

**CITY OF ALBUQUERQUE**  
**LAND USE FACILITATION PROGRAM ZOOM MEETING REPORT**  
**5505 Valiente NW**

**Project:** EPC - CABQ facilitated meeting.

**Property Description/Address:** 5505 Valiente NW

**Date Submitted:** November 12, 2023

**Submitted By:** Jocelyn M. Torres, Land Use Facilitator

**Meeting Date/Time:** November 9, 2023, 6:00 PM- 8:00 PM

**Meeting Location:** Zoom

**Applicant/Owner:** Frank and Clarissa Gonzales

**Neighborhood Associations/Interested Parties:** Gabe and Diana Sanchez; Taylor Ranch NA (TRNA); Westside Coalition of NA's (WCNA); and Santa Fe Village NA (SFVNA).

**Please note that this is a summary, not a transcript, of the November 9, 2023 CABQ facilitated meeting.**

**Background Summary.**

Frank and Clarissa Gonzales have filed an EPC IDO variance application for a four foot infill. They also seek a variance from the IDO and View Protection Ordinance (VPO-2) 15 foot building height restrictions that apply to their property.<sup>1</sup> Applicants' pitched roof will be 18 feet 11 linear inches at its highest point, which is the entry tower. Applicants state that they will suffer hardship and a substantial and unjustified limitation on the reasonable economic return of the property if they are denied the requested variances. They also state that the house pad was developed at the lowest possible point for drainage purposes. Any lowering of the pad would make the lot undevelopable, uninhabitable. They will have a drainage pond on the northeast corner of the property that drains onto Paseo del Norte in the event of an overflow.

Applicants demonstrated elevations depicting their home and the 5504 and 5508 Valiente properties located across the street. The purpose was to demonstrate that the intended height of their home is equal to or lower than that of neighboring property. Because the side setbacks are 15 feet, this home will be located 30 feet away from each adjacent home.

The neighbors located at 5501 Valiente NW, Gabe and Diana Sanchez, voiced their objection to the requested building height variance. They do not object to the requested four foot infill variance. These neighbors plan to attend the EPC hearing of November 16, 2023. They seek a clear understanding of the plans that are approved and how their property and future build will be affected.

Other participants offered comments and questions regarding the requested variances, the intended build and the VPO-2/IDO requirements.

**Discussion.**

1. Applicants addressed topics pertaining to the EPC application and responded to questions and comments.

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<sup>1</sup> See attached IDO NORTHWEST MESA ESCARPMENT - VPO-2, Subsections 14-16-3-6(E) (1) through (E) (8) .

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2. The adjacent neighbors support the four foot infill variance and object to the requested building height variance.
3. Other participants offered pertinent comments and questions.

### **Conclusions.**

- a. Applicants intend to move forward with their EPC variance application at the hearing of November 16, 2023.
- b. The adjacent neighbors plan to attend the EPC hearing and may also provide comments. They voice support for the four foot infill variance and oppose the requested building height variance.
- c. Other participants may also attend the EPC hearing and offer comments and questions.

**Meeting Specifics.** *Participant Questions and Comments are Italicized.* Others are displayed in regular font. *Q- Question; C-Comment; A-Answer; C- Comment.*

### **1. Applicants and Adjacent Property Owners.**

- a. *C: We currently live in a location where the adjacent property owners built a home that is 36 feet higher than our existing home. We don't want to repeat that experience at this new location.*

A: I don't have the specific elevations on our two properties but I know that our property is only a few feet higher than your property. It is no where near 36 feet higher. Also, the homes will be situated at least 30 feet apart due to the side setbacks.

- b. C: The low elevation at the property creates a hardship because if we don't include four feet of infill, we'll have a drainage problem in our front yard. All the properties sit far below street grade.

*C: The City was required to elevate the road and sidewalks due to the topography of that location.*

*C: We have no problem with the infill variance. We object to your requested variance for a structure that is 18 linear feet 11 inches at its highest point.*

A: Ninety percent of the home is actually within the 15 foot height restriction. It's just the entryway and the living room that are a little bit higher. Any custom home designer will make the entryway a little higher because it's the entry focal point.

- c. *Q: Do you have another home in that area where you requested a variance?*

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A: Yes it is located at 2020 Aguila NW, in the Volcano Cliff's Special Assessment District (SAD) 28 area.

- d. *C/Q: I understand your request for a variance regarding the four foot infill. I don't understand why you believe it is a hardship to build a 15 foot structure.*

A: It's expensive to build a custom home. I've done it before. I'm going through the process again. I don't think anybody wants to spend three quarters of a million to a million dollars to have nine or ten foot ceilings throughout the entire house.

*Q: Why is it a hardship to build a 15 foot structure? The surrounding homes are 15 feet or below.*

A: The IDO says that the structure must be 15 feet from finished grade, which includes the infill. I believe it is a hardship because of the infill requirement.

*C/Q: If you build a 15 foot house above the infill, it will be 15 feet from **finished grade**. If you build an almost 19 foot house from **finished grade**, it will be nearly 23 feet higher than the **natural grade**. There is no hardship with a 15 foot structure. The hardship is on the four foot infill, correct? The three houses that are already built are 15 feet or below.*

Facilitator: I understand that Gabe supports the four foot infill variance but opposes the building height variance for nearly 19 linear feet. Is that correct?

*A: Yes. In looking at the plans, the linear height of the structure is 18 feet 11 inches at its highest point.*

C: The City measures between the ridge and the eve, so it's 17 feet 8 inches. Also, those who built the existing houses did not get the IDO required infill variance.

Facilitator: Your house is 18 linear feet 11 inches at its highest point, correct?

A: Yes that's correct.

Facilitator: So Gabe supports your request for the infill variance but does not support your request to extend the building height beyond 15 feet.

- e. *Q: What are the next steps?*

Facilitator: The hearing is November 16, 2023.

*C: You can submit written comments until 9:00 am on Tuesday, November 14, 2023. You can submit the written comments to: Heyne, Catherine M. [cheyne@cabq.gov](mailto:cheyne@cabq.gov). You can also make public comments at the hearing. The Chair will call on you and have you sworn in. The Commission takes notes and pays close attention regarding public comment.*

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f. *Q: Will you be building retaining walls?*

A: No.

### 2. Other Neighborhood Perspectives.

- a. *C: We went out to the site yesterday. As Frank said, there's definitely an issue with the way the road was built and the property sits well below the road. It's challenging out because it is on lava. It's on basalt and that's why they had to build everything up out there. To me there's a there's a key phrase in IDO section 3-6(E)(4)(b).*

*It says that for properties with underlating terrain that would require fill as part of site grading, the resulting building should not be taller than the tallest building on any abutting lot located within the height restriction sub area and shall not block use to or from the escarpment.*

*One of our concerns is the higher building. I appreciate the fill that's going to be needed to make that building feasible because there are drainage issues in that whole area. But one of my concerns is the higher pitched roof on that building and the views. It's very close to the Monument. It's close to a trail that we have. One of my concerns is that height. If you build higher, then Gabe will also have to build up very high.*

- b. *Q/C: Where will the drainage be located on the property? The next property is the Monument.*

A: We will have a fairly large drainage pond on the northeast corner of the property. If our pond overfills, it will drain towards the back and down into the petroglyph area.

*Q: It will drain towards Paseo del Norte?*

A: Yes.

- c. *Q: So you're going to pond it on the northeast corner of your lot and contain your stormwater on your lot, correct?*

A: Yes.

- d. *C: There is confusion in dealing with he IDO. A prior edition said the building could not be higher than 19 feet from **natural grade**. Now they have changed that to say 19 feet from **finished grade**. Sometimes the planners are confused when they write these sections. All these changes make the IDO very confusing.*

A: I have a vested interest in this location. We plan to build and my parents also plan to build in this area.

*Q: Can you go down to 15 feet on your design?*

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A: There was some confusion when we purchased the lot and designed the house. We thought it was outside the VPO 15 foot restriction.

C: We have spent thousands and thousands of dollars for the prior variance request on our existing house and for the requested variance and intended design of this house. I understand what you're saying, but we have spent all this money. We never wanted to get back into a height restricted area.

The first time it cost \$30,000 because we had to go through a variance. This is our second time doing it. We had to get a designer to put all those pictures together for the architect. The pictures show that we are still below everyone on that street even with the variance. From the pictures, it doesn't look like the other homes are at 15 feet.

C: From the elevations you can see that even inclusive of the variance and the extra height, our home is six inches lower than 5504 Valiente and six and a half feet lower than 5508 Valiente.

e. *Q: What color are you planning for your house? Earthtones blend in well with the natural landscape within the escarpment.*

A: We haven't picked a color. We were thinking of lime green but can switch to earthtones.

### **Next Steps.**

The EPC hearing is scheduled for November 16, 2023.

### **Meeting Adjourned.**

### **Applicants**

Frank and Clarissa Gonzales

### **Participants**

Gabe and Diana Sanchez  
Nancy Hendricks  
Rene Horvath  
Jane Baechle

Adjacent Property Owners  
Petroglyph National Monument  
Westside Coalition of NA's and Taylor Ranch NA  
Santa Fe Village NA

### **CABQ Land Use Facilitation**

Jocelyn M. Torres  
Tyson R. Hummel

Land Use Facilitator  
Land Use Coordinator

## Heyne, Catherine M.

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**From:** Jocelyn M Torres <nmlawyer09@comcast.net>  
**Sent:** Monday, November 13, 2023 10:06 AM  
**To:** 'Rene' Horvath'; 'Jane Baechele'; Lehner, Catalina L.; Heyne, Catherine M.; Jones, Megan D.; 'Clarissa Gonzales'; 'Frankie Gonzales'; 'Nancy Hendricks'; 'Diana Sanchez'; gabjessesan@yahoo.com  
**Subject:** Fwd: CABQ Facilitated Meeting Report - 11/9/23 from 6-8 pm  
**Importance:** High  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

[EXTERNAL] Forward to [phishing@cabq.gov](mailto:phishing@cabq.gov) and delete if an email causes any concern.

Dear Participants:

Please note the attached addendum submitted by Diana and Gabe Sanchez. Thanks again for your meeting participation.

*Sincerely,*

*Jocelyn M. Torres*  
**Attorney at Law**  
**505 249-8531**

Jocelyn M. Torres  
Attorney at Law  
505 249-8531

Begin forwarded message:

**From:** D San <disan614@gmail.com>  
**Date:** November 12, 2023 at 6:17:13 PM MST  
**To:** nmlawyer09@comcast.net  
**Subject:** Re: CABQ Facilitated Meeting Report - 11/9/23 from 6-8 pm

Hello Ms. Torres,

Will you please add an addendum to:

1. Applicants and Adjacent Property Owners.

a. C: We currently live in a location where the adjacent property owners built a home that is 36 feet higher than our existing home. We don't want to repeat that experience at this new location.

**Addendum comment:** We currently live in a location where the adjacent property owners built a home that is ~30-36 feet above natural grade at property line. Their final structure is about 15 to 20 feet higher than our final structure.

Thank you,  
Diana

*'Coming together is a beginning; keeping together is progress; working together is success - -  
Henry Ford*

## Heyne, Catherine M.

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**From:** nmlawyer09@comcast.net  
**Sent:** Monday, November 13, 2023 10:40 AM  
**To:** 'Rene' Horvath'; 'Jane Baechle'; Lehner, Catalina L.; Heyne, Catherine M.; Jones, Megan D.; 'Clarissa Gonzales'; 'Frankie Gonzales'; 'Nancy Hendricks'; 'Diana Sanchez'; gabjessesan@yahoo.com  
**Subject:** RE: CABQ Facilitated Meeting Report - 11/9/23 from 6-8 pm  
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[EXTERNAL] Forward to [phishing@cabq.gov](mailto:phishing@cabq.gov) and delete if an email causes any concern.

Dear Participants, Attached is additional information provided by Mr. Gonzales.

Hello Jecelyn,

Thank you for providing this. On the top of page 3 it reads "A: Yes it is located at 2020 Aguila NW, in the Volcano Cliff's Special Assessment District (SAD) 28 area." The correct is as follows. " A: Yes it is located at 7828 Aguila NW, in the Volcano Cliff's Special Assessment District (SAD) 228 area." Additionally, the comment about "lime green" was only intended as humor but understand that it is part of the dialogue. Thank you!

Frankie  
Sent from my iPhone

*Sincerely,*

*Jocelyn M. Torres*  
**Attorney at Law**  
**505 249-8531**

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**From:** nmlawyer09@comcast.net <nmlawyer09@comcast.net>  
**Sent:** Monday, November 13, 2023 10:06 AM  
**To:** 'Rene' Horvath' <aboard111@gmail.com>; 'Jane Baechle' <jane.baechle@gmail.com>; 'Catalina L. Lehner' <CLehner@cabq.gov>; 'Catherine M. Heyne' <cheyne@cabq.gov>; 'Megan D. Jones' <mdjones@cabq.gov>; 'Clarissa Gonzales' <cmaes20@gmail.com>; 'Frankie Gonzales' <fgonzal2@outlook.com>; 'Nancy Hendricks' <nancy\_hendricks@nps.gov>; 'Diana Sanchez' <disan614@gmail.com>; 'gabjessesan@yahoo.com' <gabjessesan@yahoo.com>  
**Subject:** Fwd: CABQ Facilitated Meeting Report - 11/9/23 from 6-8 pm  
**Importance:** High

Dear Participants:



Please note the attached addendum submitted by Diana and Gabe Sanchez. Thanks again for your meeting participation.

*Sincerely,*

*Jocelyn M. Torres*  
**Attorney at Law**  
**505 249-8531**

Jocelyn M. Torres  
Attorney at Law  
505 249-8531

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a. C: We currently live in a location where the adjacent property owners built a home that is 36 feet higher than our existing home. We don't want to repeat that experience at this new location.

**Addendum comment:** We currently live in a location where the adjacent property owners built a home that is ~30-36 feet above natural grade at property line. Their final structure is about 15 to 20 feet higher than our final structure.

Thank you,  
Diana

*'Coming together is a beginning; keeping together is progress; working together is success - -  
Henry Ford*

## Heyne, Catherine M.

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**From:** nmlawyer09@comcast.net  
**Sent:** Sunday, November 12, 2023 11:18 AM  
**To:** aboard111@gmail.com; mariancp21@gmail.com; elizabethkayhaley@gmail.com; 'Frankie Gonzales'; Clarissa Gonzales; Diana Sanchez; Jones, Megan D.; Heyne, Catherine M.; Lehner, Catalina L.; gabjessesan@yahoo.com; n\_hendricks@nps.gov; 'Jane Baechle SFVNA'  
**Cc:** Hummell, Tyson; Baca, Krista R.  
**Subject:** CABQ Facilitated Meeting Report - 11/9/23 from 6-8 pm  
**Attachments:** 5505 Valiente NW Report JMT 11 12 23 Final.pdf; JMT IDO Section Valiente 11 9 23.pdf  
**Importance:** High  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

[EXTERNAL] Forward to [phishing@cabq.gov](mailto:phishing@cabq.gov) and delete if an email causes any concern.

Good morning everyone:

**Please note that the meeting content has been summarized. This report is not a transcript and is not intended to be exhaustive of meeting content.**

I am sending you the final report regarding the 11/9/23 CABQ Facilitated Meeting.

Should you read something in the report that you believe is an inaccurate representation of what was said at the meeting, please refer to the amendment parameters at the bottom of this page.

If there is any follow up communication, it can be sent directly, or I will facilitate the sharing of any information that I receive. In the interest of good email etiquette, please be considerate in how you reply to all. Please include: "11/9/23 CABQ Facilitated Meeting" and my name: Jocelyn M. Torres, at the top of the form.

### Clarification of Amendment Parameters

Reports are distributed to meeting participants, those requesting a report, and city staff at the same time. In this program, I have limits on how I can utilize people's input in my reports. These limits are in place to preserve the integrity of my role and of my reports. My parameters are:

1. I can never change a report, but...
2. If a correction is offered on something that occurred at the facilitated meeting, and is reflected in the notes that I have (i.e., I miscommunicated in the report what I have in my notes), I then write an

amendment to the report, which goes out to the same people as the report.

3. If a correction is based strictly on objective fact (e.g., I got the name of a street wrong), I then write an amendment to the report, which goes out to the same people as the report.

4. If a correction or clarification is offered on something that for some reason is not reflected in my notes or that did not actually occur at the facilitated meeting, I must then request that a letter be written to the City Staff by the person offering the clarification.

5. If something was said at the meeting but omitted from the report, please send those comments directly to the City Staff listed at the end of the report.

You may let the City know your impression of the meeting and the facilitators by going to one of the following evaluations:

<https://www.cabq.gov/legal/adr/land-use-facilitation/land-use-facilitation-program-applicant-survey>;

or

<https://www.cabq.gov/legal/adr/land-use-facilitation/land-use-facilitation-program-participant-survey>.

Thank you for your significant contribution to this meeting!

*Sincerely,*

***Jocelyn M. Torres***  
**Attorney at Law**  
**505 249-8531**

**Heyne, Catherine M.**

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**From:** sanchez gabriel <gabjessesan@yahoo.com>  
**Sent:** Tuesday, November 14, 2023 7:47 AM  
**To:** Heyne, Catherine M.  
**Subject:** 5505 Valiente - Written Comments

[EXTERNAL] Forward to [phishing@cabq.gov](mailto:phishing@cabq.gov) and delete if an email causes any concern.

Hello Catherine,

I attended the post submittal meeting on 11-09-2023. I am the owner of the neighboring lot (5501 Valiente). In the meeting minutes it stated to submit written comments to you by 9:00 am on Tuesday, November 14, 2023, below are my summarized concerns.

Point 1. Fill Request - 5505 variance request "states" a hardship due to necessary drainage. I do not understand the finish fill and drainage plan, if the fill that is being requested is the minimum amount needed to overcome the drainage hardship, and If there are any other options that would eliminate a need for a fill variance. I am concerned with how the fill and drainage variance could affect my property and future building as I am directly adjacent.

Point 2. Structure Request - The maximum allowed structure height from natural grade is 15', per IDO. There are three finished houses on Valiente East of Calle Nortena and all are 15' structure from Finish Grade. I do not believe that any building permits have been issued for 5505 Valente as of today. I am concerned that a structure height variance of ~19' could be slipped in with the fill request variance. My concern is that if there is no hardship with a 15' structure then why is a structure variance being requested to go above 15 feet from finish grade.

Thank you

Gabriel Sanchez

November 14, 2028

EPC Agenda Item # 6: Building Height Variance request for 5505 Valiente Rd.  
Between Calle Nortena and Piedras Mercadas MPOS  
Project # PR-2023- 009178, VA-2023-00246

EPC Hearing Date: November 16, 2023

Dear EPC Chair Mr. Schaffer and fellow EPC Commissioners,

I support the Planners recommendation to maintain the required building height of 15 feet to be consistent with the neighbors who have followed the Northwest Mesa Escarpment View Protection Overlay (VPO-2). This lot is within the View Protection Overlay, just over 100 ft. from Petroglyph National Monument. Two members of the WSCONA land committee, the National Park Service Superintendent, and the adjacent property owners attended the facilitated meeting on November 9, 2023. Several issues were raised. One was to ensure that drainage would be retained on the site so that it does not negatively affect the National Monument. The other issue the attendees were most concerned about was adhering to the IDO View Protection Overlay (VPO-2) 15 ft. building height.

Because of the site's close proximity to the National Monument, it is important to preserve the views by keeping the building height low and using earth tone colors to blend with the natural landscape. This is the goal of the View Protection Overlay. According to the staff report the three homes across the street to the south of this site have followed the 15 foot building height allowance for VPO-2.

While we support attractive architectural features, some of these features are not necessary or could be modified to maintain the 15 ft. rule. We don't want to set a precedent that would undermine the 15 ft building height rule.

Views are an important component of Petroglyph National Monument. We want to maintain good design standards to accomplish that.

Thank you,

Rene' Horvath

Land Use Director of WSCONA