

**CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
DEVELOPMENT SERVICE / HYDROLOGY SECTION**

DATE: 6-7-13
CONFERENCE RECAP

ZONE ATLAS PAGE NO: G15

DRAINAGE FILE: G15 0648

ZONING:

DRB:

SUBJECT: Construct Modular Bldgs

STREET ADDRESS (IF KNOWN): 4322 2nd St NW

SUBDIVISION NAME: _____

APPROVAL REQUESTED: Foundation Permit

ATTENDANCE: Roger Cinelli, Brook Cleft, Curtis Chene


FINDINGS:

Modular Building to drain to onsite inlet south of the proposed bldg or to inlet in private Street south of proposed Bldg.

show flow arrows on the site plan.

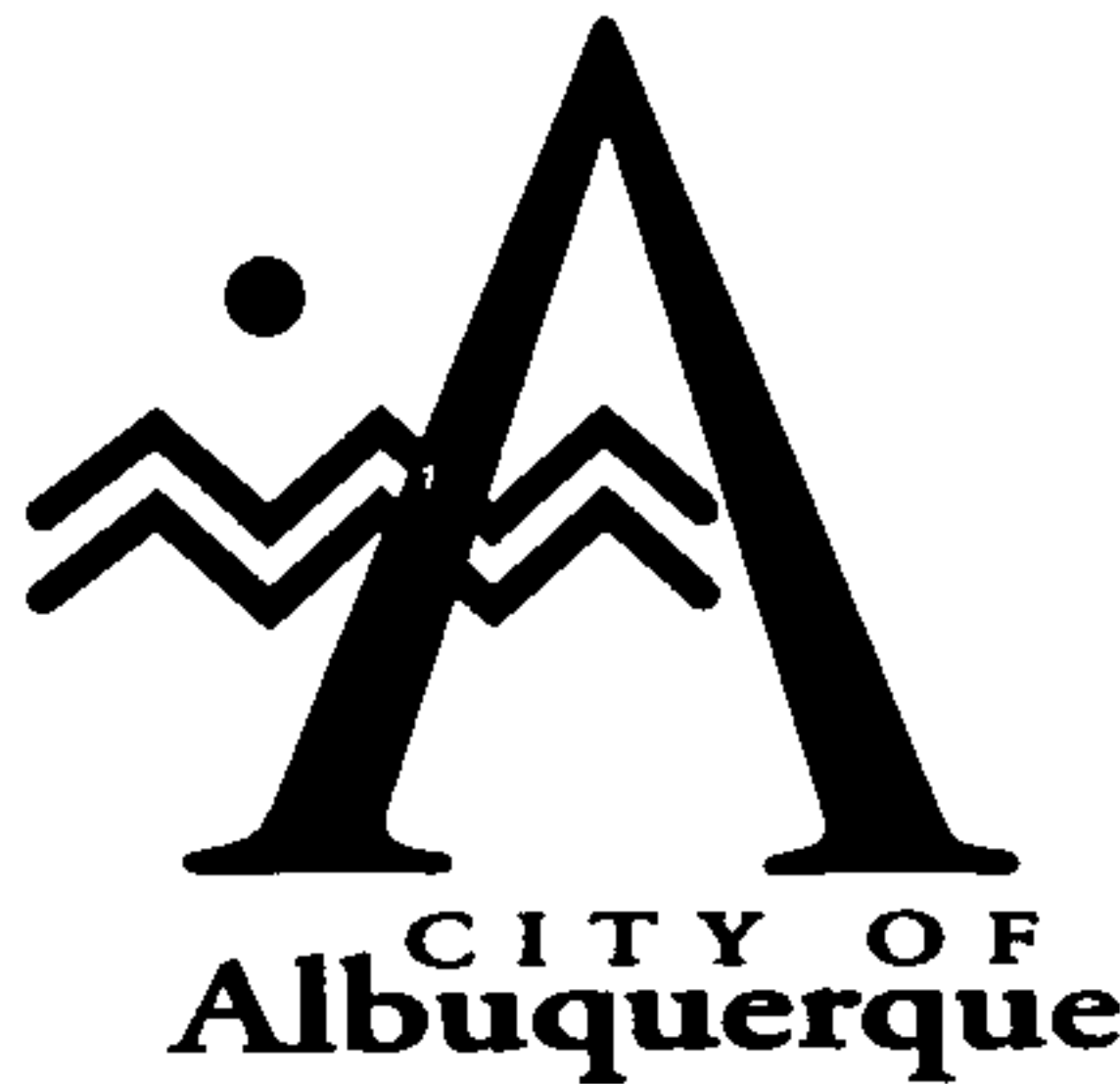
A grading and drainage plan is not required.

THE UNDERSIGNED AGREES THAT THE ABOVE FINDINGS ARE SUMMARIZED ACCURATELY AND ARE SUBJECT TO CHANGE IF FURTHER INVESTIGATION REVEALS THAT THEY ARE NOT REASONABLE OR THAT THEY ARE BASED ON INACCURATE INFORMATION.

SIGNED: 
NAME (PRINT): Curtis A. Cherne

SIGNED: 
NAME (PRINT): A. Brook Cleff

****NOTE** PLEASE PROVIDE A COPY OF THIS RECAP WITH YOUR DRAINAGE SUBMITTAL.**



December 13, 1996

Martin J. Chávez, Mayor

Jackie McDowell
McDowell Engineering, Inc.
7200 Valley Forge Place NE
Albuquerque, NM 87109

**RE: THE BANES DRAINAGE (G15-D48). GRADING AND DRAINAGE PLAN FOR
GRADING AND PAVING PERMIT APPROVAL. ENGINEER'S STAMP DATED
DECEMBER 5, 1996.**

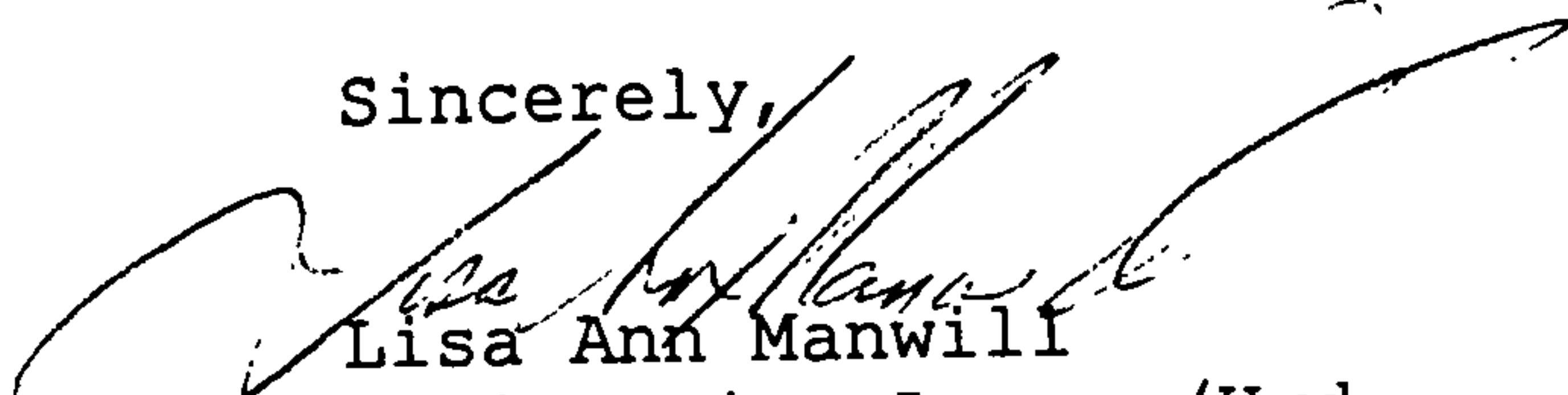
Dear Ms. McDowell:

Based on the information provided on your December 10, 1996
submittal, City Hydrology has the following comments:

1. I assume, from your request, that you are doing some paving work. Please include a narrative with your next submittal. It is not clear to me from the drawing what you want to do.
2. Is the public storm drain existing? A Work Order Permit will be required to install the manhole over the public storm drain.
3. Historically, does any flow enter the storm drain system? Where?

If I can be of further assistance, please feel free to contact me at 768-3622.

Sincerely,



Lisa Ann Manwill
Engineering Assoc./Hyd.

c: Andrew Garcia
File

Good for You. Albuquerque!



DRAINAGE INFORMATION SHEET

PROJECT TITLE: THE BANES DRAINAGE ZONE ATLAS/DRNG. FILE # 615/448
DRB #: _____ EPC #: _____ WORK ORDER #: 558781
LEGAL DESCRIPTION: LOTS 17, 18, 27 & 28, LOS HERMANOS ADD'N, ETC.
CITY ADDRESS: 4322 SECOND STREET NW, P.O. BOX 6437, 87197
ENGINEERING FIRM: MCDOWELL ENGINEERING, INC. CONTACT: JACKIE MCDOWELL
ADDRESS: 7200 VALLEY FORGE PL. NE PHONE: 828-2430
OWNER: LARRY MCCLINTOCK CONTACT: LARRY MCCLINTOCK
ADDRESS: P.O. BOX 6437, ALB. NM 87197 PHONE: 345-3571
ARCHITECT: _____ CONTACT: _____
ADDRESS: _____ PHONE: _____
SURVEYOR: SOUTHWEST SURVEYING COMPANY CONTACT: DAN GRANEY
ADDRESS: 333 LOMAS BLVD. NE PHONE: 247-4444
CONTRACTOR: _____ CONTACT: _____
ADDRESS: _____ PHONE: _____

TYPE OF SUBMITTAL:

☐ DRAINAGE REPORT
☒ DRAINAGE PLAN
☐ CONCEPTUAL GRADING & DRAIN. PLAN
☒ GRADING PLAN
☐ EROSION CONTROL PLAN
☐ ENGINEER'S CERTIFICATION
☐ OTHER _____

PRE-DESIGN MEETING:

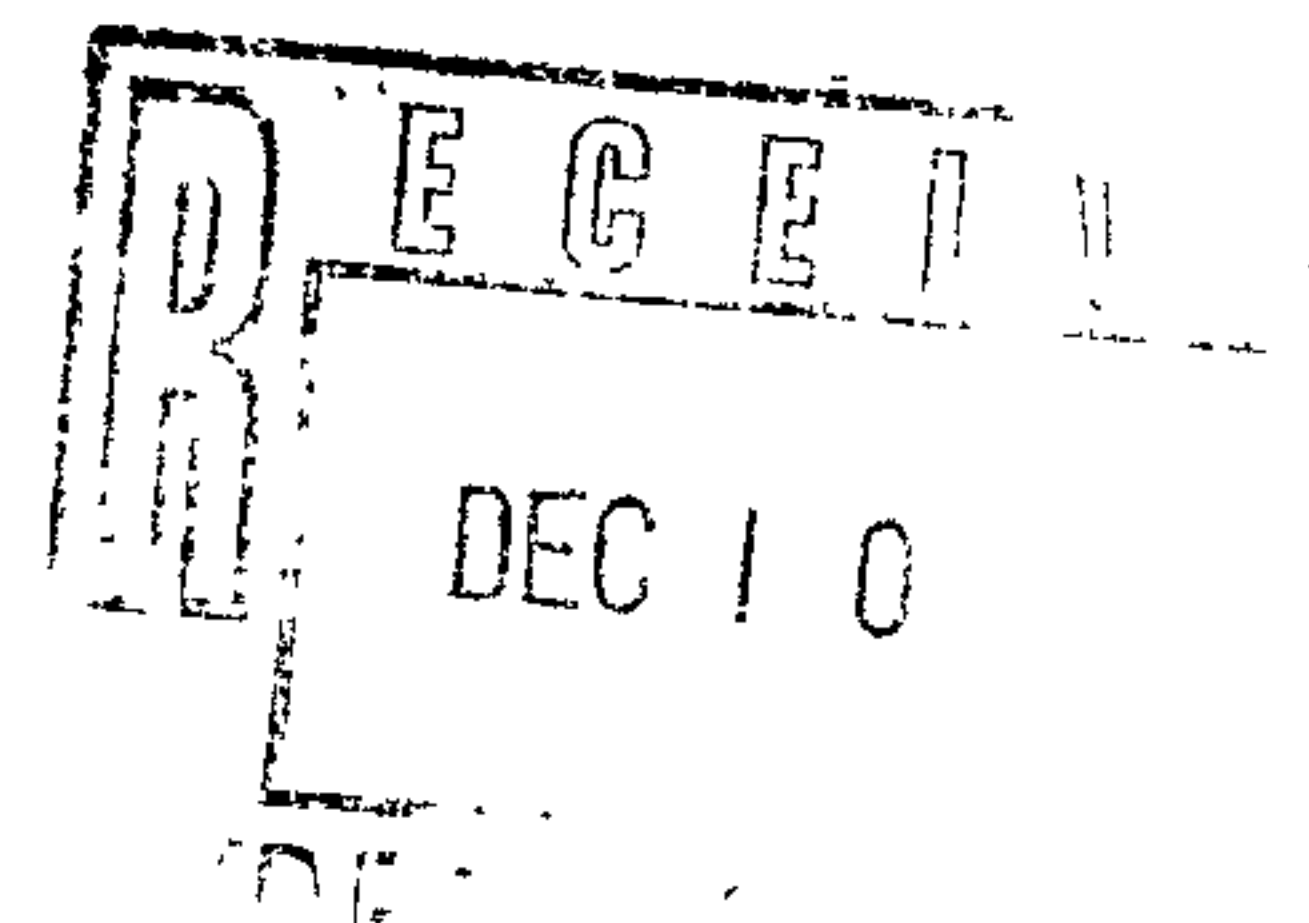
☐ YES
☒ NO
☐ COPY PROVIDED

CHECK TYPE OF APPROVAL SOUGHT:

☐ SKETCH PLAT APPROVAL
☐ PRELIMINARY PLAT APPROVAL
☐ S.DEV PLAN FOR SUB'D APPROVAL
☐ S.DEV PLAN FOR BLDG PMT APPR.
☐ SECTOR PLAN APPROVAL
☐ FINAL PLAT APPROVAL
☐ FOUNDATION PERMIT APPROVAL
☐ BUILDING PERMIT APPROVAL
☐ CERT. OF OCCUPANCY APPROVAL
☒ GRADING PERMIT APPROVAL
☒ PAVING PERMIT APPROVAL
☐ S.A.D. DRAINAGE REPORT
☐ DRAINAGE REQUIREMENTS
☐ OTHER _____ (SPECIFY)

DATE SUBMITTED: DECEMBER 6, 1996

BY: JACKIE S. MCDOWELL, P.E.



05-Dec-96

Calculations: Total Basin

Calculations are based on "Section 22.2 Hydrology of the Development Process Manual, Volume 2, Design Criteria for the City of Albuquerque, New Mexico, January 1993 - basins < 40 acres".

Precipitation Zone = 2

Depth at 100-year, 6-hour storm: (Table A-2) P = 2.35 inches

Land Treatments:

From Table 5 - Percent Treatment D

Single Family Residential =

$7 \cdot \text{SQR}((N \cdot N) + (5 \cdot N))$

where N = units/acre

N = ----- = -----, ok < 6 N = 0.00

Therefore Percent Treatment D = 0.00%
(includes local streets)

Areas: (acres)	Existing	Proposed
Treatment A	0.00	0.00
Treatment B	0.00	0.00
Treatment C	2.70	2.61
Treatment D	4.03	4.12
Total (acres) =	6.73	6.73

Volume	100 year Existing	100 year Proposed	10 year Existing	10 year Proposed	2 year Existing	2 year Proposed
Volume (acre-feet) =	0.97	0.97	0.57	0.57	0.30	0.30
Volume (cubic feet) =	42,088	42,412	24,699	24,967	13,027	13,236

Total Q(p), cfs:	100 year Existing Q(p)*A	100 year Proposed Q(p)*A	10 year Existing Q(p)*A	10 year Proposed Q(p)*A	2 year Existing Q(p)*A	2 year Proposed Q(p)*A
Treatment A	0.00	0.00	0.00	0.00	0.00	0.00
Treatment B	0.00	0.00	0.00	0.00	0.00	0.00
Treatment C	8.48	8.20	4.62	4.46	1.62	1.57
Treatment D	18.94	19.36	12.65	12.94	7.50	7.66
Total Q (cfs) =	27.42	27.56	17.27	17.40	9.12	9.23

Add'l increase in runoff is insignificant & will be diverted to the existing SD system.

HYDROLOGY CALCULATIONS

Page 1

RECIPROCAL EASEMENTS FOR COMMON ACCESS

This Easement Agreement is entered into between Baker/Jaffa, LLC, owner of Tract 22B, City of Albuquerque, County of Bernalillo, State of New Mexico, and of Baker/Jaffa, LLC, owner of Lot 27, Lot 18, Lot 19, and the vacated section of Las Hermanas Street NW, City of Albuquerque, County of Bernalillo, State of New Mexico.

The parties have an interest in adjoining real estate situated in the City of Albuquerque, County of Bernalillo, State of New Mexico and described as follows:

Parcel # 1 015 060 022 366 20129
4322 2nd St. NW Tract 22B MRGCD Map 33

Parcel # 1 015 060 038 379 20201
Las Hermanas St. NW *027 Los Hermanos Add & Ely Por of Vac Las Hermanas St. NW

Parcel # 1 015 060 056 374 20202
Carlton St NW *018 Los Hermanos Add & Wly Por of Vac Carlton St. NW

Parcel # 1 015 060 077 368 20401
*017 Los Hermanos Add & Ely Por Vac Carlton St. NW

As owners of Tract 22B we hereby grant a blanket vehicular easement on and across our Lot, Tract 22B, for the benefit and use of our Lots; Lot 27, Lot 18, Lot 19, the vacated Las Hermanas Street NW right of way and the vacated Carlton Street NW right of way. Said easement shall apply to all vehicular pathways.

The maintenance of the easement areas are the responsibility of the respective owners.

In witness whereof, the parties hereto have executed this agreement as follows:

Doc# 2013055491

05/20/2013 01:05 PM Page 1 of 2

EASE R: \$25.00 M Toulouse Oliver, Bernalillo County

RECEIVED



LEAT/CONTACTOR AT BRANCH
PER DETAIL ON SHEET NO.
101

TO FID/MUX/CCU.

SAFETY CONTROLS

NO SAFETY CONTROL SHALL BE ALTERED, DISCONNECTED, REMOVED,
DAMAGED, OR BYPASSED.

FAILURE MODE

ALL CONTROLS SHALL REVERT TO THE POSITIONS INDICATED ON
I/O SUMMARY.

U 91

SEQUENCE OF OPERATION
SYSTEM NO. 9
STEAM VALVE-1

A. LOCAL LOOP CONTROL

SUMMER

VALVE IS CLOSED.

WINTER

DURING OCCUPIED HOURS, AS DETERMINED BY TIME CLOCK, OA
THERMOSTAT OPENS VALVE WHEN OA TEMPERATURE FALLS BELOW SETPOINT.
SPACE CONDITIONS ARE MAINTAINED VIA MANUAL VALVES ON PERI-
METER CONVECTORS. DURING UNOCCUPIED HOURS, AS DETERMINED BY
TIME CLOCK, NIGHT THERMOSTAT CYCLES VALVE TO MAINTAIN SPACE
CONDITIONS

ACKNOWLEDGED:Date, May 20, 2013

(Owner #1)

WITNESSED:STATE OF NEW MEXICO)
COUNTY OF BERNALILLO)

On this 20 day of May, 2013, before me personally appeared Kristine Saffa and to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he (or they) executed the same as his (or their) free act and deed.

Notary 1st Party

My Commission Expires

6/9/2015OFFICIAL SEAL
SARA MCKINNEY
NOTARY PUBLIC - STATE OF NEW MEXICO
My commission expires 6/9/15**ACKNOWLEDGED:**Date, May 20, 2013

Owner #2

WITNESSED:

STATE OF NEW MEXICO)

COUNTY OF BERNALILLO)

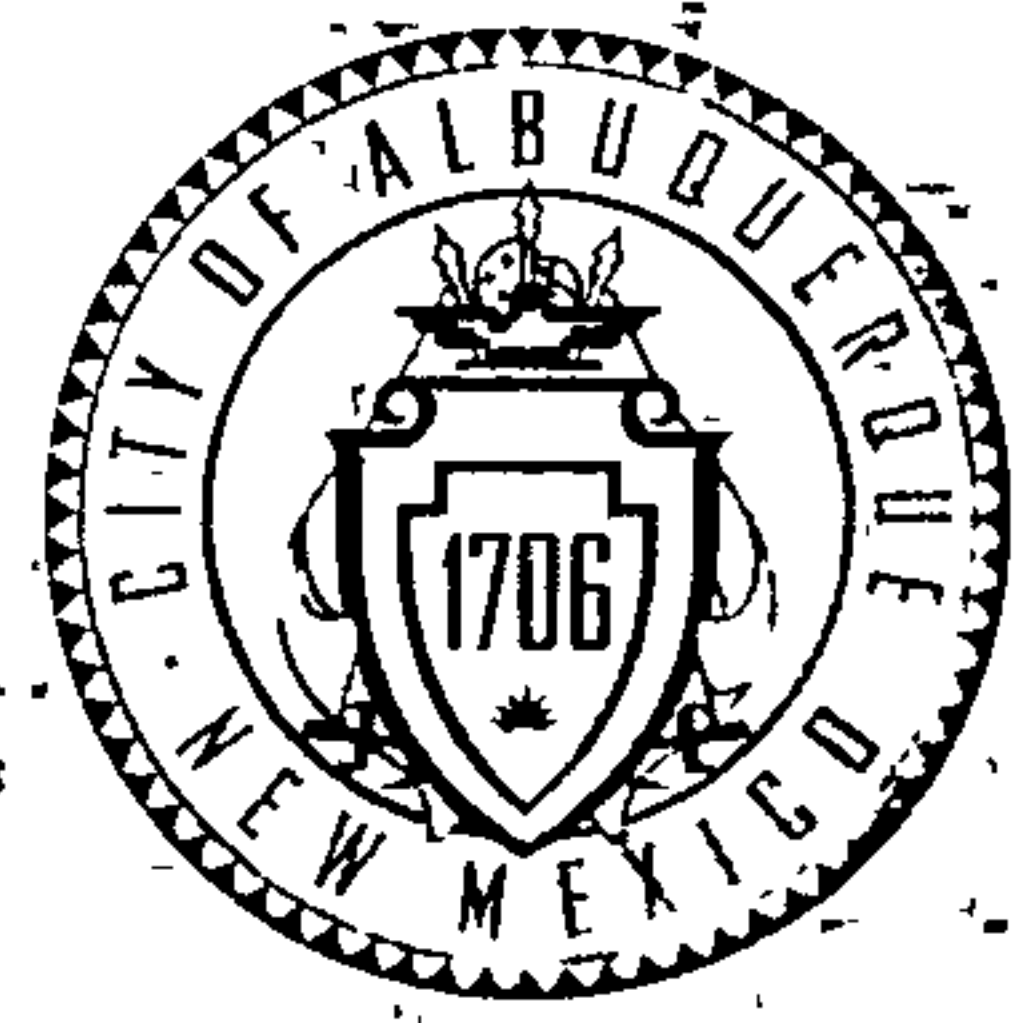
On this 20 day of May, 2013, before me personally appeared Kristine Saffa and to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he (or they) executed the same as his (or their) free act and deed.

Notary 2nd Party

My Commission Expires:

6/9/2015OFFICIAL SEAL
SARA MCKINNEY
NOTARY PUBLIC - STATE OF NEW MEXICO
My commission expires 6/9/15

CITY OF ALBUQUERQUE



May 23, 2013.

Roger Cinelli, R.A.
Cinelli Architects
2418 Manuel Torres Lane N.W.
Albuquerque, NM 87107

Re: Modular Office Bldg for Baker Utility Co., 4322 Second St NW,
Traffic Circulation Layout
Architect's / Stamp dated 5/15/13 (G15-D048),

Dear Mr. Cinelli,

The TCL submittal received 5/20/13 is approved for Building Permit. The plan is stamped and signed as approved. A copy of this plan will be needed for each of the building permit plans. Please keep the original to be used for certification of the site for final C.O. for Transportation. **Public infrastructure or work done within City Right-of-Way shown on these plans is for information only and is not part of approval. A separate DRC and/or other appropriate permits are required to construct these items.**

If a temporary CO is needed, a copy of the original TCL that was stamped as approved by the City will be needed. This plan must include a statement that identifies the outstanding items that need to be constructed or the items that have not been built in "substantial compliance," as well as the signed and dated stamp of a NM registered architect or engineer. Submit this TCL with a completed Drainage and Transportation Information Sheet to Hydrology at the Development Services Center of Plaza Del Sol Building.

When the site is completed and a final C.O. is requested, use the original City stamped approved TCL for certification. A NM registered architect or engineer must stamp, sign, and date the certification TCL along with indicating that the development was built in "substantial compliance" with the TCL. Submit this certification TCL with a completed Drainage and Transportation Information Sheet to Hydrology at the Development Services Center of Plaza Del Sol Building.

Once verification of certification is completed and approved, notification will be made to Building Safety to issue Final C.O. To confirm that a final C.O. has been issued, call Building Safety at 924-3306.

Sincerely,

Cynthia K. Beck
Traffic Engineer, Planning Dept.
Development Review Services

C: File

DRAINAGE AND TRANSPORTATION INFORMATION SHEET
(REV 12/2005)

G15D048

PROJECT TITLE: MODULAR OFFICE BLDG FOR BAKER UTILITY CO. ZONE MAP: G-14
DRB#: _____ EPC#: _____ WORK ORDER#: _____

LEGAL DESCRIPTION: LOT 22 B MRQCD MAP #33
CITY ADDRESS: 4322 SECOND STREET HW

ENGINEERING FIRM: HA CONTACT: _____
ADDRESS: _____ PHONE: _____
CITY, STATE: _____ ZIP CODE: _____

OWNER: BILL BAKER CONTACT: BROOK
ADDRESS: 2351 AZTEC RD NE PHONE: _____
CITY, STATE: ABQ ZIP CODE: 87107

ARCHITECT: ROGER CINELLI CONTACT: ROGER
ADDRESS: 2418 MANUEL TORRES LN PHONE: 243-8211
CITY, STATE: ABQ ZIP CODE: 87107

SURVEYOR: SURVEYS SOUTHWEST CONTACT: _____
ADDRESS: 333 LOMAS NE PHONE: 998-0303
CITY, STATE: ABQ ZIP CODE: 87102

CONTRACTOR: TBD CONTACT: _____
ADDRESS: _____ PHONE: _____
CITY, STATE: / ZIP CODE: _____

TYPE OF SUBMITTAL:

- ☐ DRAINAGE REPORT
- ☐ DRAINAGE PLAN 1st SUBMITTAL
- ☐ DRAINAGE PLAN RESUBMITTAL
- ☐ CONCEPTUAL G & D PLAN
- ☐ GRADING PLAN
- ☐ EROSION CONTROL PLAN
- ☐ ENGINEER'S CERT (HYDROLOGY)
- ☒ CLOMR/LOMR
- ☒ TRAFFIC CIRCULATION LAYOUT
- ☐ ENGINEER'S CERT (TCL)
- ☐ ENGINEER'S CERT (DRB SITE PLAN)
- ☐ OTHER (SPECIFY) _____

CHECK TYPE OF APPROVAL SOUGHT:

- ☐ SIA/FINANCIAL GUARANTEE RELEASE
- ☐ PRELIMINARY PLAT APPROVAL
- ☐ S. DEV. PLAN FOR SUB'D APPROVAL
- ☐ S. DEV. FOR BLDG. PERMIT APPROVAL
- ☐ SECTOR PLAN APPROVAL
- ☐ FINAL PLAT APPROVAL
- ☐ FOUNDATION PERMIT APPROVAL
- ☒ BUILDING PERMIT APPROVAL
- ☐ CERTIFICATE OF OCCUPANCY (PERM)
- ☐ CERTIFICATE OF OCCUPANCY (TEMP)
- ☐ GRADING PERMIT APPROVAL
- ☐ PAVING PERMIT APPROVAL
- ☐ WORK ORDER APPROVAL
- ☐ OTHER (SPECIFY) _____

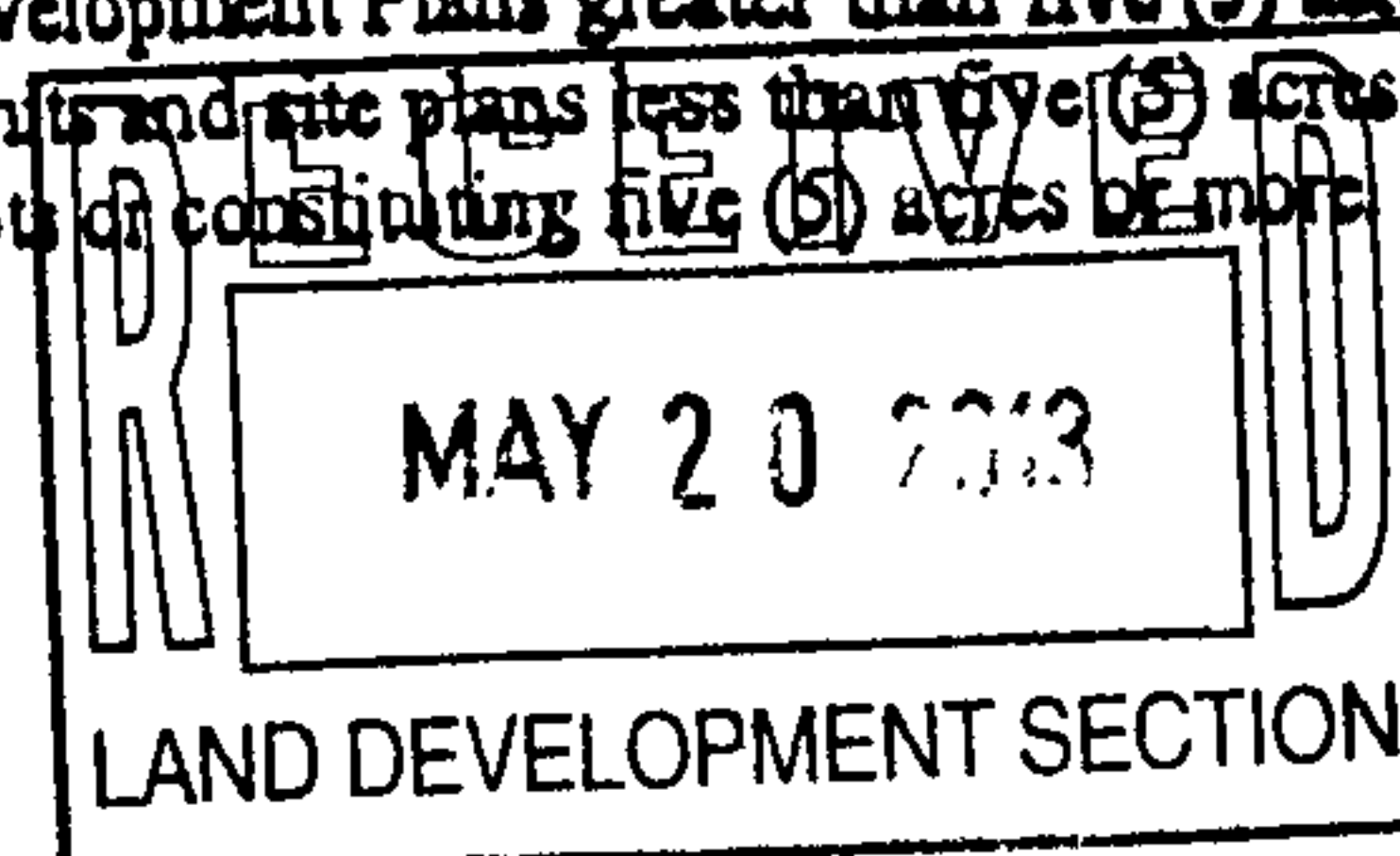
WAS A PRE-DESIGN CONFERENCE ATTENDED:

- ☒ YES
- ☐ NO
- ☐ COPY PROVIDED

DATE SUBMITTED: 5/21/13 BY: Roger Cinelli

Requests for approvals of Site Development Plans and/or Subdivision Plats shall be accompanied by a drainage submittal. The particular nature, location, and scope to the proposed development defines the degree of drainage detail. One or more of the following levels of submittal may be required based on the following:

1. Conceptual Grading and Drainage Plan: Required for approval of Site Development Plans greater than five (5) acres and Sector Plans.
2. Drainage Plans: Required for building permits, grading permits, paving permits and site plans less than five (5) acres.
3. Drainage Report: Required for subdivision containing more than ten (10) lots or constituting five (5) acres or more.



Search for map features...

I want to...

All Available Layers



LAS HERMANAS ST

CARLTON ST





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

BILL BAKER (ROGER CINELLI, AGENT) request(s) a special exception to Section 14-16-3-1(H)(3): a VARIANCE to all buildings required within a site to be connected to each other with pedestrian walkways for all or a portion of Lot(s) 22B, MRGCD MAP NO 33 zoned M-1, located on 4322 2ND ST NW (G-14)

Special Exception No:..... **13ZHE-80468**
Project No. **Project# 1009618**
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. Cinelli, (hereinafter "**Agent**") acting as agent on behalf of the property owner, Mr. Baker (hereinafter "**Applicant**") appeared before the Zoning Hearing Examiner (hereinafter "**ZHE**") requesting a Variance to all buildings required within a site to be connected to each other with pedestrian walkways (hereinafter "**Application**") upon the real property located at 4322 2nd St NW ("**Subject Property**"). Below are the findings of facts:

FINDINGS:

1. Applicant is requesting a Variance to all buildings required within a site to be connected to each other with pedestrian walkways.
2. The Subject Property is located within the North Valley Area Plan, and is characterized as "Central Urban" in the Comprehensive Plan.
3. The Subject Property is an assemblage of land totaling roughly 4.6 acres and within the Greater Gardner Neighborhood Association.
4. According to the Applicant the Subject Property has buildings that were built over 50 years ago and the business (Baker Utility Supply) has been in existence for over 47 years.
5. 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*"
6. Applicant testified at the Hearing that the Subject Property is exceptional because the Subject Property is comprised of a number of long and narrow parcels that "stretch one thousand feet from 2nd Street NW to the railroad tracks." As a result of the unusually narrow, and odd platting, on the Subject Property the Applicant believes that the Subject Property is exception. Further, the Applicant indicated that the unusual shape of the Subject Property preceded the adoption of both the landscaping regulations and pedestrian walkway regulations within the City of Albuquerque.
7. The Applicant indicated that they are merely intending to construct a 2,800 square foot modular office building. It will be "capable of disassembly and trucking to another site, if desired." The Applicant argued that constructing a small modular building on a large parcel that is already home to a number of commercial buildings

- should not “trigger” compliance with all of the City of Albuquerque landscape and pedestrian walkway regulations.
8. The Applicant voluntarily is designing and installing over “900 square feet of new landscaping at Building A, and over 1,600 square feet of new landscaping will be added to Building D.” Further, the Applicant voluntarily agreed to install even more landscaping adjacent to the Picnic Area (around 400 square feet).
 9. The Applicant also indicated to the ZHE that there is no public sidewalk along the adjacent public right of way (2nd Street), and that forcing sidewalk connections to a public right of way, that itself, has no sidewalks would be a purpose-less endeavor. The Applicant did commit to providing sidewalk connections between Building C and Building A.
 10. 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”*
 11. Applicant testified at the Hearing that as a result of the exceptionality of the Subject Property (unusually narrow lots that have buildings that pre-dated the landscape and pedestrian sidewalk regulations) that the City of Albuquerque Code of Ordinances sections related to landscape and pedestrian sidewalks creates regulations that produce an unnecessary hardship upon the Applicant and the Subject Property (especially when viewed in light of the Applicant’s efforts to construct a 2,800 square foot modular building within a large campus of existing buildings).
 12. 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.”*
 13. Applicant testified at the Hearing that the variance Application if approved, would be appropriate to prevent the unnecessary hardship.
 14. 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.”*
 15. 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.
 16. The Application, File and testimony of the Applicant at the Hearing suggest that there is no neighborhood opposition to the Application.
 17. 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 to all buildings required within a site to be connected to each other with pedestrian walkways.

CONDITIONS OF APPROVAL:

- A. The Applicant shall install a pedestrian sidewalk connection between Building A and Building C.
- B. The Applicant shall install an additional 400 square feet of landscaping adjacent to the picnic area located near Building D.
- C. The Applicant shall install 2,590 square feet of new landscaping area at Building A and Building D.

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.

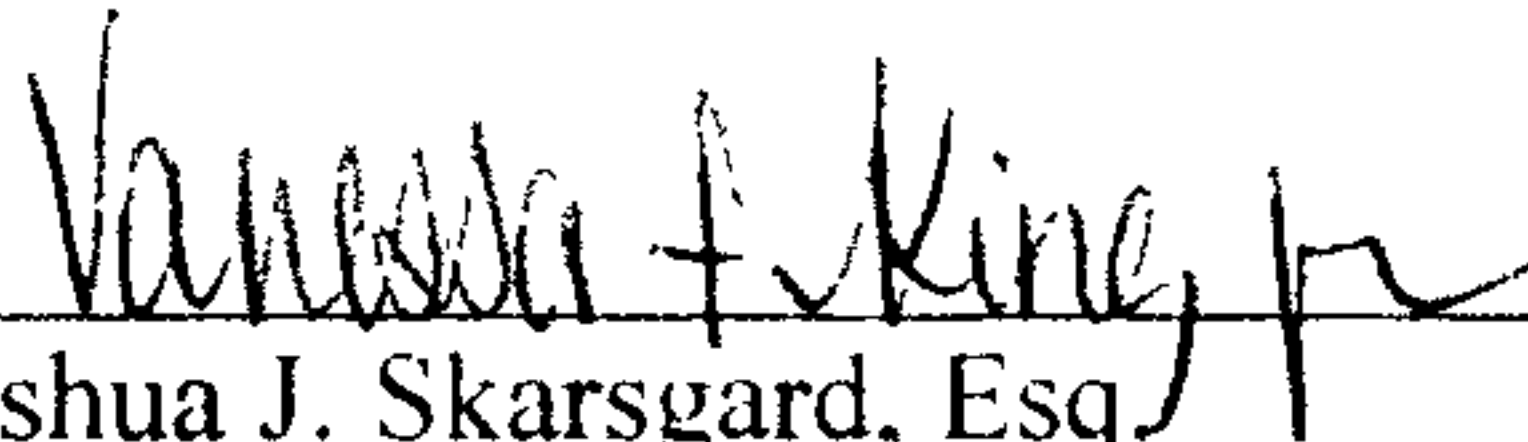
An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of 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
Roger Cinelli, 2418 Manuel Torres Ln NW, 87107
Bill Baker, 2351 Aztec Rd NE, 87107
Kris Jaffa, 2351 Aztec Rd NE, 87107



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

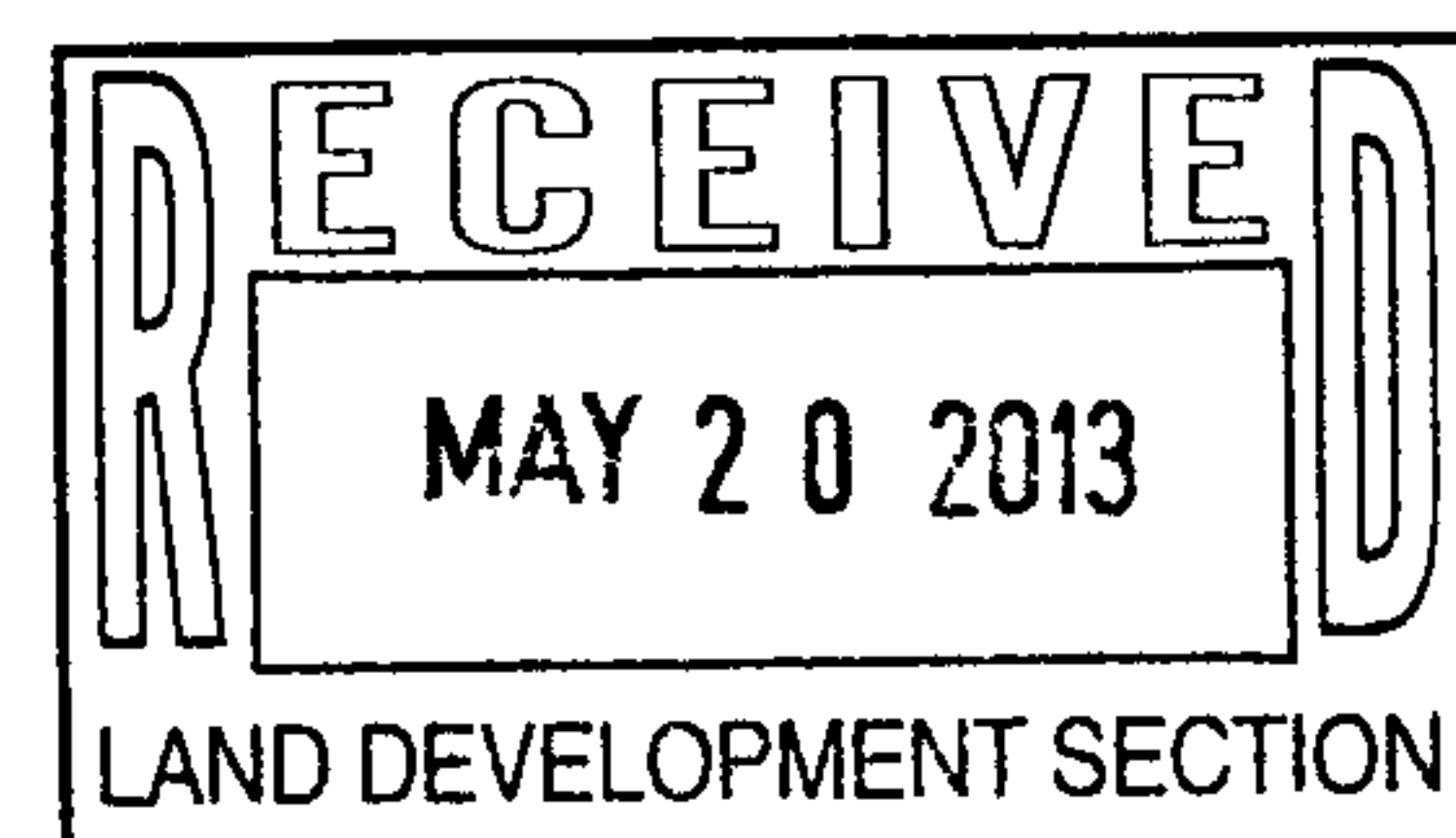
BILL BAKER (ROGER CINELLI, AGENT) request(s) a special exception to Section 14-16-3-1(H)(2): a VARIANCE to the required pedestrian walkways shall be provided from all street sidewalks to the principal customer entrance(s) of the nearest building(s) on site for all or a portion of Lot(s) 22B, MRGCD MAP NO. 33 zoned M-1, located on 4322 2ND ST NW (G-14)

Special Exception No:..... **13ZHE-80467**
Project No: **Project# 1009618**
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. Cinelli, (hereinafter "**Agent**") acting as agent on behalf of the property owner, Mr. Baker (hereinafter "**Applicant**") appeared before the Zoning Hearing Examiner (hereinafter "**ZHE**") requesting a Variance to the required pedestrian walkways shall be provided from all street sidewalks to the principal customer entrance (s) of the nearest building (s) on site (hereinafter "**Application**") upon the real property located at 4322 2nd St NW ("**Subject Property**"). Below are the findings of facts:

FINDINGS:

1. Applicant is requesting a Variance to the required pedestrian walkways shall be provided from all street sidewalks to the principal customer entrance (s) of the nearest building (s) on site.
2. The Subject Property is located within the North Valley Area Plan, and is characterized as "Central Urban" in the Comprehensive Plan.
3. The Subject Property is an assemblage of land totaling roughly 4.6 acres and within the Greater Gardner Neighborhood Association.
4. According to the Applicant the Subject Property has buildings that were built over 50 years ago and the business (Baker Utility Supply) has been in existence for over 47 years.
5. 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*"
6. Applicant testified at the Hearing that the Subject Property is exceptional because the Subject Property is comprised of a number of long and narrow parcels that "stretch one thousand feet from 2nd Street NW to the railroad tracks." As a result of the unusually narrow, and odd platting, on the Subject Property the Applicant believes that the Subject Property is exception. Further, the Applicant indicated that the unusual shape of the Subject Property preceded the adoption of both the landscaping regulations and pedestrian walkway regulations within the City of Albuquerque.
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9. The Applicant also indicated to the ZHE that there is no public sidewalk along the adjacent public right of way (2nd Street), and that forcing sidewalk connections to a public right of way, that itself, has no sidewalks would be a purpose-less endeavor. The Applicant did commit to providing sidewalk connections between Building C and Building A.
10. 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”*
11. Applicant testified at the Hearing that as a result of the exceptionality of the Subject Property (unusually narrow lots that have buildings that pre-dated the landscape and pedestrian sidewalk regulations) that the City of Albuquerque Code of Ordinances sections related to landscape and pedestrian sidewalks creates regulations that produce an unnecessary hardship upon the Applicant and the Subject Property (especially when viewed in light of the Applicant’s efforts to construct a 2,800 square foot modular building within a large campus of existing buildings).
12. 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.”*
13. Applicant testified at the Hearing that the variance Application if approved, would be appropriate to prevent the unnecessary hardship.
14. 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.”*
15. 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.
16. The Application, File and testimony of the Applicant at the Hearing suggest that there is no neighborhood opposition to the Application.
17. 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 to the required pedestrian walkways shall be provided from all street sidewalks to the principal customer entrance(s) of the nearest building (s) on site.

CONDITIONS OF APPROVAL:

- A. The Applicant shall install a pedestrian sidewalk connection between Building A and Building C
- B. The Applicant shall install an additional 400 square feet of landscaping adjacent to the picnic area located near Building D.
- C. The Applicant shall install 2,590 square feet of new landscaping area at Building A and Building D.

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.

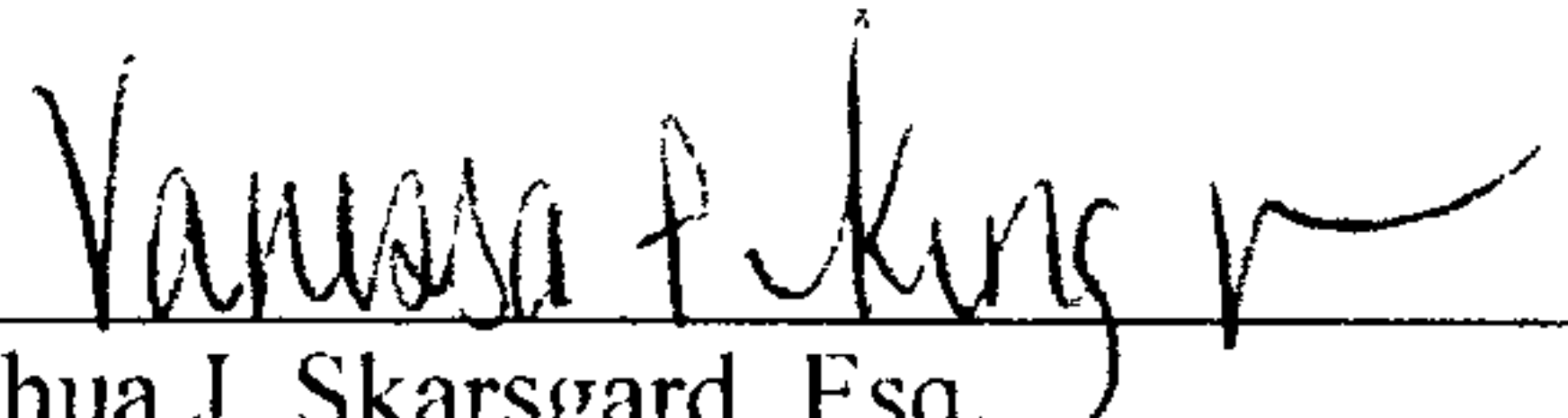
An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of 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
Roger Cinelli, 2418 Manuel Torres Ln NW, 87107
Bill Baker, 2351 Aztec Rd NE, 87107
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