

August 21, 2019

HAND DELIVERED

Kym Dicome, Chair
Development Review Board
City of Albuquerque
600 2nd Street NW, Ground Floor
Albuquerque, NM 87102

Project: #PR-2019-002496
Alameda Luxury Apartments Complex
DRB Hearing of August 14, 2019

Dear Chair Dicome and DRB Members:

This firm represents Randolph Baca, Shannon Baca, Karen Baehr, Erin E J Caswell, Nancy Jones, Joe O'Neill, Maria Scarpa, Paul Scarpa, Mary Lousie Valdez, Joseph Valdez, Paul S. Wever, Jennifer Wever, Steve Wray, and Hope in the Desert Episcopal Church (collectively the "Neighbors") in connection with the referenced site plan approval case. This letter is intended to supplement the Neighbors' August 7, 2019 letter, and testimony and argument at the August 14, 2019 and prior DRB hearings concerning the referenced site plan application. Please place this letter in the record for Development Review Board ("DRB") hearings for the referenced case.

The DRB did not conduct its August 14, 2019 meeting as a "quasi-judicial" hearing, contrary to the City's Integrated Development Ordinance ("IDO"). IDO Section 6-4(M)(3) (p. 348) sets out when a hearing is to be "quasi-judicial":

For decisions that would result in changes to property rights or entitlements on a particular property or affecting a small area, or are otherwise not considered legislative decisions involving policy or regulatory changes that would apply citywide or to a large area, the decision-making body shall conduct a quasi-judicial hearing to make a discretionary decision.

The approval of a site plan under the IDO is a "change to property rights or entitlements on a particular property or affecting a small area", and cannot be considered "legislative". Not conducting the DRB hearing on this site plan application as "quasi-judicial" is erroneous and contrary to the IDO.

The DRB has to exercise discretionary authority in connection with the site plan review process. Under IDO Section 6-6(G)(3) (p. 396), the DRB has to determine if the proposed site plan complies with all applicable provisions of the IDO, has to address infrastructure capacity and mitigation of burdens, and has to consider significant adverse impacts on the surrounding area and mitigation of adverse impacts. These are discretionary decisions concerning a particular property.

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Recently enacted R-19-150, Enactment R-2019-035, states that the IDO “sets forth the DRB as a discretionary board responsible for making some discretionary decisions” (p. 1). As the DRB has final authority granted by the City Council to approve a site plan (subject to appeal), a site plan approval involves discretionary decisions by the DRB.

The Neighbors and other concerned persons have identified a number of significant adverse impacts of the project as currently proposed. The Project Meeting Report from the May 21, 2019 meeting under the City’s Land Use Facilitation Program summarized the concerns expressed at that meeting as follows:

Meeting participants raised concerns about many topics, including parking, light pollution, population density, traffic congestion, proximity to the school, safety, and impacts on existing property values. A number of neighbors expressed the concern that the number of units would result in unacceptable resident density in the context of the overall area and asked that the developer consider lowering the buildings to two stories, which would help address their parking and traffic concerns and ameliorate the impacts of light pollution, loss of privacy, and loss of mountain views. A summary of all concerns is included in the meeting specifics.

The density of the project and the impact on traffic and safety are a priority concern for the neighbors. Three schools, La Cueva High School, Desert Ridge Middle School, and Altura Preparatory Charter School, are each within a quarter mile of the proposed 93-unit site. Approximately 2,900 students travel to and from school each day in the area. Per IDO Section 6-4(J) (p. 344), “the location of the project, the amount of traffic generated from the development, and the existing conditions in the project area” are important for the extent of a traffic study. A traffic study for the project should be undertaken under these circumstances.

The DRB should consider the concerns expressed in the various public meetings for the site plan application and mitigate the adverse impacts.

The IDO indicates that building height, parking, spacing, screening and buffering may have a significant adverse effect on neighboring residential properties, by establishing the protections for “Neighborhood Edges” in Section 5-9 (pp. 286-287). Section 5-6(E)(2) (p. 260) also indicates that buffering is appropriate for development next to low density residential zone districts. Features of the site plan at issue generate significant adverse effects for adjacent residential neighbors, for which the DRB should require mitigation.

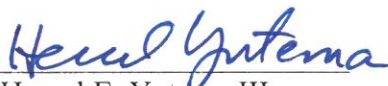
YNTEMA
LAW FIRM P.A.
ATTORNEY AT LAW

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The Neighbors again request that the subject medium density apartment project be redesigned to conform to their neighborhood's low density residential character and the intent and standards of the IDO. Several of the Neighbors may present comments and objections to the proposed site plan at the scheduled September 11, 2019 DRB hearing.

Very truly yours,

YNTEMA LAW FIRM PA

By 
Hessel E. Yntema III

cc: Consensus Planning, Inc.