flattened out so these areas are elevated to where whatever ponds, and I've seen ponds is right in the general area here.

MR. BIAZAR: Okay, so let's say this house is draining to this little pond basically we have to have a drainage easement for the benefit of this person. Because, this way, right

now the water is actually into this guy's property so that's why I need to see the exhibit, kind of, you know…

MR. CHAVEZ: So just as another point this driveway here, this drains out to the street.

MR. BIAZAR: Okay…

MR. CHAVEZ: Because there is a…

CHAIR GOULD: You need to demonstrate that each lot keeps its own drainage…

MR. BIAZAR: Just show me like a little exhibit that patterns the flows, just a little exhibit. We may just go out there to just verify it but…

MR. CHAVEZ: Okay.

CHAIR GOULD: Transportation?

MS. JEANNE WOLFENBARGER, TRANSPORTATION ENGINEER: Yes. On the plat it looks like there's some fencing that's in the right-of-way.

MR. CHAVEZ: So that fencing was grandfathered back in the early 60s when storm sewer was installed. They actually installed curbing and gutter which everybody around that street had to pay for but at that point in time that area was grandfathered in.

MS. WOLFENBARGER: So typically those kinds of situations we either require fencing to the outer right-of-way or else we require a revocable permit.

MR. BIAZAR: Well in this case you can't do a revocable because you have to build sidewalks.

MS. WOLFENBARGER: Yeah if conflicts with, I guess it does conflict with sidewalk based on where it's located.

MR. CHAVEZ: And there's also landscaping and trees that I'd have to cut out for sidewalk.

MS. WOLFENBARGER: But anyways, that's been our policy. Either we have the fencing out or require a revocable permit. In this case it looks like it's too close to the street; it would conflict with the sidewalk location that would ultimately be…

MR. CHAVEZ: Well that's why I'm asking for a waiver.

CHAIR GOULD: And so Planning's comments were basically you're missing all of the standard plat notes, those need to be added. You're also missing the City Surveyor signature which basically certifies that your plat is complete. We can't do anything until

all of your plat conditions have been met so and it does need to be, it does also need to be signed not just by the City Surveyor but also by the (unintelligible).

MR. BIAZAR: Yeah so this one is not the standard plat sheet, it's half size sheet's with the Surveyor's stamp. Typically we really shouldn't have taken this application because it doesn't have any stamps or signatures from the (unintelligible) nor the City Surveyor.

MR. CHAVEZ: I think what he was waiting for, what he indicated to me was approval before he stamped it because...

CHAIR GOULD: No...

MR. CHAVEZ: Okay, alright....

MR. BIAZAR: For a sketch plat, yeah this would have been okay, but for actual preliminary/final plat it needs to be an actual plat.

CHAIR GOUD: Yeah.

MR. BIAZAR: But you have our comments now, you'll know what to do.

CHAIR GOULD: So if you'll share those comments with the surveyor, your surveyor should be able to address everything that's in there.

MR. CHAVEZ: And then what?

CHAIR GOULD: And then, so what we do is at this point we will defer this because we can't act on this the way that it is now. And so we will wait for the re-submittal of a complete plat. Part of the question is how much time do you think you'll need to work with your surveyor?

MR. CHAVEZ: A week.

CHAIR GOULD: Okay. I don't know how long the City Surveyor's signature turnaround takes.

MR. BIAZAR: So it'll take a couple of days. He needs to get in into the proper format; it's up to your surveyor.

CHAIR GOULD: So it would probably be better to do at least 2 weeks.

MR. CHAVEZ: So once we get this adjusted then I turn it over to the City Surveyor? Is that what I do? Or do I go back to Planning and....

CHAIR GOULD: So you go back to your surveyor with our comments with what needs to be on the plat. They you go to the City Surveyor, the City Surveyor looks at it and

says "yes this is acceptable" and the City Surveyor will sign off on it, then you bring it back to us.

MR. CHAVEZ: Okay.

CHAIR GOULD: So September 25th, is that acceptable? Okay we will defer item number twelve to the meeting of September 25th.

DEVELOPMENT REVIEW BOARD

Code Enforcement Comments

AGENDA ITEM NO: _____10_____

DRB Project Number: __PR-2019-002811_____

Application Number: _____

Project Name: _____

Request: Preliminary/Final Plat

COMMENTS:

Code enforcement still needs to understand what the waiver request is.

(Comments may continue onto the next page)

Disclaimer: The comments provided are based upon the information received from the applicant/agent. If new or revised information is submitted, additional comments may be provided by Planning.

FROM: Jacobo Martinez, Code Compliance Manager
Planning Department
924-3301 jacobomartinez@cabq.gov

DATE: 10/30/2019

ACTION:

APPROVED ___; DENIED ____; DEFERRED ___; COMMENTS PROVIDED ___; WITHDRAWN ___

DELEGATED: (TRANS) (HYD) (WUA) (PRKS) (PLNG) (CE)

DEVELOPMENT REVIEW BOARD

TRANSPORTATION DEVELOPMENT

DRB Project Number: 2019-002811
15th Street and Granite Avenue

AGENDA ITEM NO: 10

SUBJECT: Plat, Waiver

ENGINEERING COMMENTS:

Previous Comments:

1. Sidewalk waiver is not granted along frontage of property. A 4-foot sidewalk is needed along the residential streets, or a waiver from this standard 4-foot width may be requested. Provide a sidewalk exhibit showing dimensions from curb to property line, dimension of sidewalk and setback from the curb. Added infrastructure will be required prior to final plat.

2. It appears from the plat that there is fencing within the right-of-way that will need to be removed. At minimum, enough needs to be removed for the construction of the sidewalk. A revocable permit will be needed for any remaining fencing within the right-of-way.

*Please remember to email me directly with an electronic copy of all supplemental submittal documents.

Disclaimer: The comments provided are based upon the information received from the applicant. If new or revised information is submitted, additional comments may be provided by Transportation Development.

FROM: Jeanne Wolfenbarger, P.E.
Transportation Development
505-924-3991 or jwolfenbarger@cabq.gov

DATE: October 30, 2019

ACTION:

APPROVED __; DENIED __; DEFERRED __; COMMENTS PROVIDED __; WITHDRAWN __

DELEGATED: _____ TO: (TRANS) (HYD) (WUA) (PRKS) (CE) (PLNG)

DEVELOPMENT REVIEW BOARD

Planning Dept. - Minor Case Comments

HEARING DATE/AGENDA ITEM NO. 10

Project Number: PR-2019-002211
Application Number: SD-2019-00158, VA-2019-00288

Project Name: Chavez replat

Request: Prelim/final plat, Sidewalk waiver

COMMENTS:

Hello Mr. Chavez,
I am responding to your letter of October 25th in which you asked about the waiver criteria.
The IDO requires a perimeter sidewalk for residential development.
A waiver to the requirement for this sidewalk is a waiver to an IDO standard and must follow the IDO waiver criteria. The standard that you are using is from the Development Process Manual.
A waiver to the width of the sidewalk would be waiver to a Development Process Manual Standard and would follow the criteria that you are referencing. If you are asking for a waiver to the sidewalk width, please let us know.
The waiver criteria in 6-6(L)(3)(b) requires that the waiver will not create a gap in the existing system. Because there is existing sidewalk to the east of your property, the lack of sidewalk creates a gap.
See Citations below:
5-3(D) PEDESTRIAN CIRCULATION 5-3(D)(1) Sidewalks in Residential Development 5-3(D)(1)(a) Perimeter sidewalks shall be provided in accordance with the DPM, exclusive of the exception noted in Subsection (b) below
6-6(L)(3)(a) General Except as indicated in (d) below, an application for a Waiver – DRB shall be approved if it complies with the following criteria, as applicable:
1. Any of the following applies:
a. 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 district and vicinity, including but not limited to size, shape, topography, location, surroundings, and physical characteristics, and such special circumstances were created either by natural forces or by government eminent domain actions 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.
b. There are pre-existing obstructions that cannot be easily or economically relocated or should not be altered, such as grades, fills, water courses, natural topographic features, man-made obstructions, or utility lines.
c. The area or site has been recognized as having historical, archeological, and/or architectural significance by the City, state, or federal government, and a Variance is needed and appropriate to maintain such historical, archeological, and/or architectural significance.
d. The established neighborhood character or landscaping on the site would be damaged to a degree that outweighs the public interest in the City's normal technical standards in that location.
e. Varying from the normal requirements and standards will encourage flexibility, economy, effective use of open space, or ingenuity in design of a subdivision, in accordance with accepted principles of site planning.
2. The Waiver will not be materially contrary to the public safety, health, or welfare.
3. The Waiver does not cause significant material adverse impacts on surrounding properties.
4. The Waiver will not hinder future planning, public right-of way acquisition, or the financing or building of public infrastructure improvements.
5. The Waiver will not conflict significantly with the goals and provisions of any city, county, or AMAFCA adopted plan or policy, this IDO, or any other City code or ordinance.
6. The Waiver will not allow, encourage, or make possible undesired development in the 100-year Floodplain.
7. The Waiver will not materially undermine the intent and purpose of this IDO or the applicable zone district.
8. The Waiver does not allow a lot or type of development that does not meet the applicable size, area, and development standards applicable in the zone district where the lot is located, unless a Deviation to such standards is within the thresholds established by Subsection 14-16-6-4(O) (Deviations) and is granted by the DRB as part of this approval.
9. The Waiver approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.
10. The Waiver for Sidewalk Requirements meets the criteria in (b) below.
11. The Waiver for Front Yard Parking meets the criteria in (c) below
6-6(L)(3)(b) Waiver to Sidewalk Requirements A request for a Variance to sidewalk requirements, shall be approved if it meets all of the applicable criteria in Subsection (a) above and all of the following criteria:
a. The area is of low-intensity land use to an extent that the normal installation of sidewalks will not contribute to the public welfare, and the absence of a sidewalk will not create a gap in an

DEVELOPMENT REVIEW BOARD

Planning Dept. - Minor Case Comments

existing sidewalk system extended to 1 or more sides of the subject property or area.
b. The City's right-of-way is insufficient in width to permit the construction of a sidewalk of standard dimension and placement, but there is sufficient right-of-way to meet minimum ADA or PROWAG guidance.
c. The adjoining sidewalks are non-standard as to width and/or location, and the Variance would enable the new and existing sidewalks to match in width and/or location, or could create a smooth transition between areas of different width and/or character.

Please let me know if this answers your question.

Disclaimer: The comments provided are based upon the information received from the applicant/agent. If new or revised information is submitted, additional comments may be provided by Planning.

FROM: Maggie Gould
Planning Department
924-3910 mgould@cabq.gov

DATE: October 29, 2019

Albuquerque Bernalillo County
Water Utility Authority

P.O. Box 1293
Albuquerque, NM 87103

Development Review Board (DRB)
Review Comments
Utility Development Section
Reviewer: Kristopher Cadena, P.E.
Phone: 505.289.3301

DRB Project No:	Date:	Item No:
PR-2019-002811	10/30/19	#10
Zone Atlas Page: J-13	**Legal Description: Lot(s)** LOTS 7-10 BLOCK 44 PEREA ADDITION **Location:** NEC of 15th ST NW and GRANITE AVE NW	
Request For: **SD-2019-00158** - PRELIMINARY/FINAL PLAT **VA-2019-00288** - WAIVER		

ABCWUA Comment:

Please provide written description of how the following comments were addressed with the next submittal.

SD-2019-00158 - PRELIMINARY/FINAL PLAT

1. Private utility easements should be granted for the existing water and sanitary sewer services that are currently serving the existing residences.
2. The existing sanitary sewer service appears to be shared between the two proposed lots. The property owner provided a draft shared maintenance agreement. This shall be recorded and included on the plat prior to approval.

VA-2019-00288 – WAIVER

1. No objection to the sidewalk waiver.

UTILITY DEVELOPMENT

DEVELOPMENT REVIEW BOARD

TRANSPORTATION DEVELOPMENT

DRB Project Number: 2019-002811
15th Street and Granite Avenue

AGENDA ITEM NO: 7

SUBJECT: Plat, Waiver

ENGINEERING COMMENTS:

Previous Comments:

1. Sidewalk waiver is not granted along frontage of property. A 4-foot sidewalk is needed along the residential streets, or a variance may be requested. Provide a sidewalk exhibit showing dimensions from curb to property line, dimension of sidewalk and setback from the curb. Added infrastructure will be required prior to final plat.

2. On an exhibit, show 11-foot sight distance triangles at each of the driveway entrances. Add the following note as well: "Landscaping, fencing and signing will not interfere with clear sight requirements. Therefore, signs, walls, trees, and shrubbery between 3 and 8 feet tall (as measured from the gutter pan) will not be acceptable in the clear sight triangle."
(I believe that the plat presented at the last DRB meeting had the correct sight distance triangles, but I was unsure about the language.)

3. It appears from the plat that there is fencing within the right-of-way that will need to be removed. At minimum, enough needs to be removed for the construction of the sidewalk. A revocable permit will be needed for any remaining fencing within the right-of-way.

*Please remember to email me directly with an electronic copy of all supplemental submittal documents.

Disclaimer: The comments provided are based upon the information received from the applicant. If new or revised information is submitted, additional comments may be provided by Transportation Development.

FROM: Jeanne Wolfenbarger, P.E.
Transportation Development
505-924-3991 or jwolfenbarger@cabq.gov

DATE: October 23, 2019

ACTION:

APPROVED __; DENIED __; DEFERRED __; COMMENTS PROVIDED __; WITHDRAWN __

DEVELOPMENT REVIEW BOARD

TRANSPORTATION DEVELOPMENT

DELEGATED: _____ TO: (TRANS) (HYD) (WUA) (PRKS) (CE) (PLNG)

DEVELOPMENT REVIEW BOARD

Code Enforcement Comments

AGENDA ITEM NO: 13

DRB Project Number: PR-2019-002811

Application Number: _____

Project Name: _____

Request: Preliminary/Final Plat

COMMENTS:

Code enforcement has no issues with the replatting request. CE thinks a sidewalk should be required

(Comments may continue onto the next page)

Disclaimer: The comments provided are based upon the information received from the applicant/agent. If new or revised information is submitted, additional comments may be provided by Planning.

FROM: Jacobo Martinez, Code Compliance Manager
Planning Department
924-3301 jacobomartinez@cabq.gov

DATE: 9/11/2019

ACTION:

APPROVED ___; DENIED ____; DEFERRED ___; COMMENTS PROVIDED ___; WITHDRAWN ___

DELEGATED: (TRANS) (HYD) (WUA) (PRKS) (PLNG) (CE)

DEVELOPMENT REVIEW BOARD - **HYDROLOGY SECTION**

Shahab Biazar, PE, City Engineer | 505-924-3999 sbiazar@cabq.gov

DRB Project Number: 2019-002811 Hearing Date: **10-23-2019**

Project: Lot 7-10, Block 44, Perea Add. Agenda Item No: **7**

☐ Sketch Plat	☒ Minor Preliminary / Final Plat	☐ Preliminary Plat	☐ Final Plat
☐ Temp Sidewalk Deferral	☐ Sidewalk Waiver/Variance	☐ Site Plan for Bldg. Permit ☐ Site Plan for Subdivision	☐ Bulk Land Plat
☐ IIA Extension	☐ DPM Variance	☐ Vacation of Public Easement	☐ Vacation of Public Right of Way

ENGINEERING COMMENTS:

- Drainage easement note with beneficiary and maintenance responsibility must be added to the plat.

RESOLUTION/COMMENTS:

Parks & Rec:

Water:

Transportation:

Planning:

Code:

☐ APPROVED
☐ DENIED

DELEGATED TO: ☐ TRANS ☐ HYD ☐ WUA ☐ PRKS ☐ PLNG
Delegated For: _____
SIGNED: ☐ I.L. ☐ SPSD ☐ SPBP ☐ FINAL PLAT
DEFERRED TO _____

Albuquerque Bernalillo County
Water Utility Authority

P.O. Box 1293
Albuquerque, NM 87103

Development Review Board (DRB)
Review Comments
Utility Development Section
Reviewer: Kristopher Cadena, P.E.
Phone: 505.289.3301

DRB Project No:	Date:	Item No:
PR-2019-002811	10/23/19	#7
Zone Atlas Page: J-13	**Legal Description: Lot(s)** LOTS 7-10 BLOCK 44 PEREA ADDITION **Location:** NEC of 15th ST NW and GRANITE AVE NW	
Request For: **SD-2019-00158** - PRELIMINARY/FINAL PLAT **VA-2019-00288** - WAIVER		

ABCWUA Comment:

Please provide written description of how the following comments were addressed with the next submittal.

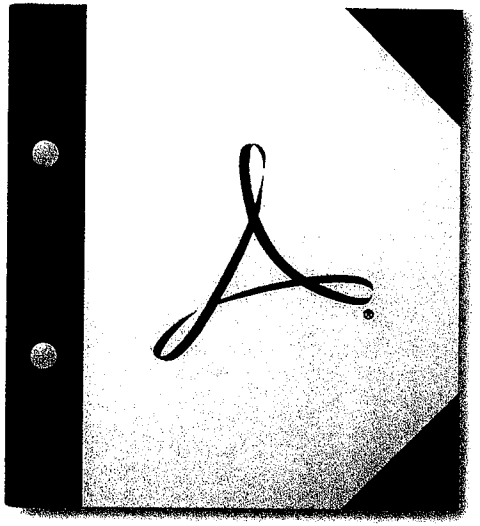
SD-2019-00158 - PRELIMINARY/FINAL PLAT

1. Private utility easements should be granted for the existing water and sanitary sewer services that are currently serving the existing residences.
2. The existing sanitary sewer service appears to be shared between the two proposed lots. The property owner provided a draft shared maintenance agreement. This shall be recorded and included on the plat prior to approval.

VA-2019-00288 – WAIVER

1. No objection to the sidewalk waiver.

UTILITY DEVELOPMENT



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DEVELOPMENT REVIEW BOARD

TRANSPORTATION DEVELOPMENT

DRB Project Number: 2019-002811
15th Street and Granite Avenue

AGENDA ITEM NO: 7

SUBJECT: Plat, Waiver

ENGINEERING COMMENTS:

Previous Comments:

1. Sidewalk waiver is not granted along frontage of property. Much of the neighborhood area already has sidewalk, and a 4-foot sidewalk is needed along the residential streets. Provide a sidewalk exhibit showing dimensions from curb to property line, dimension of sidewalk and setback from the curb. Added infrastructure will be required prior to final plat.

2. On an exhibit, show sight distance triangles at each of the driveway entrances. Add the following note as well: "Landscaping, fencing and signing will not interfere with clear sight requirements. Therefore, signs, walls, trees, and shrubbery between 3 and 8 feet tall (as measured from the gutter pan) will not be acceptable in the clear sight triangle."

3. It appears from the plat that there is fencing within the right-of-way that will need to be removed.

*Please remember to email me directly with an electronic copy of all supplemental submittal documents.

Disclaimer: The comments provided are based upon the information received from the applicant. If new or revised information is submitted, additional comments may be provided by Transportation Development.

FROM: Jeanne Wolfenbarger, P.E.
Transportation Development
505-924-3991 or jwolfenbarger@cabq.gov

DATE: October 2, 2019

ACTION:

APPROVED __; DENIED __; DEFERRED __; COMMENTS PROVIDED __; WITHDRAWN __

DELEGATED: _____ TO: (TRANS) (HYD) (WUA) (PRKS) (CE) (PLNG)

DEVELOPMENT REVIEW BOARD

Code Enforcement Comments

AGENDA ITEM NO: 7

DRB Project Number: PR-2019-002811

Application Number: _____

Project Name: _____

Request: Preliminary/Final Plat

COMMENTS:

Code enforcement has no issues with the replatting request. CE thinks a sidewalk should be required

(Comments may continue onto the next page)

Disclaimer: The comments provided are based upon the information received from the applicant/agent. If new or revised information is submitted, additional comments may be provided by Planning.

FROM: Jacobo Martinez, Code Compliance Manager
Planning Department
924-3301 jacobomartinez@cabq.gov

DATE: 10/2/2019

ACTION:

APPROVED ___; DENIED ____; DEFERRED ___; COMMENTS PROVIDED ___; WITHDRAWN ___

DELEGATED: (TRANS) (HYD) (WUA) (PRKS) (PLNG) (CE)

DEVELOPMENT REVIEW BOARD

Agenda

Plaza del Sol Building Basement Hearing Room

October 2, 2019

Kym Dicome..... DRB Chair
Jeanne Wolfenbarger ..... Transportation
Kris Cadena ..... Water Authority
Shahab Biazar .....City Engineer/Hydrology
Jacobo Martinez.....Code Enforcement
Christina Sandoval.....Parks and Rec
Santiago Chavez.....Ex-Officio Member, CAO

Angela Gomez ~ DRB Hearing Monitor

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NOTE: INDIVIDUALS WITH DISABILITIES WHO NEED SPECIAL ASSISTANCE TO PARTICIPATE AT THIS MEETING SHOULD CONTACT ANGELA GOMEZ, PLANNING DEPARTMENT, AT 924-3946. HEARING IMPAIRED USERS MAY CONTACT HER VIA THE NEW MEXICO RELAY NETWORK BY CALLING TOLL-FREE:1-800-659-8331.

NOTE: DEFFERRAL OF CASES WILL BE ANNOUCED AT THE BEGINNING OF THE AGENDA.

NOTE: IF THE APPLICANT/AGENT IS NOT PRESENT WHEN THEIR REQUEST IS CALLED, THEN THE REQUEST MAY BE INDEFINITELY DEFERRED ON A NO SHOW. PER THE DRB RULES OF PROCEDURE, AN INDEFINITE DEFERRAL REQUIRES A RE-APPLICATION AND REPAYMENT OF ALL APPLICATION FEES.

A. Call to Order: 9:00 A.M.
B. Changes and/or Additions to the Agenda

MAJOR CASES

1. Project #PR-2018-001842
(1001049, 1011324)
SD-2019-00166 – VACATION OF PUBLIC EASEMENT
SD-2019-00165 – PRELIMINARY PLAT
VA-2019-00312 - WAIVER

THE GROUP/RON HENSLEY agent(s) for **CLEARBROOK INVESTMENTS INC.** request(s) the aforementioned action(s) for all or a portion of TRACT 4-A of PLAT OF TRACTS 4-A AND 4-B HORIZON VILLAGE, zoned NR-LM, located on HORIZON BLVD NE north of ALAMEDA BLVD NE, containing approximately 2.9201 acre(s). (C-17)

PROPERTY OWNERS: CLEARBROOK INVESTMENTS INC
REQUEST: SUBDIVIDE EXISTING TRACT INTO 30 RESIDENTIAL LOTS

Is an undevelopable area being created adjacent to lot 30? How will the area be accessed for maintenance?

2.	**Project #PR-2019-002651 (1000530)** **SD-2019-00133** – VACATION OF RIGHT OF WAY	**TIERRA WEST LLC** agent(s) for **AIRPORT PARKING** request(s) the aforementioned action(s) for all or a portion of SUNPORT BLVD SE west of UNIVERSITY BLVD SE containing approximately 0.1609 acre(s). (M-15)) *[Deferred from 8/21/19, 9/11/19]* **PROPERTY OWNERS**: R & B LLC **REQUEST**: VACATION OF A PORTION OF SUNPORT BLVD PUBLIC RIGHT-OF-WAY No objection.
3.	**Project #PR-2019-002668** **SI-2019-00251** - SITE PLAN	**JEREMY MECHENBIER/MECHENBIER CONSTRUCTION** request(s) the aforementioned action(s) for all or a portion of LOT 28-A OF REPLAT OF TRACT D UNIT 3 - LOT 28 UNIT 4 - TRACT F-1 & UNPLATTED POR OF INTERSTATE INDUSTRAL TRACT & TRACT A ENVIRCO TRACT (NOW COMPRISING TRACTS D-1 D-2 D-3 & 28A) INTERSTATE INDUSTRIAL TRACT, zoned NR-LM, located at 7101 WASHINGTON ST NE south of HAWKINS ST NE and west of JEFFERSON ST NE, containing approximately 4.9 acre(s). (D-17)) *[Deferred from 8/21/19, 9/11/19, 9/18/19]* **PROPERTY OWNERS**: SECURITY SELF STORAGE INC **REQUEST**: 82,000 SF OFFICE/WAREHOUSE BUILDING No objection.

4. **Project #PR-2019-002294 (1011491)**
SD-2019-00152 – VACATION OF PUBLIC DRAINAGE EASEMENT
SD-2019-00151 – FINAL PLAT
SD-2019-00150 - PRELIMINARY PLAT

TIERRA WEST, LLC agent(s) for **MAVERICK, INC.** request(s) the aforementioned action(s) for all or a portion of TRACT OF LAND IN SEC 9 T10N R3E AND BEING IDENTIFIED AS TRACTS A AND B FROM A PORTION OF AN UNPLATTED 6.5774 ACRE TRACT AS DESCRIBED IN SPECIAL WARRANTY DEED FILED MAY 4, 1978 IN BOOK D5A, PAGES 424-426 LESS AND THAN AND ACCEPTING PORTION OUT TO NMDOT R/W BY STIPULATED JUDGEMENT FILED NOVEMBER 20, 2000 AS DOC 200115519 AND THAT PORTION OF TRACT B OUT TO COA R/W BY QUIT CLAIM DEED FILED APRIL 28, 1980 DOCUMENT, zoned NR-LM, located at 1901 MENAUL BLVD NE east of I-40 and west of UNIVERSITY BLVD NE, containing approximately 6.5008 acre(s). (H-15) *[Deferred from 9/11/19, 9/25/19]*

PROPERTY OWNERS: PALONI JOHN & SUNWEST BANK TRPALONI RVT
REQUEST: PLAT/VACATION FOR A PROPOSED CONVENIENT STORE AND FUELING STATION

No objection.

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5. **Project #PR-2018-001914**
SI-2019-000287- SITE PLAN AMENDMENT

TIERRA WEST LLC agent(s) for **MERIDAN II REDEVELOPMENT** LLC request(s) the aforementioned action(s) for all or a portion of TRACT C BULK LAND PLAT of TRACTS A THRU D MERIDIAN BUSINESS PARK II (A REPLAT OF LOT 3 & TRACTS S-1A, S-2A-2 ATRISCO BUSINESS PARK UNIT 2), zoned NR-BP, located on GALLATIN PLACE NW between LOS VOLCANES RD NW and FORTUNA RD NW, containing approximately 22.4273 acre(s). (J-10) *[Deferred from 9/18/19, 9/25/19]*

PROPERTY OWNERS: MERIDAN II REDEVELOPMENT LLC C/O ANGELA BRUNACINI
REQUEST: MAJOR AMENDMENT TO ADD A 97,000 SF WAREHOUSE/OFFICE BUILDING

No objection.

MINOR CASES

6.	**Project #PR-2019-002762** **SD-2019-00180** – PRELIMINARY/FINAL PLAT	**CSI – CARTESIAN SURVEY'S INC.** agent(s) for **AHMET AND MARTHA TIRYAKI** request(s) the aforementioned action(s) for all or a portion of LOTS 13-20 BLOCK 27 TIJERAS PLACE, zoned MX-T, located on LA VETA DR NE south of ZIA RD NE, containing approximately 0.4596 acre(s). (K-18) (Sketch Plat – 8-28-2019) **PROPERTY OWNERS**: : FIRST SECURITY II MANAGEMENT INC **REQUEST:** CONSOLIDATE 8 LOTS INTO 1 LOT No objection.
7.	**Project #PR-2019-002811** **SD-2019-00158** - PRELIMINARY/FINAL PLAT **VA-2019-00288** - WAIVER	**RICHARD CHAVEZ** request(s) the aforementioned action(s) for all or a portion of LOTS 7-10 BLOCK 44 PEREA ADDITION, zoned R-1A, located at NEC of 15th ST NW and GRANITE AVE NW, containing approximately 0.32 acre(s). (J-13) *[Deferred from 9/11/19, 9/25/19]* **PROPERTY OWNERS:** CHAVEZ RICHARD GERARD **REQUEST**: REPLAT 4 LOTS INTO 2 AND S/W WAIVER No objection.
8.	**Project #PR-2018-001695 (1003445)** **SD-2019-00167** – AMENDMENT TO INFRASTRUCTURE LIST (IL)	**HUITT-ZOLLARS** agent(s) for **NOVUS PROPERTIES LLC – MICHAEL MONTOYA** request(s) the aforementioned action(s) for all or a portion of TRACTS A2B of PLAT OF TRACTS A2A & A2B FOUNTAIN HILLS PLAZA SUBDIVISON AND TRACTS B, C, E & F PLAT OF FOUNTAIN HILLS PLAZA SUBDIVISION, zoned NR-C, located on NUNZIO AV NW, north of PASEO DEL NORTE NW and west of EAGLE RANCH RD NW, containing approximately 4.6606 acre(s). (C-12) *[Deferred from 9/18/19, 9/25/19]* **PROPERTY OWNERS**: NOVUS PROPERTIES **REQUEST**: REMOVAL OF INTERNAL SIDEWALKS FROM INFRASTRUCTURE LIST No objection.

SKETCH PLAT

9. **Project #PR-2019-002899**
PS-2019-00085 – SKETCH PLAT

RAVEN'S WING CONSULTING LLC agent(s) for **MDS INVESTMENTS LLC** request(s) the aforementioned action(s) for all or a portion of: TR O BULK LAND PLAT FOR MESA DEL SOL INNOVATION PARK II (A REPLAT OF TRS 1, 12, 15, 4-A-2, 4-A-3 & 4-A-4 MESA DEL SOL & TRS 2-A, 2-B, 3, 4, 7, 8, 9, 10, 16, 18, 19, 20, 21 LOT O, BLOCK 0000, SUBDIVISION MESA DEL SOL INNOVATION PARK II, zoned PC, located at 2730 EASTMAN CROSSING SE, Albuquerque, NM, containing approximately 7.74 acre(s). (R-16)

PROPERTY OWNERS: MDS INVESTMENTS LLC
REQUEST: INFRASTRCTURE REQUIREMENTS

No comments.

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10. Other Matters:

11. **ACTION SHEET MINUTES:**

Septemeber 25, 2019

ADJOURNED.

DEVELOPMENT REVIEW BOARD - **HYDROLOGY SECTION**

Shahab Biazar, PE, City Engineer | 505-924-3999 sbiazar@cabq.gov

DRB Project Number: 2019-002811 Hearing Date: **10-02-2019**

Project: Lot 7-10, Block 44, Perea Add. Agenda Item No: **7**

☐ Sketch Plat	☒ Minor Preliminary / Final Plat	☐ Preliminary Plat	☐ Final Plat
☐ Temp Sidewalk Deferral	☐ Sidewalk Waiver/Variance	☐ Site Plan for Bldg. Permit ☐ Site Plan for Subdivision	☐ Bulk Land Plat
☐ IIA Extension	☐ DPM Variance	☐ Vacation of Public Easement	☐ Vacation of Public Right of Way

ENGINEERING COMMENTS:

- Need an exhibit showing on-site and offsite drainage patterns. Drainage easement may be required for any runoff entering the site. Refer to City Hydrology website for typical easement note (if any drainage easement is required).

RESOLUTION/COMMENTS:

Parks & Rec:

Water:

Transportation:

Planning:

Code:

☐ APPROVED
☐ DENIED

DELEGATED TO: ☐ TRANS ☐ HYD ☐ WUA ☐ PRKS ☐ PLNG
Delegated For: _____
SIGNED: ☐ I.L. ☐ SPSD ☐ SPBP ☐ FINAL PLAT
DEFERRED TO _____

Albuquerque Bernalillo County
Water Utility Authority

P.O. Box 1293
Albuquerque, NM 87103

Development Review Board (DRB)
Review Comments
Utility Development Section
Reviewer: Kristopher Cadena, P.E.
Phone: 505.289.3301

DRB Project No:	Date:	Item No:
PR-2019-002811	10/02/19	#7
Zone Atlas Page: J-13	**Legal Description: Lot(s)** LOTS 7-10 BLOCK 44 PEREA ADDITION **Location:** NEC of 15th ST NW and GRANITE AVE NW	
Request For: **SD-2019-00158** - PRELIMINARY/FINAL PLAT **VA-2019-00288** - WAIVER		

ABCWUA Comment:

Please provide written description of how the following comments were addressed with the next submittal.

SD-2019-00158 - PRELIMINARY/FINAL PLAT

1. It is recommended that private utility easements should be granted for the existing water and sanitary sewer services that are currently serving the existing residences.
2. The existing sanitary sewer service appears to be shared between the two proposed lots. Each lot shall have separate water and sanitary sewer services. Confirmation of the separation is required prior to plat approval.

VA-2019-00288 – WAIVER

1. No objection to the sidewalk waiver.

UTILITY DEVELOPMENT

DEVELOPMENT REVIEW BOARD

TRANSPORTATION DEVELOPMENT

DRB Project Number: 2019-002811
Project Name: 15th Street and Granite Avenue

AGENDA ITEM NO: 12

SUBJECT: Waiver, Preliminary/Final Plat

ENGINEERING COMMENTS:

1. Sidewalk waiver is not granted along frontage of property. Much of the area already has sidewalk, and a 4-foot sidewalk is needed along the residential streets. Provide a sidewalk exhibit showing dimensions from curb to property line, dimension of sidewalk and setback from the curb. Added infrastructure will be required prior to final plat.

2. On an exhibit, show sight distance triangles at each of the driveway entrances. Add the following note as well: "Landscaping, fencing and signing will not interfere with clear sight requirements. Therefore, signs, walls, trees, and shrubbery between 3 and 8 feet tall (as measured from the gutter pan) will not be acceptable in the clear sight triangle."

3. It appears from the plat that there is fencing within the right-of-way that will need to be removed.

Disclaimer: The comments provided are based upon the information received from the applicant. If new or revised information is submitted, additional comments may be provided by Transportation Development.

FROM: Jeanne Wolfenbarger, P.E.
Transportation Development
505-924-3991 or jwolfenbarger@cabq.gov

DATE: September 11, 2019

ACTION:

APPROVED __; DENIED __; DEFERRED __; COMMENTS PROVIDED __; WITHDRAWN __

DELEGATED: _____ TO: (TRANS) (HYD) (WUA) (PRKS) (CE) (PLNG)

DEVELOPMENT REVIEW BOARD

Code Enforcement Comments

AGENDA ITEM NO: _____12_____

DRB Project Number: __PR-2019-002811_____

Application Number: _____

Project Name: _____

Request: Preliminary/Final Plat

COMMENTS:

Code enforcement has no issues with the replatting request. CE thinks a sidewalk should be required

(Comments may continue onto the next page)

Disclaimer: The comments provided are based upon the information received from the applicant/agent. If new or revised information is submitted, additional comments may be provided by Planning.

FROM: Jacobo Martinez, Code Compliance Manager
Planning Department
924-3301 jacobomartinez@cabq.gov

DATE: 9/11/2019

ACTION:

APPROVED ___; DENIED ____; DEFERRED ___; COMMENTS PROVIDED ___; WITHDRAWN ___

DELEGATED: (TRANS) (HYD) (WUA) (PRKS) (PLNG) (CE)

DEVELOPMENT REVIEW BOARD

Agenda

Plaza del Sol Building Basement Hearing Room

September 11, 2019

Maggie Gould.....Acting DRB Chair
Jeanne Wolfenbarger ..... Transportation
Kris Cadena ..... Water Authority
Shahab Biazar .....City Engineer/Hydrology
Jacobo Martinez.....Code Enforcement
Christina Sandoval.....Parks and Rec
Santiago Chavez.....Ex-Officio Member, CAO

Angela Gomez ~ DRB Hearing Monitor

****

NOTE: INDIVIDUALS WITH DISABILITIES WHO NEED SPECIAL ASSISTANCE TO PARTICIPATE AT THIS MEETING SHOULD CONTACT ANGELA GOMEZ, PLANNING DEPARTMENT, AT 924-3946. HEARING IMPAIRED USERS MAY CONTACT HER VIA THE NEW MEXICO RELAY NETWORK BY CALLING TOLL-FREE:1-800-659-8331.

NOTE: DEFFERRAL OF CASES WILL BE ANNOUCED AT THE BEGINNING OF THE AGENDA.

NOTE: IF THE APPLICANT/AGENT IS NOT PRESENT WHEN THEIR REQUEST IS CALLED, THEN THE REQUEST MAY BE INDEFINITELY DEFERRED ON A NO SHOW. PER THE DRB RULES OF PROCEDURE, AN INDEFINITE DEFERRAL REQUIRES A RE-APPLICATION AND REPAYMENT OF ALL APPLICATION FEES.

A. Call to Order: 9:00 A.M.
B. Changes and/or Additions to the Agenda

MAJOR CASES

1. Project #PR-2019-002496
SI-2019-00180 – SITE PLAN
(to be heard with Item # 11/SD-2019-00161)

CONSENSUS PLANNING, INC. agent(s) for **BELLA TESORO LLC** request(s) the aforementioned action(s) for all or a portion of LOTS 1--4 BLOCK 4 TRACT 3 UNIT 3 NORTH ALBUQUERQUE ACRES, zoned MX-L, located at the SEC of BARSTOW ST NE AND ALAMEDA BLVD NE, containing approximately 3.38 acre(s). (C-19 & 20) *[Deferred from 7/17/19, 8/14/19]*

PROPERTY OWNERS: MATONI GIUSEPPE & ANNA TRUSTEES MANTONI FAMILY TRUST, LINDBORG PHILIP L
REQUEST: MULTI-FAMILY RESIDENTIAL DEVELOPMENT

No objection.

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2. **Project #PR-2019-002294**
(1011491)
SD-2019-00152 – VACATION OF PUBLIC DRAINAGE EASEMENT
SD-2019-00151 – FINAL PLAT
SD-2019-00150 - PRELIMINARY PLAT

TIERRA WEST, LLC agent(s) for **MAVERICK, INC.** request(s) the aforementioned action(s) for all or a portion of TRACT OF LAND IN SEC 9 T10N R3E AND BEING IDENTIFIED AS TRACTS A AND B FROM A PORTION OF AN UNPLATTED 6.5774 ACRE TRACT AS DESCRIBED IN SPECIAL WARRANTY DEED FILED MAY 4, 1978 IN BOOK D5A, PAGES 424-426 LESS AND THAN AND ACCEPTING PORTION OUT TO NMDOT R/W BY STIPULATED JUDGEMENT FILED NOVEMBER 20, 2000 AS DOC 200115519 AND THAT PORTION OF TRACT B OUT TO COA R/W BY QUIT CLAIM DEED FILED APRIL 28, 1980 DOCUMENT, zoned NR-LM, located at 1901 MENAUL BLVD NE east of I-40 and west of UNIVERSITY BLVD NE, containing approximately 6.5008 acre(s). (H-15)

PROPERTY OWNERS: PALONI JOHN & SUNWEST BANK TRPALONI RVT
REQUEST: PLAT/VACATION FOR A PROPOSED CONVENIENT STORE AND FUELING STATION

No objection.

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3. **Project #PR-2019-002770**
(PR-2019-001345)
SI-2019-00279 – SITE PLAN

DEKKER, PERICH, SABATINI agent(s) for **DBG PROPERTIES LLC** request(s) the aforementioned action(s) for all or a portion of TRACT RR-3-A-1 WESTLAND SOUTH TRACTS RR-3-A-1 AND RR-3-A-2, zoned R-ML, located south of DENNIS CHAVEZ BLVD SW and west of 98th ST SW, containing approximately 5.423 acre(s). (P-09)

PROPERTY OWNERS: DBG PROPERTIES LLC
REQUEST: 156 UNIT MULITFAMILY DEVELOPMENT

Is there an infrastructure list with this request? Trail might be needed on Dennis Chavez Blvd.

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4. **Project #PR-2019-002573**
SI-2019-00190 – SITE PLAN-DRB
VA-2019-00217 - WAIVER
(to be heard with Item #10/SI-2019-00160)

GARCIA/KRAEMER & ASSOCIATES agent(s) for **JOHN JONES** request(s) the aforementioned action(s) for all or a portion of LOT 5 BLOCK 17 TRACT 1 UNIT 3 A UNIT B NORTH ALBUQUERQUE ACRES, zoned PD, located at 8500 GLENDALE AVE NE, east of BARSTOW ST NE and west of VENTURA ST NE, containing approximately 0.8864 acre(s). (B-20) *[Deferred from 7/24/19, 7/31/19, 8/7/19, 8/14/19]*

PROPERTY OWNERS: JONES MARK JOHN
REQUEST: SF HOME WITH MAJOR INFRASTRUCTURE

No objection.

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5. **Project #PR-2019-002651 (1000530)**
SD-2019-00133 – VACATION OF RIGHT OF WAY

TIERRA WEST LLC agent(s) for **AIRPORT PARKING** request(s) the aforementioned action(s) for all or a portion of SUNPORT BLVD SE west of UNIVERSITY BLVD SE containing approximately 0.1609 acre(s). (M-15)) *[Deferred from 8/21/19]*

PROPERTY OWNERS: R & B LLC
REQUEST: VACATION OF A PORTION OF SUNPORT BLVD PUBLIC RIGHT-OF-WAY

No objection.

---

6. **Project #PR-2019-002668**
SI-2019-00251 - SITE PLAN

JEREMY MECHENBIER/MECHENBIER CONSTRUCTION request(s) the aforementioned action(s) for all or a portion of LOT 28-A OF REPLAT OF TRACT D UNIT 3 - LOT 28 UNIT 4 - TRACT F-1 & UNPLATTED POR OF INTERSTATE INDUSTRAL TRACT & TRACT A ENVIRCO TRACT (NOW COMPRISING TRACTS D-1 D-2 D-3 & 28A) INTERSTATE INDUSTRIAL TRACT, zoned NR-LM, located at 7101 WASHINGTON ST NE south of HAWKINS ST NE and west of JEFFERSON ST NE, containing approximately 4.9 acre(s). (D-17)) *[Deferred from 8/21/19]*

PROPERTY OWNERS: SECURITY SELF STORAGE INC
REQUEST: 82,000 SF OFFICE/WAREHOUSE BUILDING

No objection.

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7. **Project #PR-2019-002677**
SI-2019-00252 – SITE PLAN

MODULUS ARCHITECTS, INC. agent(s) for **CARLISLE ASSOCIATES LP** request(s) the aforementioned action(s) for all or a portion of TRACTS A & B CARLISLE & INDIAN SCHOOL SUBDIVISION BEING A PART OF BLOCKS 16 & 17 AND A PART OF BLOCKS 14 & 15 NETHERWOOD PARK SECOND FILING EXCLUDING PORTIONS OUT TO R/W, zoned MX-M, located at the NEC of INDIAN SCHOOL RD NE and CARLISLE BLVD NE, containing approximately 10.2 acre(s). (H-16) *[Deferred from 8/21/19]*

PROPERTY OWNERS: CARLISLE ASSOCIATES C/O ROSEN ASSOC MGMT GROUP
REQUEST: 120,000+ SF RETAIL DEVELOPMENT

No objection.

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8. **Project #PR-2019-002661 (1000575)**
SD-2019-00134 – VACATION OF PUBLIC EASEMENT
SD-2019-00135 – VACATION OF PUBLIC EASEMENT
SD-2019-00136 – VACATION OF PUBLIC EASEMENT
SD-2019-00137 – VACATION OF PUBLIC EASEMENT
SD-2019-00138 – VACATION OF PRIVATE EASEMENT
SD-2019-00139 – PRELIMINARY/FINAL PLAT
SD-2019-00140 – PRELIMINARY/FINAL PLAT

BOHANNAN HUSTON INC. agent(s) for **PRESBYTERIAN HEALTHCARE SERVICES** request(s) the aforementioned action(s) for all or a portion of LOTS 1-A THRU 4-A AND 5-9 PRESBYTERIAN HOSPITAL-MAIN CAMPUS PHASE ONE, zoned MX-H, located at 1100 CENTRAL AV SE east of I-25 and north of LEAD AVE SE, containing approximately 11.9575 acre(s). (K-15)*[Deferred from 7/31/19, 8/21/19, 8/28/19]*

PROPERTY OWNERS: PRESBYTERIAN HEALTHCARE SERVICES
REQUEST: VACATIONS OF VARIOUS EASEMENTS AND REPLAT

No objection.

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9. **Project #PR-2019-002423**
SI-2019-00130 - SITE PLAN

SCOTT ANDERSON agent(s) for **JIM ACHEN** request(s) the aforementioned action(s) for all or a portion of LOT 11, BLOCK 29, NORTH ALBUQUERQUE ACRES TRACT A UNIT B, zoned NR-BP, located at 6504 ALAMEDA BLVD NE, west of LOUISIANA BLVD NE, containing approximately 0.89acre(s). (C-18) *[Deferred from 6/12/19, 7/10/19, 7/24/19, 8/21/19, 8/28/19]*

PROPERTY OWNERS: ACHEN JAMES R TRUSTEE ACHEN FAMILY RVT
REQUEST: SITE PLAN FOR A 8,125 SF WAREHOUSE/OFFICE BUILDING

No objection.

MINOR CASES

---

10. **Project #PR-2019-002573**
SI-2019-00160 – PRELIMINARY/FINAL PLAT

GARCIA/KRAEMER & ASSOCIATES agent(s) for **JOHN JONES** request(s) the aforementioned action(s) for all or a portion of LOT 5 BLOCK 17 TRACT 1 UNIT 3 A UNIT B NORTH ALBUQUERQUE ACRES, zoned PD, located at 8500 GLENDALE AVE NE, east of BARSTOW ST NE and west of VENTURA ST NE, containing approximately 0.8864 acre(s). (B-20)

PROPERTY OWNERS: JONES JOHN MARK
REQUEST: RE-PLAT TO DEDICATE ALAMEDA R/W AND GRANT EASEMENTS

No objection.

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11. Project #PR-2019-002496
SD-2019-00161 - PRELIMINARY/FINAL PLAT

CONSENSUS PLANNING agent(s) for **PHIL LINDBERG** request(s) the aforementioned action(s) for all or a portion of LOTS 1--4 BLOCK 4 TRACT 3 UNIT 3 NORTH ALBUQUERQUE ACRES, zoned MX-L, located at the SEC of BARSTOW ST NE and ALAMEDA BLVD NE, containing approximately 3.38 acre(s). (C-19 & 20)

PROPERTY OWNERS: MATONI GIUSEPPE & ANNA TRUSTEES MANTONI FAMILY TRUST, LINDBORG PHILIP L
REQUEST: REPLAT 4 INTO 1, DEDICATE R/W AND GRANT EASEMENTS

No objection.

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12. Project #PR-2019-002811
SD-2019-00158 - PRELIMINARY/FINAL PLAT
VA-2019-00288 - WAIVER

RICHARD CHAVEZ request(s) the aforementioned action(s) for all or a portion of LOTS 7-10 BLOCK 44 PEREA ADDITION, zoned R-1A, located at NEC of 15th ST NW and GRANITE AVE NW, containing approximately 0.32 acre(s). (J-13)

PROPERTY OWNERS: CHAVEZ RICHARD GERARD
REQUEST: REPLAT 4 LOTS INTO 2 AND S/W WAIVER

No objection.

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13. Project #PR-2019-002686
SD-2019-00144 – PRELIMINARY/FINAL PLAT

TIERRA WEST, LLC agent(s) for **LUBRICAR PROPERTIES II LC** request(s) the aforementioned action(s) for all or a portion of LOTS 1-3 AND WEST 38 FEET OF LOT 4 BLOCK 8 SOMBRA DEL MONTE, zoned MX-M, located on MENAUL BLVD NE west of WYOMING BLVD NE, containing approximately 7.9 acre(s). (H-19)*[Deferred from 8/7/19, 8/21/19}*

PROPERTY OWNERS: VIGA MICHAEL & MARILYN DORIS TRUSTEES & LUBRICAR PROPERTIES
REQUEST: MINOR PRELIMINARY/FINAL PLAT

No objection.

14.	**Project #PR-2018-001225** **SD-2019-00155** – PRELIMINARY/FINAL PLAT	**ARCH + PLAN LAND USE CONSULTANTS** agent(s) for **KIRK AND JOYCE WESSELINK** request(s) the aforementioned action(s) for all or a portion of TRACT 493, TOWN OF ATRISCO GRANT UNIT 7, zoned R-1C, located on 1119 86TH ST SW between SAGE RD SW and SAPPHIRE ST SW containing approximately 4.89 acre(s). (M-9) *(Sketch Plat June 13, 2018)* *[Deferred from 8/28/19]* **PROPERTY OWNERS**: WESSELINK KIRK A & JOYCE D **REQUEST**: SUBDIVIDE 1 LOT INTO 5 LOTS No objection.
15.	**Project #PR-2018-001457** **SD-2019-00154** – PRELIMINARY/FINAL PLAT	**ARCH + PLAN LAND USE CONSULTANTS** agent(s) for **CARL HAWKINS** request(s) the aforementioned action(s) for all or a portion of LOT 13-A PLAT OF LOTS 12-A & 13-A MAJOR ACRES, zoned R-1D, located at 924 MAJOR AV NW east of 12th St NW and south of CANDELARIA RD NW, containing approximately 0.8152 acre(s). (G-14) *(Sketch Plat August 22, 2018)* *[Deferred from 8/28/19]* **PROPERTY OWNERS**: HAWKINS CARL P **REQUEST**: CREATE 2 LOTS FROM 1 EXISTING LOT No objection.
16.	**Project #PR-2018-001541** **SD-2019-00130** – PRELIMINARY/FINAL PLAT	**ALDRICH LAND SURVEYING** agent(s) for **ALAMO CENTER LLC** request(s) the aforementioned action(s) for all or a portion of TRACTS E-1 ALAMEDA WEST, zoned NR-C, located at 10131 COORS BLVD NW, north of SEVEN BAR LOOP NW and south of OLD AIRPORT AV NW containing approximately 11.6063 acre(s). (B-14)*[Deferred from 7/24/9, 8/7/19, 8/21/19, 8/28/19]* **PROPERTY OWNERS**: ALAMO CENTER LLC **REQUEST**: DIVIDE 1 TRACT INTO 2 TRACTS No objection.

17. Project #PR-2018-001670
VA-2019-00267 – WAIVER
VA-2019-00268 - WAIVER
SI-2019-00181 - SITE PLAN

CONSENSUS PLANNING INC. agent(s) for **AMERCO REAL ESTATE COMPANY** request(s) the aforementioned action(s) for all or a portion of TRACT C OF ALEXANDER CENTER, zoned MX-M, located at 4TH STREET NW AND CUTLER AVE NW, containing approximately 2.5277 acre(s). (H-14)*{site plan deferred from 7/17/19, 8/21/19}*

PROPERTY OWNERS: AMERCO REAL ESTATE COMPANY
REQUEST: SELF STORAGE FACILITY

No objection.

SKETCH PLAT

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18. Project #PR-2019-002791
PS-2019-00079 – SKETCH PLAT

SZU-HAN HO request(s) the aforementioned action(s) for all or a portion of LOTS 13, 14 & 15 BLOCK 12 ALBRIGHT & MOORE ADDITION, zoned R-1A, located at 1402 LOS TOMASES NW, north of KINLEY AVE NW, containing approximately 0.23 acre(s). (J-14)

PROPERTY OWNERS: HO SZU-HAN
REQUEST: LOT LINE ELIMINATION

No comment.

Other Matters:

20. ACTION SHEET MINUTES: August 28, 2019

ADJOURNED.

DEVELOPMENT REVIEW BOARD - **HYDROLOGY SECTION**

Shahab Biazar, PE, City Engineer | 505-924-3999 sbiazar@cabq.gov

DRB Project Number: 2019-002811 Hearing Date: **9-11-2019**

Project: Lot 7-10, Block 44, Perea Add. Agenda Item No: **12**

☐ Sketch Plat	☒ Minor Preliminary / Final Plat	☐ Preliminary Plat	☐ Final Plat
☐ Temp Sidewalk Deferral	☐ Sidewalk Waiver/Variance	☐ Site Plan for Bldg. Permit ☐ Site Plan for Subdivision	☐ Bulk Land Plat
☐ IIA Extension	☐ DPM Variance	☐ Vacation of Public Easement	☐ Vacation of Public Right of Way

ENGINEERING COMMENTS:

- Need an exhibit showing on-site and offsite drainage patterns. Drainage easement may be required for any runoff entering the site. Refer to City Hydrology website for typical easement note (if any drainage easement is required).

RESOLUTION/COMMENTS:

Parks & Rec:

Water:

Transportation:

Planning:

Code:

☐ APPROVED
☐ DENIED

DELEGATED TO: ☐ TRANS ☐ HYD ☐ WUA ☐ PRKS ☐ PLNG
Delegated For: _____
SIGNED: ☐ I.L. ☐ SPSD ☐ SPBP ☐ FINAL PLAT
DEFERRED TO _____

DEVELOPMENT REVIEW BOARD

Planning Dept. - Minor Case Comments

HEARING DATE/AGENDA ITEM NO. September 11 2019, 12

Project Number: PR-2019-002211
Application Number: SD-2019-00158, VA-2019-00288

Project Name: Chavez replat

Request: Prelim/final plat, Sidewalk waiver

COMMENTS:

1. Please use this number, PR-2019-002811 for all future requests
2. See Code Enforcement comments for Contextual lot Standards
3. There is existing sidewalk along Granite Ave, NE to the east of the property
4. Plat is missing City Surveyor signature
5. Plat is missing a legal description
6. Plat is missing Solar Access note
7. Plat is missing owner signature
8. Plat is missing surveyors signature
9. Signature block is missing line for Code Enforcement

Disclaimer: The comments provided are based upon the information received from the applicant/agent. If new or revised information is submitted, additional comments may be provided by Planning.

FROM: Maggie Gould
Planning Department
924-3910 mgould@cabq.gov

DATE: September 9, 2019

Albuquerque Bernalillo County
Water Utility Authority

P.O. Box 1293
Albuquerque, NM 87103

Development Review Board (DRB)
Review Comments
Utility Development Section
Reviewer: Kristopher Cadena, P.E.
Phone: 505.289.3301

DRB Project No:	Date:	Item No:
PR-2019-002811	09/11/19	#12
Zone Atlas Page: J-13	Legal Description: Lot(s) LOTS 7-10 BLOCK 44 PEREA ADDITION Location: NEC of 15th ST NW and GRANITE AVE NW	
Request For: SD-2019-00158 - PRELIMINARY/FINAL PLAT VA-2019-00288 - WAIVER		

ABCWUA Comment:

Please provide written description of how the following comments were addressed with the next submittal.

SD-2019-00158 - PRELIMINARY/FINAL PLAT

1. It is recommended that private utility easements should be granted for the existing water and sanitary sewer services that are currently serving the existing residences.
2. The existing sanitary sewer service appears to be shared between the two proposed lots. Each lot shall have separate water and sanitary sewer services. Confirmation of the separation is required prior to plat approval.

VA-2019-00288 – WAIVER

1. No objection

UTILITY DEVELOPMENT

CITY OF ALBUQUERQUE

Planning Department
Brennon Williams, Interim Planning Director
Development Review Division
600 2nd Street NW – 3rd Floor
Albuquerque, NM 87102

NOTICE OF APPEAL

November 13, 2019

TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on November 12, 2019. You will receive a Notice of Hearing as to when the appeal will be heard by the **Land Use Hearing Officer.** If you have any questions regarding the appeal please contact Alfredo Salas, Planning Administrative Assistant at (505) 924-3370.

Please refer to the enclosed excerpt from the City Council Rules of Procedure for Land Use Hearing Officer Rules of Procedure and Qualifications for any questions you may have regarding the Land Use Hearing Officer rules of procedure.

Any questions you might have regarding Land Use Hearing Officer policy or procedures that are not answered in the enclosed rules can be answered by Crystal Ortega, Clerk to the Council, (505) 768-3100.

CITY COUNCIL APPEAL NUMBER: AC-19-18
PLANNING DEPARTMENT CASE FILE NUMBER:
PR-2019-002811, SI-2019-00158, VA-2019-00288, VA-2019-00416

APPLICANT: Richard Chavez
906 15th Street NW
Albuquerque NM, 87104

cc: Crystal Ortega, City Council, City county bldg. 9th floor
Kevin Morrow/Legal Department, City Hall, 4th Floor-
DRB File

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

DEVELOPMENT REVIEW BOARD

Agenda

Plaza del Sol Building Basement Hearing Room

October 30, 2019

Jolene Wolfley ..... DRB Chair
Jeanne Wolfenbarger ..... Transportation
Kris Cadena ..... Water Authority
Shahab Biazar .....City Engineer/Hydrology
Jacobo Martinez.....Code Enforcement
Cheryl Somerfeldt.....Parks and Rec

Angela Gomez ~ DRB Hearing Monitor

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NOTE: INDIVIDUALS WITH DISABILITIES WHO NEED SPECIAL ASSISTANCE TO PARTICIPATE AT THIS MEETING SHOULD CONTACT ANGELA GOMEZ, PLANNING DEPARTMENT, AT 924-3946. HEARING IMPAIRED USERS MAY CONTACT HER VIA THE NEW MEXICO RELAY NETWORK BY CALLING TOLL-FREE:1-800-659-8331.

NOTE: DEFFERRAL OF CASES WILL BE ANNOUCED AT THE BEGINNING OF THE AGENDA.

NOTE: IF THE APPLICANT/AGENT IS NOT PRESENT WHEN THEIR REQUEST IS CALLED, THEN THE REQUEST MAY BE INDEFINITELY DEFERRED ON A NO SHOW. PER THE DRB RULES OF PROCEDURE, AN INDEFINITE DEFERRAL REQUIRES A RE-APPLICATION AND REPAYMENT OF ALL APPLICATION FEES.

A. Call to Order: 9:00 A.M.
B. Changes and/or Additions to the Agenda

MAJOR CASES

1. **Project # PR-2019-002947**
SD-2019-00184 – EXTENSION OF INFRASTRUCTURE IMPROVEMENTS AGREEMENT

PULTE HOMES OF NEW MEXICO request(s) the aforementioned action(s) for all or a portion of: DEL WEBB @ MIREHAVEN, UNIT 2B, zoned PC, located SOUTHEAST of the PETROGLYPH NATIONAL MONUMENT and NORTH of the MIREHAVEN ARROYO, containing approximately 35.8770 acre(s). (H-8)

PROPERTY OWNERS: PULTE HOMES OF NEW MEXICO
REQUEST: EXTENSION OF INFRASTRUCTURE IMPROVEMENTS AGREEMENT

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8. **Project # PR-2019-002029**
SD-2019-00191 - PRELIMINARY/FINAL PLAT

ARCH + PLAN LAND USE CONSULTANTS agent(s) for **MARY ANNE PILS** request(s) the aforementioned action(s) for all or a portion of: LOT(S) 3-A & 4-A, BLOCK 4, SANTA FE ADDITION, zoned R-1A, located at 805 SANTA FE between 8th STREET and 9th STREET, containing approximately 0.1654 acre(s). (K-13)

PROPERTY OWNERS: MARYANNE PILS
REQUEST: LOT LINE RE-ALIGNMENT

DEFERRED TO NOVEMBER 20TH, 2019.

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9. **Project #PR-2018-001225**
SD-2019-00155 – PRELIMINARY/FINAL PLAT

ARCH + PLAN LAND USE CONSULTANTS agent(s) for **KIRK AND JOYCE WESSELINK** request(s) the aforementioned action(s) for all or a portion of TRACT 493, TOWN OF ATRISCO GRANT UNIT 7, zoned R-1C, located on 1119 86TH ST SW between SAGE RD SW and SAPPHIRE ST SW containing approximately 4.89 acre(s). (M-9) *[Deferred from 8/28/19, 9/11/19]*

PROPERTY OWNERS: WESSELINK KIRK A & JOYCE D
REQUEST: SUBDIVIDE 1 LOT INTO 5 LOTS

DEFERRED TO DECEMBER 4TH, 2019.

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10. **Project #PR-2019-002811**
SD-2019-00158 - PRELIMINARY/FINAL PLAT
VA-2019-00288 - WAIVER

RICHARD CHAVEZ request(s) the aforementioned action(s) for all or a portion of LOTS 7-10 BLOCK 44 PEREA ADDITION, zoned R-1A, located at NEC of 15th ST NW and GRANITE AVE NW, containing approximately 0.32 acre(s). (J-13) *[Deferred from 9/11/19, 9/25/19, 10/2/19, 10/23/19]*

PROPERTY OWNERS: CHAVEZ RICHARD GERARD
REQUEST: REPLAT 4 LOTS INTO 2 AND S/W WAIVER

THE PRELIMINARY/FINAL PLAT HAS BEEN DEFERRED TO NOVEMBER 20TH, 2019.

THE WAIVER HAS BEEN DENIED.

DEVELOPMENT REVIEW BOARD

Agenda

Plaza del Sol Building Basement Hearing Room

October 23, 2019

Maggie Gould..... Acting DRB Chair
Jeanne Wolfenbarger ..... Transportation
Kris Cadena ..... Water Authority
Shahab Biazar .....City Engineer/Hydrology
Jacobo Martinez.....Code Enforcement
Cheryl Somerfeldt.....Parks and Rec

Angela Gomez ~ DRB Hearing Monitor

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1. **Project #PR-2019-002677**
SI-2019-00252 – SITE PLAN

MODULUS ARCHITECTS, INC. agent(s) for **CARLISLE ASSOCIATES LP** request(s) the aforementioned action(s) for all or a portion of TRACTS A & B CARLISLE & INDIAN SCHOOL SUBDIVISION BEING A PART OF BLOCKS 16 & 17 AND A PART OF BLOCKS 14 & 15 NETHERWOOD PARK SECOND FILING EXCLUDING PORTIONS OUT TO R/W, zoned MX-M, located at the NEC of INDIAN SCHOOL RD NE and CARLISLE BLVD NE, containing approximately 10.2 acre(s). (H-16) *[Deferred from 8/21/19, 8/28/19, 9/18/19]*

PROPERTY OWNERS: CARLISLE ASSOCIATES C/O ROSEN ASSOC MGMT GROUP
REQUEST: 120,000+ SF RETAIL DEVELOPMENT

DEFERRED TO OCTOBER 30TH, 2019

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5. **Project #PR-2018-001198**
SI-2019-00348 – EPC SITE PLAN FINAL SIGN-OFF

CONSENSUS PLANNING agent(s) for **PV TRAILS ALBUQUERQUE LLC** request(s) the aforementioned action(s) for all or a portion of TRACTS 1 AND TRACT 2, BULK LAND PLAT OF THE TRAILS, UNIT 3A, zoned R-1B and R1-D, located on WOODMONT AVE NW, between the PETROGLYPH NATIONAL MONUMENT and PASEO DEL NORTE, containing approximately 20.5 acre(s). (C-8)

PROPERTY OWNERS: PV TRAILS ALBUQUERQUE LLC
REQUEST: EPC SITE PLAN SIGN-OFF (SI-2018-00283)

DEFERRED TO OCTOBER 30TH, 2019.

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6. **Project #PR-2019-002161**
SD-2019-00186 – PRELIMINARY/FINAL PLAT

CSI – CARTESIAN SURVEYS INC. agent(s) for **ALBUQUERQUE INDIAN CENTER** request(s) the aforementioned action(s) for all or a portion of LOTS 5-14, BLOCK 3 OF UNITY ADDITION SUBDIVISION, zoned MX-L, located on ZUNI RD SE between TENNESSEE ST SE AND TEXAS ST SE, containing approximately 1.5450 acre(s). (K-19)

PROPERTY OWNERS: ALBUQUERQUE INDIAN CENTER
REQUEST: SUBDIVIDE 10 EXISTING LOTS INTO 2 NEW LOTS/GRANT EASEMENT

DEFERRED TO NOVEMBER 6TH, 2019.

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7. **Project #PR-2019-002811**
SD-2019-00158 - PRELIMINARY/FINAL PLAT
VA-2019-00288 - WAIVER

RICHARD CHAVEZ request(s) the aforementioned action(s) for all or a portion of LOTS 7-10 BLOCK 44 PEREA ADDITION, zoned R-1A, located at NEC of 15th ST NW and GRANITE AVE NW, containing approximately 0.32 acre(s). (J-13) *[Deferred from 9/11/19, 9/25/19, 10/2/19]*

PROPERTY OWNERS: CHAVEZ RICHARD GERARD
REQUEST: REPLAT 4 LOTS INTO 2 AND S/W WAIVER

DEFERRED TO OCTOBER 30TH, 2019.

DEVELOPMENT REVIEW BOARD

Agenda

Plaza del Sol Building Basement Hearing Room

October 2, 2019

Maggie Gould.....Acting DRB Chair
Jeanne Wolfenbarger ..... Transportation
Kris Cadena ..... Water Authority
Shahab Biazar .....City Engineer/Hydrology
Jacobo Martinez.....Code Enforcement
Christina Sandoval.....Parks and Rec
Santiago Chavez.....Ex-Officio Member, CAO

Angela Gomez ~ DRB Hearing Monitor

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NOTE: INDIVIDUALS WITH DISABILITIES WHO NEED SPECIAL ASSISTANCE TO PARTICIPATE AT THIS MEETING SHOULD CONTACT ANGELA GOMEZ, PLANNING DEPARTMENT, AT 924-3946. HEARING IMPAIRED USERS MAY CONTACT HER VIA THE NEW MEXICO RELAY NETWORK BY CALLING TOLL-FREE:1-800-659-8331.

NOTE: DEFFERRAL OF CASES WILL BE ANNOUCED AT THE BEGINNING OF THE AGENDA.

NOTE: IF THE APPLICANT/AGENT IS NOT PRESENT WHEN THEIR REQUEST IS CALLED, THEN THE REQUEST MAY BE INDEFINITELY DEFERRED ON A NO SHOW. PER THE DRB RULES OF PROCEDURE, AN INDEFINITE DEFERRAL REQUIRES A RE-APPLICATION AND REPAYMENT OF ALL APPLICATION FEES.

A. Call to Order: 9:00 A.M.
B. Changes and/or Additions to the Agenda

MAJOR CASES

1. Project #PR-2018-001842
(1001049, 1011324)
SD-2019-00166 – VACATION OF PUBLIC EASEMENT
SD-2019-00165 – PRELIMINARY PLAT
VA-2019-00312 - WAIVER

THE GROUP/RON HENSLEY agent(s) for **CLEARBROOK INVESTMENTS INC.** request(s) the aforementioned action(s) for all or a portion of TRACT 4-A of PLAT OF TRACTS 4-A AND 4-B HORIZON VILLAGE, zoned R-ML, located on HORIZON BLVD NE north of ALAMEDA BLVD NE, containing approximately 2.9201 acre(s). (C-17)

PROPERTY OWNERS: CLEARBROOK INVESTMENTS INC
REQUEST: SUBDIVIDE EXISTING TRACT INTO 30 RESIDENTIAL LOTS

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5. **Project #PR-2018-001914**
SI-2019-000287- SITE PLAN AMENDMENT

TIERRA WEST LLC agent(s) for **MERIDAN II REDEVELOPMENT** LLC request(s) the aforementioned action(s) for all or a portion of TRACT C BULK LAND PLAT of TRACTS A THRU D MERIDIAN BUSINESS PARK II (A REPLAT OF LOT 3 & TRACTS S-1A, S-2A-2 ATRISCO BUSINESS PARK UNIT 2), zoned NR-BP, located on GALLATIN PLACE NW between LOS VOLCANES RD NW and FORTUNA RD NW, containing approximately 22.4273 acre(s). (J-10) *[Deferred from 9/18/19, 9/25/19]*

PROPERTY OWNERS: MERIDAN II REDEVELOPMENT LLC C/O ANGELA BRUNACINI
REQUEST: MAJOR AMENDMENT TO ADD A 97,000 SF WARE-HOUSE/OFFICE BUILDING

IN THE MATTER OF THE AFOREMENTIONED APPLICATION, BEING IN COMPLIANCE WITH ALL APPLICABLE REQUIREMENTS OF THE DPM AND THE IDO, THE DRB HAS *APPROVED* THE AMENDED SITE PLAN.

MINOR CASES

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6. **Project #PR-2019-002762**
SD-2019-00180 – PRELIMINARY/FINAL PLAT

CSI – CARTESIAN SURVEY'S INC. agent(s) for **AHMET AND MARTHA TIRYAKI** request(s) the aforementioned action(s) for all or a portion of LOTS 13-20 BLOCK 27 TIJERAS PLACE, zoned MX-T, located on LA VETA DR NE south of ZIA RD NE, containing approximately 0.4596 acre(s). (K-18)
(Sketch Plat – 8-28-2019)

PROPERTY OWNERS: FIRST SECURITY II MANAGEMENT INC
REQUEST: CONSOLIDATE 8 LOTS INTO 1 LOT

IN THE MATTER OF THE AFOREMENTIONED APPLICATION, BEING IN COMPLIANCE WITH ALL APPLICABLE REQUIREMENTS OF THE DPM AND THE IDO, THE DRB HAS *APPROVED* THE PRELIMINARY/FINAL PLAT. FINAL SIGN OFF IS DELEGATED TO: PLANNING FOR AGIS DXF.

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7. **Project #PR-2019-002811**
SD-2019-00158 - PRELIMINARY/FINAL PLAT
VA-2019-00288 - WAIVER

RICHARD CHAVEZ request(s) the aforementioned action(s) for all or a portion of LOTS 7-10 BLOCK 44 PEREA ADDITION, zoned R-1A, located at NEC of 15th ST NW and GRANITE AVE NW, containing approximately 0.32 acre(s). (J-13) *[Deferred from 9/11/19, 9/25/19]*

PROPERTY OWNERS: CHAVEZ RICHARD GERARD
REQUEST: REPLAT 4 LOTS INTO 2 AND S/W WAIVER

DEFERRED TO OCTOBER 23RD, 2019

DEVELOPMENT REVIEW BOARD

Agenda

Plaza del Sol Building Basement Hearing Room

September 11, 2019

Maggie Gould.....Acting DRB Chair
Jeanne Wolfenbarger ..... Transportation
Kris Cadena ..... Water Authority
Shahab Biazar .....City Engineer/Hydrology
Jacobo Martinez.....Code Enforcement
Christina Sandoval.....Parks and Rec
Santiago Chavez.....Ex-Officio Member, CAO

Angela Gomez ~ DRB Hearing Monitor

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NOTE: INDIVIDUALS WITH DISABILITIES WHO NEED SPECIAL ASSISTANCE TO PARTICIPATE AT THIS MEETING SHOULD CONTACT ANGELA GOMEZ, PLANNING DEPARTMENT, AT 924-3946. HEARING IMPAIRED USERS MAY CONTACT HER VIA THE NEW MEXICO RELAY NETWORK BY CALLING TOLL-FREE:1-800-659-8331.

NOTE: DEFFERRAL OF CASES WILL BE ANNOUCED AT THE BEGINNING OF THE AGENDA.

NOTE: IF THE APPLICANT/AGENT IS NOT PRESENT WHEN THEIR REQUEST IS CALLED, THEN THE REQUEST MAY BE INDEFINITELY DEFERRED ON A NO SHOW. PER THE DRB RULES OF PROCEDURE, AN INDEFINITE DEFERRAL REQUIRES A RE-APPLICATION AND REPAYMENT OF ALL APPLICATION FEES.

A. Call to Order: 9:00 A.M.
B. Changes and/or Additions to the Agenda

MAJOR CASES

1. Project #PR-2019-002496
SI-2019-00180 – SITE PLAN
(to be heard with Item # 11/SD-2019-00161)

CONSENSUS PLANNING, INC. agent(s) for **BELLA TESORO LLC** request(s) the aforementioned action(s) for all or a portion of LOTS 1--4 BLOCK 4 TRACT 3 UNIT 3 NORTH ALBUQUERQUE ACRES, zoned MX-L, located at the SEC of BARSTOW ST NE AND ALAMEDA BLVD NE, containing approximately 3.38 acre(s). (C-19 & 20) *[Deferred from 7/17/19, 8/14/19]*

PROPERTY OWNERS: MATONI GIUSEPPE & ANNA TRUSTEES MANTONI FAMILY TRUST, LINDBORG PHILIP L
REQUEST: MULTI-FAMILY RESIDENTIAL DEVELOPMENT

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11. Project #PR-2019-002496
SD-2019-00161 - PRELIMINARY/FINAL PLAT

CONSENSUS PLANNING agent(s) for **PHIL LINDBERG** request(s) the aforementioned action(s) for all or a portion of LOTS 1--4 BLOCK 4 TRACT 3 UNIT 3 NORTH ALBUQUERQUE ACRES, zoned MX-L, located at the SEC of BARSTOW ST NE and ALAMEDA BLVD NE, containing approximately 3.38 acre(s). (C-19 & 20)

PROPERTY OWNERS: MATONI GIUSEPPE & ANNA TRUSTEES MANTONI FAMILY TRUST, LINDBORG PHILIP L
REQUEST: REPLAT 4 INTO 1, DEDICATE R/W AND GRANT EASEMENTS

IN THE MATTER OF THE AFOREMENTIONED APPLICATION, BEING IN COMPLIANCE WITH ALL APPLICABLE REQUIREMENTS OF THE DPM AND THE IDO, THE DRB HAS *APPROVED* THE PRELIMINARY/FINAL PLAT. FINAL SIGN OFF IS DELEGATED TO: WATER AUTHORITY AND TO PLANNING.

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12. Project #PR-2019-002811
SD-2019-00158 - PRELIMINARY/FINAL PLAT
VA-2019-00288 - WAIVER

RICHARD CHAVEZ request(s) the aforementioned action(s) for all or a portion of LOTS 7-10 BLOCK 44 PEREA ADDITION, zoned R-1A, located at NEC of 15th ST NW and GRANITE AVE NW, containing approximately 0.32 acre(s). (J-13)

PROPERTY OWNERS: CHAVEZ RICHARD GERARD
REQUEST: REPLAT 4 LOTS INTO 2 AND S/W WAIVER

DEFERRED TO SEPTEMBER 25TH, 2019.

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13. Project #PR-2019-002686
SD-2019-00144 – PRELIMINARY/FINAL PLAT

TIERRA WEST, LLC agent(s) for **LUBRICAR PROPERTIES II LC** request(s) the aforementioned action(s) for all or a portion of LOTS 1-3 AND WEST 38 FEET OF LOT 4 BLOCK 8 SOMBRA DEL MONTE, zoned MX-M, located on MENAUL BLVD NE west of WYOMING BLVD NE, containing approximately 7.9 acre(s). (H-19)*[Deferred from 8/7/19, 8/21/19]*

PROPERTY OWNERS: VIGA MICHAEL & MARILYN DORIS TRUSTEES & LUBRICAR PROPERTIES
REQUEST: CONSOLIDATE 4 EXISTING LOTS INTO 1

DEFERRED TO SEPTEMBER 18TH, 2019.