



Supplemental Form (SF)

SUBDIVISION

- Major subdivision action
- Minor subdivision action
- Vacation
- Variance (Non-Zoning)

SITE DEVELOPMENT PLAN

- for Subdivision
- for Building Permit
- Administrative Amendment/Approval (AA)
- IP Master Development Plan
- Cert. of Appropriateness (LUCC)

STORM DRAINAGE (Form D)

- Storm Drainage Cost Allocation Plan

S Z ZONING & PLANNING

- Annexation
- V** Zone Map Amendment (Establish or Change Zoning, includes Zoning within Sector Development Plans)
- P** Adoption of Rank 2 or 3 Plan or similar
- Text Amendment to Adopted Rank 1, 2 or 3 Plan(s), Zoning Code, or Subd. Regulations
- D** Street Name Change (Local & Collector)
- L A** **APPEAL / PROTEST of...**
 - Decision by: DRB, EPC, LUCC, Planning Director, ZEO, ZHE, Board of Appeals, other

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2nd Street NW, Albuquerque, NM 87102. Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICATION INFORMATION:

Professional/Agent (if any): Paul Chavez PHONE: 688-1228
 ADDRESS: PO Box 7146 FAX: _____
 CITY: Albuquerque STATE NM ZIP 87194 E-MAIL: paulchavez@gmail.com

APPLICANT: _____ PHONE: _____
 ADDRESS: _____ FAX: _____
 CITY: _____ STATE _____ ZIP _____ E-MAIL: _____
 Proprietary interest in site: _____ List all owners: _____

DESCRIPTION OF REQUEST: split lot into two lots, design variance

Is the applicant seeking incentives pursuant to the Family Housing Development Program? Yes. No.

SITE INFORMATION: ACCURACY OF THE EXISTING LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.

Lot or Tract No. tract 107 - A - 1 - B - 2 Block: _____ Unit: _____
 Subdiv/Addn/TBKA: RA
 Existing Zoning: RA-2 Proposed zoning: _____ MRGCD Map No 31
 Zone Atlas page(s): F-13-2 UPC Code: 101306108521530738

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX_Z, V, S, etc.): 1009619

CASE INFORMATION:

Within city limits? Yes Within 1000FT of a landfill? NO
 No. of existing lots: 1 No. of proposed lots: 2 Total site area (acres): .410

LOCATION OF PROPERTY BY STREETS: On or Near: _____

Between: Rio Grande Blvd and Rio Grande River

Check if project was previously reviewed by: Sketch Plat/Plan or Pre-application Review Team (PRT) Review Date: 5/15/13

SIGNATURE [Signature] DATE 7/2/13

(Print Name) Paul Chavez Applicant: Agent:

FOR OFFICIAL USE ONLY

INTERNAL ROUTING	Application case numbers	Action	S.F.	Fees
<input checked="" type="checkbox"/> All checklists are complete	<u>13DRB-70574</u>	<u>[Signature]</u>	—	\$ <u>285.00</u>
<input checked="" type="checkbox"/> All fees have been collected	<u>70612</u>	<u>[Signature]</u>	—	\$ <u>20.00</u>
<input checked="" type="checkbox"/> All case #s are assigned	—	—	—	\$ _____
<input checked="" type="checkbox"/> AGIS copy has been sent	—	—	—	\$ _____
<input type="checkbox"/> Case history #s are listed	—	—	—	\$ _____
<input type="checkbox"/> Site is within 1000ft of a landfill	—	—	—	\$ _____
<input type="checkbox"/> F.H.D.P. density bonus	—	—	—	\$ _____
<input type="checkbox"/> F.H.D.P. fee rebate	—	—	—	\$ _____
			Total	\$ <u>305.00</u>

Hearing date July 17, 2013

[Signature]
7-2-16
Staff signature & Date

Project # 1009619

A Bulk Land Variance requires application on FORM-V in addition to application for subdivision on FORM-S.

- SKETCH PLAT REVIEW AND COMMENT (DRB22)** Your attendance is required.
 - Scale drawing of the proposed subdivision plat (folded to fit into an 8.5" by 14" pocket) **6 copies**
 - Site sketch with measurements showing structures, parking, Bldg. setbacks, adjacent rights-of-way and street improvements, if there is any existing land use (folded to fit into an 8.5" by 14" pocket) **6 copies**
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the request
 - List any original and/or related file numbers on the cover application

- EXTENSION OF MAJOR PRELIMINARY PLAT (DRB08)** Your attendance is required.
 - Preliminary Plat reduced to 8.5" x 11"
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the request
 - Copy of DRB approved infrastructure list
 - Copy of the LATEST Official DRB Notice of approval for Preliminary Plat Extension request
 - List any original and/or related file numbers on the cover application

Extension of preliminary plat approval expires after one year.

- MAJOR SUBDIVISION FINAL PLAT APPROVAL (DRB12)** Your attendance is required.
 - Proposed Final Plat (folded to fit into an 8.5" by 14" pocket) **6 copies**
 - Signed & recorded Final Pre-Development Facilities Fee Agreement for Residential development only
 - Design elevations & cross sections of perimeter walls **3 copies**
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Bring original Mylar of plat to meeting, ensure property owner's and City Surveyor's signatures are on the plat
 - Copy of recorded SIA
 - Landfill disclosure and EHD signature line on the Mylar if property is within a landfill buffer
 - List any original and/or related file numbers on the cover application
 - DXF file and hard copy of final plat data for AGIS is required.

- MINOR SUBDIVISION PRELIMINARY/FINAL PLAT APPROVAL (DRB16)** Your attendance is required.
 - 5 Acres or more: Certificate of No Effect or Approval
 - Proposed Preliminary / Final Plat (folded to fit into an 8.5" by 14" pocket) **6 copies** for unadvertised meetings ensure property owner's and City Surveyor's signatures are on the plat prior to submittal
 - Signed & recorded Final Pre-Development Facilities Fee Agreement for Residential development only
 - Design elevations and cross sections of perimeter walls (11" by 17" maximum) **3 copies**
 - Site sketch with measurements showing structures, parking, Bldg. setbacks, adjacent rights-of-way and street improvements, if there is any existing land use (folded to fit into an 8.5" by 14" pocket) **6 copies**
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the request
 - Bring original Mylar of plat to meeting, ensure property owner's and City Surveyor's signatures are on the plat
 - Landfill disclosure and EHD signature line on the Mylar if property is within a landfill buffer
 - Fee (see schedule)
 - List any original and/or related file numbers on the cover application
 - Infrastructure list if required (**verify with DRB Engineer**)
 - DXF file and hard copy of final plat data for AGIS is required.

- AMENDMENT TO PRELIMINARY PLAT (with minor changes) (DRB03)** Your attendance is required.

PLEASE NOTE: There are no clear distinctions between significant and minor changes with regard to subdivision amendments. Significant changes are those deemed by the DRB to require public notice and public hearing.

 - Proposed Amended Preliminary Plat, Infrastructure List, and/or Grading Plan (folded to fit into an 8.5" by 14" pocket) **6 copies**
 - Original Preliminary Plat, Infrastructure List, and/or Grading Plan (folded to fit into an 8.5" by 14" pocket) **6 copies**
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the request
 - Bring original Mylar of plat to meeting, ensure property owner's and City Surveyor's signatures are on the plat
 - List any original and/or related file numbers on the cover application

Amended preliminary plat approval expires after one year

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.

Paul Chavez
Applicant name (print)
5/31/13
Applicant signature / date



- Checklists complete
- Fees collected
- Case #s assigned
- Related #s listed

Application case numbers
13 - DRB - 70574

Form revised **October 2007**

Project # 1009619 Planner signature / date 10-4-13

- BULK LAND VARIANCE (DRB04)** (PUBLIC HEARING CASE)
 - Application for Minor Plat on FORM S-3, including those submittal requirements. **24 copies**
 - Letter briefly describing and explaining: the request, compliance with the Development Process Manual, and all improvements to be waived.
 - Notice on the proposed Plat that there are conditions to subsequent subdivision (refer to DPM)
 - Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
 - Sign Posting Agreement
 - Fee (see schedule)
 - List any original and/or related file numbers on the cover application
- DRB Public hearings are approximately 30 DAYS after the filing deadline. Your attendance is required.**

- VACATION OF PUBLIC EASEMENT (DRB27)**
 - VACATION OF PUBLIC RIGHT-OF-WAY (DRB28)**
 - The complete document which created the public easement (folded to fit into an 8.5" by 14" pocket) **24 copies.** (Not required for City owned public right-of-way.)
 - Drawing showing the easement or right-of-way to be vacated, etc. (not to exceed 8.5" by 11") **24 copies**
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the request
 - Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
 - Sign Posting Agreement
 - Fee (see schedule)
 - List any original and/or related file numbers on the cover application
- Unless the vacation is shown on a DRB approved plat recorded by the County Clerk within one year, it will expire.
DRB Public hearings are approximately 30 DAYS after the filing deadline. Your attendance is required.

- SIDEWALK VARIANCE (DRB20)**
 - SIDEWALK WAIVER (DRB21)**
 - Scale drawing showing the proposed variance or waiver (not to exceed 8.5" by 14") **6 copies**
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the variance or waiver
 - List any original and/or related file numbers on the cover application
- DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. Your attendance is required.**

- 522
 101
 SUBDIVISION DESIGN VARIANCE FROM MINIMUM DPM STANDARDS (DRB25)
 - Scale drawing showing the location of the proposed variance or waiver (not to exceed 8.5" by 14") **24 copies**
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the variance
 - Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
 - Sign Posting Agreement
 - Fee (see schedule)
 - List any original and/or related file numbers on the cover application

DRB meetings are approximately 30 DAYS after the filing deadline. Your attendance is required.

- TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION (DRB19)**
 - EXTENSION OF THE SIA FOR TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION (DRB07)**
 - Drawing showing the sidewalks subject to the proposed deferral or extension (not to exceed 8.5" by 14") **6 copies**
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the deferral or extension
 - List any original and/or related file numbers on the cover application
- DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. Your attendance is required.**

- VACATION OF PRIVATE EASEMENT (DRB26)**
 - VACATION OF RECORDED PLAT (DRB29)**
 - The complete document which created the private easement/recorded plat (not to exceed 8.5" by 14") **6 copies**
 - Scale drawing showing the easement to be vacated (8.5" by 11") **6 copies**
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter/documents briefly describing, explaining, and justifying the vacation **6 copies**
 - Letter of authorization from the grantors and the beneficiaries (private easement only)
 - Fee (see schedule)
 - List any original and/or related file numbers on the cover application
- Unless the vacation is shown on a DRB approved plat recorded by the County Clerk within one year, it will expire.
DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. Your attendance is required.

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.

Paul Chavez
 Applicant name (print)
[Signature] 6/13/13
 Applicant signature / date

Form revised 4/07
[Signature] 6-4-13
 Planner signature / date

Project # 1009619



<input checked="" type="checkbox"/> Checklists complete	Application case numbers
<input checked="" type="checkbox"/> Fees collected	<u>13 - DRB - 70612</u>
<input checked="" type="checkbox"/> Case #s assigned	_____
<input checked="" type="checkbox"/> Related #s listed	_____

City of Albuquerque Planning Department

DEVELOPMENT AND BUILDING SERVICES

STANDARD APPLICATION, Paper Plans Required

DEVELOPMENT REVIEW BOARD

06/04/2013 Issued By: E08375 193225

Category Code **910**
2013 070 574

Application Number: 13DRB-70574, Minor - Preliminary/ Final Plat Approval

Address:

Location Description: PEDRONCELLI BETWEEN RIO GRANDE AND RIO GRANDE RIVER

Project Number: 1009619

Applicant
PAUL CHAVEZ

Agent / Contact
PAUL CHAVEZ

PO BOX 7146
ALBUQUERQUE NM 87194
5056881228

PO BOX 7146
ALBUQUERQUE NM 87194
5056881228

Application Fees

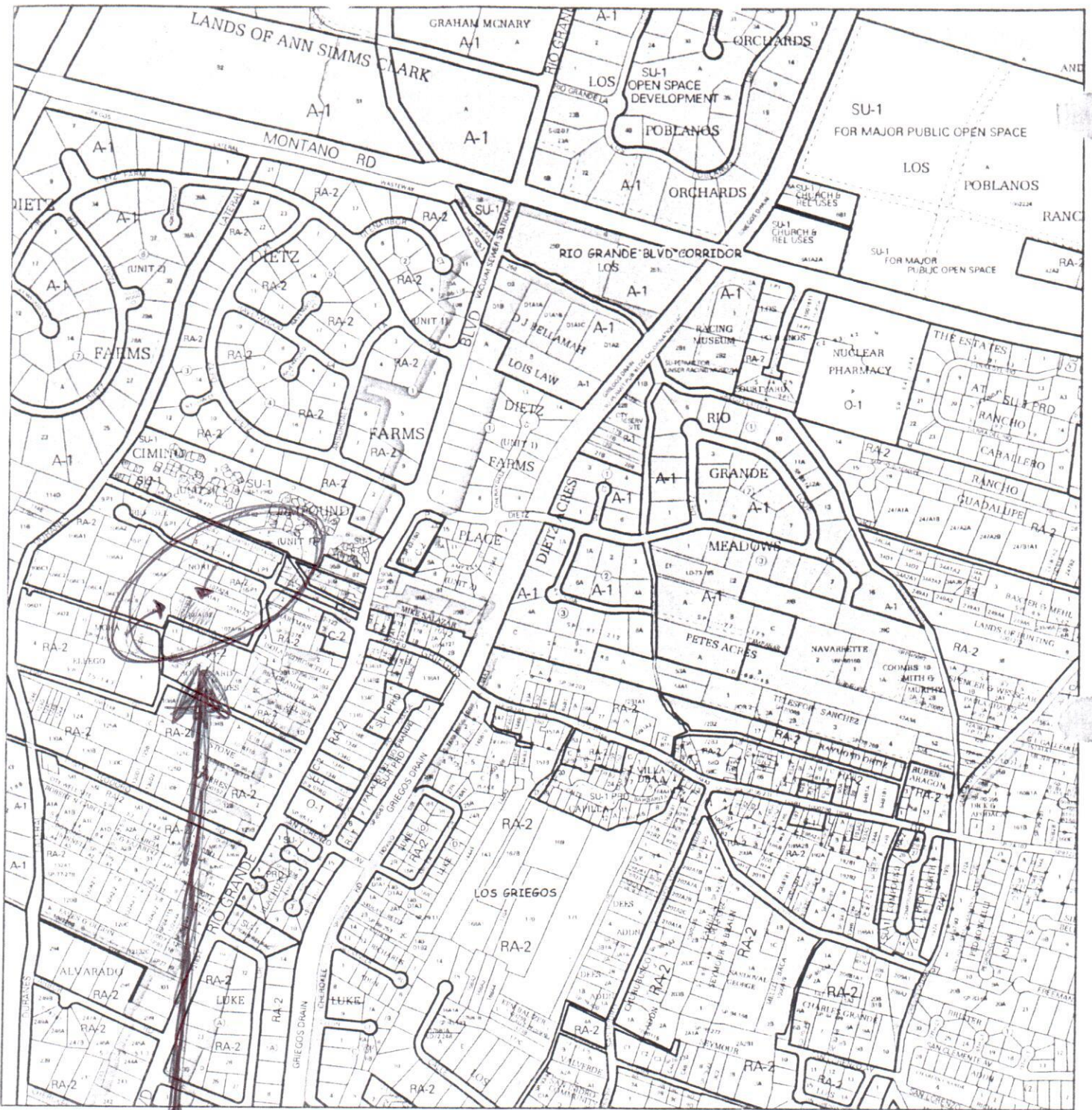
APN Fee

Conflict Mgmt Fee \$20.00

DRB Actions \$285.00

TOTAL: \$305.00

City of Albuquerque, Treasury
Date: 6/4/2013 OFFICE: AMEX
Stat ID: MS0000007 Cashier: TRSOLF
Batch: 2047 Items: #16
Permit: 2013070574
Receipt Num: 00133188
Payment Total: \$305.00
0901 Conflict Mgmt. Fee \$20.00
0703 DRB Actions \$285.00
Check Total: \$305.00



For more current information and more details visit: <http://www.cabq.gov/gis>

Albuquerque Geographic Information System

Map amended through: 2/4/2010

Note: Grey Shading Represents Area Outside of the City Limits

Zone Atlas Page:
F-13-Z

Selected Symbols

SECTOR PLANS	Escarpment
Design Overlay Zones	2 Mile Airport Zone
City Historic Zones	Airport Noise Conto
H-1 Buffer Zone	Wall Overlay Zone
Petroglyph Mon.	

0 750 1,500 Feet

To: City of Albuquerque, Development Review Board

From: Paul Chavez, applicant

Date: July 1st, 2013

Re: Variance request for items related to right of way requirements.

Subject property, 3841 Pedroncelli NW, Albuquerque, NM 87107

Subject property is located in a community of homes that would not benefit and do not have the "typical" requirements with regards to the right of way width, improvements, curb, gutter, sidewalk, and pavement width.

The entire community which includes over 34 homes spanning a distance of over two-thousand feet of front lot lengths share the following right of way details.:

width is 20+ feet

curb does not exist

sidewalk does not exist

gutter does not exist

pavement width is 16 +/- feet

Due to the exceptional nature of the subject property and the surrounding lots, the owner respectfully requests a variance be allowed with regards to the above details, allowing the subject property to keep its right of way consistent with the surrounding properties and existing right of way.

Thank you

A handwritten signature in black ink, appearing to read 'Paul Chavez', with a stylized flourish extending to the right.

Paul Chavez

ZONE GRID

No Features found.

OWNERSHIP

Rec	UPC CODE	OWNER	OWNER ADDRESS	OWNER CITY	OWNER STATE	OWNER ZIPCODE
1	101306108521530738	ENLOE RONALD & ANITA	864 WEST 200 NORTH	VERNAL	UT	84078

ZONING

Rec	ZONING	DESCRIPTION
1	RA-2	

ZONE GRID

Rec	ZONE ATLAS GRID
1	F13

PARCELS

Rec	NUMBER	NAME	DESIGNATION	QUADRANT	LOT	BLOCK	SUBDIVISION	PIN
1	3841	PEDRONCELLI	RD	NW	107A1B2	0000	MRGCD MAP 31	ABQ55778

ZONE GRID

No Features found.

ZONE GRID

No Features found.

NEIGHBORHOODS

Rec	COASDE.AGIS.NEIGHBORHOODASSOCIATIONS.ASSOCIATIONNAME	COASDE.AGIS.NEIGHBORHC
1	RIO GRANDE BLVD	R

ZONE GRID

No Features found.

COUNCIL

Rec	COUNCILOR NAME	COUNCIL DISTRICT
1	Roxanna Meyers	2

ZIPCODES

Rec	ZIPCODE
1	87107

MORATORIUM

Rec	AREA	EXPIRATION DATE
1	WEST ROUTE 66	Tue, 30 Apr 2013 00:00:00
2	WEST ROUTE 66	Tue, 30 Apr 2013 00:00:00
3	WEST ROUTE 66	Tue, 30 Apr 2013 00:00:00
4	WEST ROUTE 66	Tue, 30 Apr 2013 00:00:00
5	WEST ROUTE 66	Tue, 30 Apr 2013 00:00:00
6	WEST ROUTE 66	Tue, 30 Apr 2013 00:00:00
7	WEST ROUTE 66	Tue, 30 Apr 2013 00:00:00
8	WEST ROUTE 66	Tue, 30 Apr 2013 00:00:00
9	WEST ROUTE 66	Tue, 30 Apr 2013 00:00:00
10	WEST ROUTE 66	Tue, 30 Apr 2013 00:00:00
11	WEST ROUTE 66	Tue, 30 Apr 2013 00:00:00
12	WEST ROUTE 66	Tue, 30 Apr 2013 00:00:00
13	WEST ROUTE 66	Tue, 30 Apr 2013 00:00:00

TJPC LLC
520 Los Ranchos
Los Ranchos NM 87107

February 25, 2013

City of Albuquerque, Office of the Zoning Hearing Examiner

Application for Special Exception: Property address: 3841 Pedroncelli NW 87107

Part A: The property is exceptional

1. The subject property is exceptional and irregular in that it has a home on it that sits within one foot of the property line on the West boundary. This home is uninhabitable in its present condition and abandoned. The lot is much wider than it is deep and although it is approximately 17,900 square feet in total, if the variance was allowed, this lot could be split into two lots and the existing home could be demolished, allowing for two new homes to be built to code with proper setbacks to all sides of both homes. One lot would be the required 10,890 and the other lot would be approximately 7,000 square feet.

Part B: As a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship that

- 1.....creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of the property.

Part C: A particular variance is appropriate to prevent the unnecessary hardship. The decision on whether to grant a particular variance depends upon a comparison of the special circumstances shown by the applicant and the public interest. To be justified, a variance must permit only development which meets the following criteria.

1. It differs from development, which would be permitted under existing regular zoning regulations no more than is necessary to overcome the unnecessary hardship.
2. The Variance will not significantly interfere with the enjoyment of other land in the vicinity, and;
3. It is consistent with the spirit of the Zoning Ordinance, substantial justice, and the general public interest.



CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

RONALD ENOLE (PAUL CHAVEZ, AGENT) request(s) a special exception to Section 14-16-2-5(D): a VARIANCE of 3945 square feet to the minimum lot area of 10890 square feet for a proposed RA-2 lot for all or a portion of Lot(s) 107A1B2, MRGCD MAP 31 zoned RA-2, located on 3841 PEDRONCELLI RD NW (F-13)

Special Exception No:..... **13ZHE-80469**
Project No:..... **Project# 1009619**
Hearing Date:..... 04-16-13
Closing of Public Record:..... 04-16-13
Date of Decision: 05-02-13

On the 16th day of April, 2013 (hereinafter "**Hearing**") Mr. Chavez, (hereinafter "**Agent**") acting as agent on behalf of the property owner, Mr. Enole (hereinafter "**Applicant**") appeared before the Zoning Hearing Examiner (hereinafter "**ZHE**") requesting a Variance of 3,495 square feet to the minimum lot area of 10,890 square feet (hereinafter "**Application**") upon the real property located at 3841 Pedroncelli Rd NW ("**Subject Property**"). Below are the findings of facts:

FINDINGS:

1. Applicant is requesting a Variance of 3,495 square feet to the minimum lot area of 10,890 square feet.
2. The Subject Property is located within the North Valley Area Plan and is characterized as "Established Urban" within the Comprehensive Plan.
3. The Subject Property is zoned RA-2.
4. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (a) "SPECIAL EXCEPTIONS" reads in part: "*Variance. A variance shall be approved if and only if the following tests are met: (a) The property is exceptional*"
5. Applicant testified at the Hearing that the Subject Property is exceptional because it is irregularly shaped (narrow) and that the current residence on the Subject Property was constructed well before the adoption of the setback regulations (1 foot from the adjacent property line) and minimum lot size regulations. The Applicant indicated that his exceptionality (unusually narrow lot) was not "self created".
6. The Applicant indicated at the Hearing that if the Variance were approved, he would demolish the old residence (which violates current City setback regulations) and replace it with two new structures that would completely comply with City of Albuquerque setback regulations (making them conforming as to the modern regulations promulgated by the City of Albuquerque).
7. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (b) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (b) as a result of the exceptional aspect of the property, the regulations produce unnecessary hardship*"

8. Applicant testified at the Hearing that as a result of the exceptionality (unusually narrow lot) that the City of Albuquerque Code of Ordinances Section regarding minimum lot sizes creates a regulation that produces an unnecessary hardship upon the Applicant and the Subject Property.
9. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (c) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (c) a particular variance is appropriate to prevent the unnecessary hardship.*"
10. Applicant testified at the Hearing that the variance Application (reduction in the minimum lot size) if approved, would be appropriate to prevent the unnecessary hardship. Additionally, the Applicant assured the ZHE that any new structures would comply with modern setback regulations.
11. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (d) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (d) financial gain or loss shall not be the sole determining factor in deciding a variance.*"
12. The Application and the testimony provided by the Applicant at the Hearing both suggest that financial gain/loss was not the sole determining factor of the Application.
13. The Application, File and testimony of the Applicant at the Hearing suggest that there is no neighborhood opposition to the Application.
14. Applicant testified at the Hearing that the yellow "Notice of Hearing" signs were posted for the required time period as articulated within City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.

CONCLUSION OF LAW:

The Applicant has adequately justified the Variance request pursuant to City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.

DECISION:

APPROVAL WITH CONDITIONS of a VARIANCE of 3,495 square feet to the minimum lot area of 10,890 square feet.

CONDITIONS OF APPROVAL:

The Applicant shall construct all new structures on the Subject Property to comply with current City of Albuquerque setback regulations.

If you wish to appeal this decision, you may do so by 5:00 p.m., on May 17, 2013 in the manner described below:

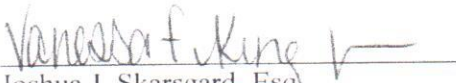
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$150.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14.16.4.4.(B), of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.


Joshua J. Skarsgard, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Paul Chavez, PO Box 7146, 87194
Ronald Enole, 864 W 200 N, Vernal Utah 84078



CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

RONALD ENOLE (PAUL CHAVEZ, Special Exception No:..... **13ZHE-80470**
AGENT)request(s) a special exception to Project No:..... **Project# 1009619**
Section 14-16-2-5(D): a VARIANCE of 17' to Hearing Date:..... 04-16-13
to the minimum lot width of 75' for a proposed Closing of Public Record:..... 04-16-13
RA-2 lot for all or a portion of Lot(s) 107A1B2, Date of Decision: 05-02-13
MRGCD MAP 31 zoned RA-2, located on
3841 PEDRONCELLI RD NW (F-13)

On the 16th day of April, 2013 (hereinafter "**Hearing**") Mr. Chavez, (hereinafter "**Agent**") acting as agent on behalf of the property owner, Mr. Enole (hereinafter "**Applicant**") appeared before the Zoning Hearing Examiner (hereinafter "**ZHE**") requesting a Variance of 17' to the minimum lot width of 75' (hereinafter "**Application**") upon the real property located at 3841 Pedroncelli Rd NW ("**Subject Property**"). Below are the findings of facts:

FINDINGS:

1. Applicant is requesting a Variance of 17' to the minimum lot width of 75'.
2. The Subject Property is located within the North Valley Area Plan and is characterized as "Established Urban" within the Comprehensive Plan.
3. The Subject Property is zoned RA-2.
4. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (a) "SPECIAL EXCEPTIONS" reads in part: "*Variance. A variance shall be approved if and only if the following tests are met: (a) The property is exceptional*"
5. Applicant testified at the Hearing that the Subject Property is exceptional because it is irregularly shaped (narrow) and that the current residence on the Subject Property was constructed well before the adoption of the setback regulations (1 foot from the adjacent property line) and minimum lot width regulations. The Applicant indicated that his exceptionality (unusually narrow lot) was not "self created".
6. The Applicant indicated at the Hearing that if the Variance were approved, he would demolish the old residence (which violates current City setback regulations) and replace it with two new structures that would completely comply with City of Albuquerque setback regulations (making them conforming as to the modern regulations promulgated by the City of Albuquerque).
7. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (b) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (b) as a result of the exceptional aspect of the property, the regulations produce unnecessary hardship*"
8. Applicant testified at the Hearing that as a result of the exceptionality (unusually narrow lot) that the City of Albuquerque Code of Ordinances Section regarding

minimum lot width (75 feet) creates a regulation that produces an unnecessary hardship upon the Applicant and the Subject Property.

9. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (c) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (c) a particular variance is appropriate to prevent the unnecessary hardship.*"
10. Applicant testified at the Hearing that the variance Application (reduction in the minimum lot width) if approved, would be appropriate to prevent the unnecessary hardship. Additionally, the Applicant assured the ZHE that any new structures would comply with modern setback regulations.
11. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (d) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (d) financial gain or loss shall not be the sole determining factor in deciding a variance.*"
12. The Application and the testimony provided by the Applicant at the Hearing both suggest that financial gain/loss was not the sole determining factor of the Application.
13. The Application, File and testimony of the Applicant at the Hearing suggest that there is no neighborhood opposition to the Application.
14. Applicant testified at the Hearing that the yellow "Notice of Hearing" signs were posted for the required time period as articulated within City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.

CONCLUSION OF LAW:

The Applicant has adequately justified the Variance request pursuant to City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.

DECISION:

APPROVAL WITH CONDITIONS of a Variance of 17' to the minimum lot width of 75'.

CONDITIONS OF APPROVAL:

The Applicant shall construct all new structures on the Subject Property to comply with current City of Albuquerque building setback regulations.

If you wish to appeal this decision, you may do so by 5:00 p.m., on May 17, 2013 in the manner described below:

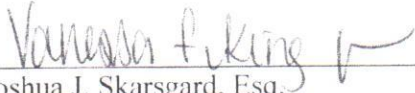
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$150.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14. 16. 4. 4. (B)., of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.



Joshua J. Skarsgard, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Paul Chavez, PO Box 7146, 87194
Ronald Enole, 864 W 200 N, Vernal Utah 84078

RB Project # _____

APS Cluster Valley

EXHIBIT B

FINAL
PRE-DEVELOPMENT FACILITIES FEE AGREEMENT

THIS AGREEMENT is made by and between the Albuquerque Municipal School District No. 12, Bernalillo and Sandoval Counties, New Mexico ("Albuquerque Public Schools" or "APS"), a public school district organized and existing pursuant to the laws of New Mexico, and

and Ron Enloe ("Developer") effective as of this 30th day of June, 2013, and pertains to the subdivision commonly known as _____, and more particularly described as Tracts 1 & 2 lands of Jesi
[use new legal description of subdivision]

(the "Subdivision".) The following individual lots comprise the subdivision:
[List lots by street address and new legal description; Lots which will be used for multi-family residences should be marked "multifamily- __ units" with the number of units filled in.]

WHEREAS, the City of Albuquerque requires that APS approve the plat(s) for any new subdivision; and

WHEREAS, Developer is proposing the development of a new subdivision, and requires APS approval of the plat for said subdivision; and

WHEREAS, Developer is the owner of the real estate being subdivided and platted; and

WHEREAS, Developer is required by the Albuquerque Subdivision Ordinance to provide appropriate infrastructure and improvements as a condition of developing a subdivision; and

WHEREAS, as a condition of approving such plat APS requires the provision of appropriate infrastructure and facilities or the payment of a facilities fee for each new residence to be constructed to help defray the cost of school construction, expansion, or maintenance;

RB Project # _____

APS Cluster Valley

THEREFORE, in consideration of the mutual promises contained herein, APS and Developer agree as follows:

1. Developer agrees to pay to APS a facilities fee for each dwelling unit to be constructed in the Subdivision.
2. The amount of the fee shall be:
 - If the building permit is issued on or after January 1, 2007, the fee shall be \$1875 per dwelling unit.
 - If the building permit is issued on or after July 1, 2008, the fee shall be \$2425 per dwelling unit.
 - If the permit is issued on or after January 1, 2010, the fee shall be \$2975 per dwelling unit.

The fee for each dwelling unit in multi-family residential structures shall be sixty percent (60 %) of the fee for a single family home. "Multi-family residential structure" means any type of residential property other than single-family houses (one single family, detached dwelling unit per lot).

3. Developer agrees that the fee shall be paid to APS at or before the issuance of any building permit for any lot or other parcel of property subject to this agreement.
4. Developer may satisfy all or part of its obligations under this contract by transferring improved or unimproved property to APS, provided that APS must agree to the transfer and to the value placed on the transferred property. APS, upon accepting such transfer, shall credit Developer with an amount equal to the agreed value, and the developer may designate the lot(s) to which such amount(s) shall be applied in satisfaction of its obligations hereunder.
5. This contract shall be recorded in the office of the County Clerk of Bernalillo and/or Sandoval County, and shall serve as notice of the Developer's obligation to pay facilities fees. Developer shall include on the plat of the Subdivision a statement that "The property on this plat is subject to a Pre-Development Facilities Fee Agreement with the Albuquerque Public Schools, recorded at [recording data]."
6. APS, through its Facilities Fee Administrator, will provide a Payment Acknowledgement in the form attached hereto to the Developer reflecting receipt of the facilities fee (or equivalent compensation as described in paragraph 4 above), which form may be given to the City to show satisfaction of the fee obligation and satisfy that condition for receiving building permits. Developer may record that Payment Acknowledgment in the real estate records of Bernalillo or Sandoval County, but APS shall not be responsible for paying any recording fees nor shall APS be responsible for recording any such documents with the office of the County Clerk or any other office.

RB Project # _____

APS Cluster Valley

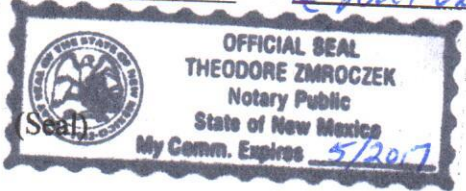
[Signature]
Signature

Ron Enbe
Name (typed or printed) and title

Ron Enbe
Developer

STATE OF NEW MEXICO
COUNTY OF BERNALILLO

This instrument was acknowledged before me on June 3, 2013, by Ronald Enbe as a natural person of NA, a corporation.



[Signature]
Notary Public

My commission expires: 5/2017

ALBUQUERQUE PUBLIC SCHOOLS

[Signature]
By: Signature

April L. Winters, Facility Fee Planner
Name (typed or printed) and title

STATE OF NEW MEXICO
COUNTY OF BERNALILLO

This instrument was acknowledged before me on June 4, 2013, by April L. Winters as Facility Fee Planner of the Albuquerque Municipal School District No. 12, Bernalillo and Sandoval Counties, a school district organized and existing under the laws of the State of New Mexico.

(Seal)

[Signature]
Notary Public

My commission expires: 6/17/2016

