

# CITY OF ALBUQUERQUE

## *Planning Department*

*David Campbell, Director*

### *Development Review Division*

600 2<sup>nd</sup> Street NW – 3<sup>rd</sup> Floor

Albuquerque, NM 87102



## NOTICE OF APPEAL

July 29, 2019

### TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on July 26, 2019. You will receive a Notice of Hearing as to when the appeal will be heard by the **Land Use Hearing Officer**. If you have any questions regarding the appeal please contact Alfredo Salas, Planning Administrative Assistant at (505) 924-3370.

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

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

**CITY COUNCIL APPEAL NUMBER: AC-19-12**

**PLANNING DEPARTMENT CASE FILE NUMBER: Project #2018-001198**

**VA-2019-00247, SI-2019-00149**

**VA-2019-00188 – Variance**

**VA-2019-00190 – Variance**

PO Box 1293

Albuquerque

NM 87103

**APPLICANT: Rene Horvath  
5515 Palomino Dr. NW  
Albuquerque NM 87120**

[www.cabq.gov](http://www.cabq.gov)

cc: Crystal Ortega, City Council, City county bldg. 9<sup>th</sup> floor  
Kevin Morrow/Legal Department, City Hall, 4<sup>th</sup> Floor-  
Zoning Enforcement  
EPC File  
PV Trails Albuquerque, LLC, 303 Roma Ave. NW, ABQ, NM 87102  
Consensus Planning, Inc., 302 8<sup>th</sup> St., NW, ABQ, NM 87102  
Harry Hendrikson, Westside Coalition of NA's, 10592 Rio Del Sol NW, ABQ, NM 87114  
Rene Horvath, Westside Coalition of NA's, 5515 La Palomino Dr. NW, ABQ, NM 87120  
Paul Wymer, [paul-wymer@putegroup.com](mailto:paul-wymer@putegroup.com)  
Gary Illingworth, [gillingworth@hoamco.com](mailto:gillingworth@hoamco.com)  
Jose M. Mendez, [jose.mendez@gsa.com](mailto:jose.mendez@gsa.com)  
Alan Varela, [avarela@cabq.gov](mailto:avarela@cabq.gov)



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

Administrative Decisions	Decisions Requiring a Public Meeting or Hearing	Policy Decisions
<input type="checkbox"/> Archaeological Certificate (Form P3)	<input type="checkbox"/> Site Plan – EPC including any Variances – EPC (Form P1)	<input type="checkbox"/> Adoption or Amendment of Comprehensive Plan or Facility Plan (Form Z)
<input type="checkbox"/> Historic Certificate of Appropriateness – Minor (Form L)	<input type="checkbox"/> Master Development Plan (Form P1)	<input type="checkbox"/> Adoption or Amendment of Historic Designation (Form L)
<input type="checkbox"/> Alternative Signage Plan (Form P3)	<input type="checkbox"/> Historic Certificate of Appropriateness – Major (Form L)	<input type="checkbox"/> Amendment of IDO Text (Form Z)
<input type="checkbox"/> Minor Amendment to Site Plan (Form P3)	<input type="checkbox"/> Demolition Outside of HPO (Form L)	<input type="checkbox"/> Annexation of Land (Form Z)
<input type="checkbox"/> WTF Approval (Form W1)	<input type="checkbox"/> Historic Design Standards and Guidelines (Form L)	<input type="checkbox"/> Amendment to Zoning Map – EPC (Form Z)
	<input type="checkbox"/> Wireless Telecommunications Facility Waiver (Form W2)	<input type="checkbox"/> Amendment to Zoning Map – Council (Form Z)
		<b>Appeals</b>
		<input checked="" type="checkbox"/> Decision by EPC, LC, ZHE, or City Staff (Form A)

### APPLICATION INFORMATION

Applicant: <u>Rene' HORVATH</u>		Phone: <u>898-2114</u>
Address: <u>5515 Palomino Dr. NW</u>		Email: <u>aboard10@juno.com</u>
City: <u>Albuquerque</u>	State: <u>NM</u>	Zip: <u>87120</u>
Professional/Agent (if any):		Phone:
Address:		Email:
City:	State:	Zip:
Proprietary Interest in Site:		List all owners:

### BRIEF DESCRIPTION OF REQUEST

Appeal 11 July 2019 EPC decision on two variances for all or a portion of Tract 1 and Tract 2, Bulk Land Plat of the Trails, Unit 3A

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

Lot or Tract No.: <u>Tract 1 and Tract 2</u>	Block: <u>Unit 3A</u>	Unit: <u>Unit 3A</u>
Subdivision/Addition: <u>Bulk Land Plat of the Trails</u>	MRGCD Map No.:	UPC Code:
Zone Atlas Page(s):	Existing Zoning:	Proposed Zoning:
# of Existing Lots:	# of Proposed Lots:	Total Area of Site (acres): <u>20.5 Acres</u>

### LOCATION OF PROPERTY BY STREETS

Site Address/Street: Woodmont Avenue NW Between: Petroglyph Nat Monument and: Paseo del Norte Blvd NW

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

Signature: <u>Rene' Horvath</u>	Date: <u>7-26-2019</u>
Printed Name: <u>Rene' Horvath</u>	<input checked="" type="checkbox"/> Applicant or <input type="checkbox"/> Agent

### FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees	Case Numbers	Action	Fees
<u>VA-2019-00247</u>	<u>Appeal</u>	<u>\$130.00</u>			

Meeting/Hearing Date: 7-26-19 Fee Total: \$130.00

Staff Signature: [Signature] Date: 7-26-19 Project # PR-2018-001198

## FORM A: Appeals

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

- ☐ APPEAL OF A DECISION OF CITY PLANNING STAFF (HISTORIC PRESERVATION PLANNER) ON A HISTORIC CERTIFICATE OF APPROPRIATENESS – MINOR TO THE LANDMARKS COMMISSION (LC)
- ☐ APPEAL OF A DECISION OF CITY PLANNING STAFF ON AN IMPACT FEE ASSESSMENT TO THE ENVIRONMENTAL PLANNING COMMISSION (EPC)

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

\_\_\_ Interpreter Needed for Hearing? NO if yes, indicate language: \_\_\_\_\_

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

\_\_\_ Project number of the case being appealed, if applicable: 2018-001198

\_\_\_ Application number of the case being appealed, if applicable: VA-2019-00188 & VA-2019-00190

☒ Type of decision being appealed: EPC decision on two variances

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

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

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

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

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

Signature: Rene Horvath

Date: 7-26-2019

Printed Name: Rene Horvath

☒ Applicant or ☐ Agent

**FOR OFFICIAL USE ONLY**

Case Numbers:

Project Number:

VA-2019-00247

PR-2019-001198

Staff Signature: [Signature]

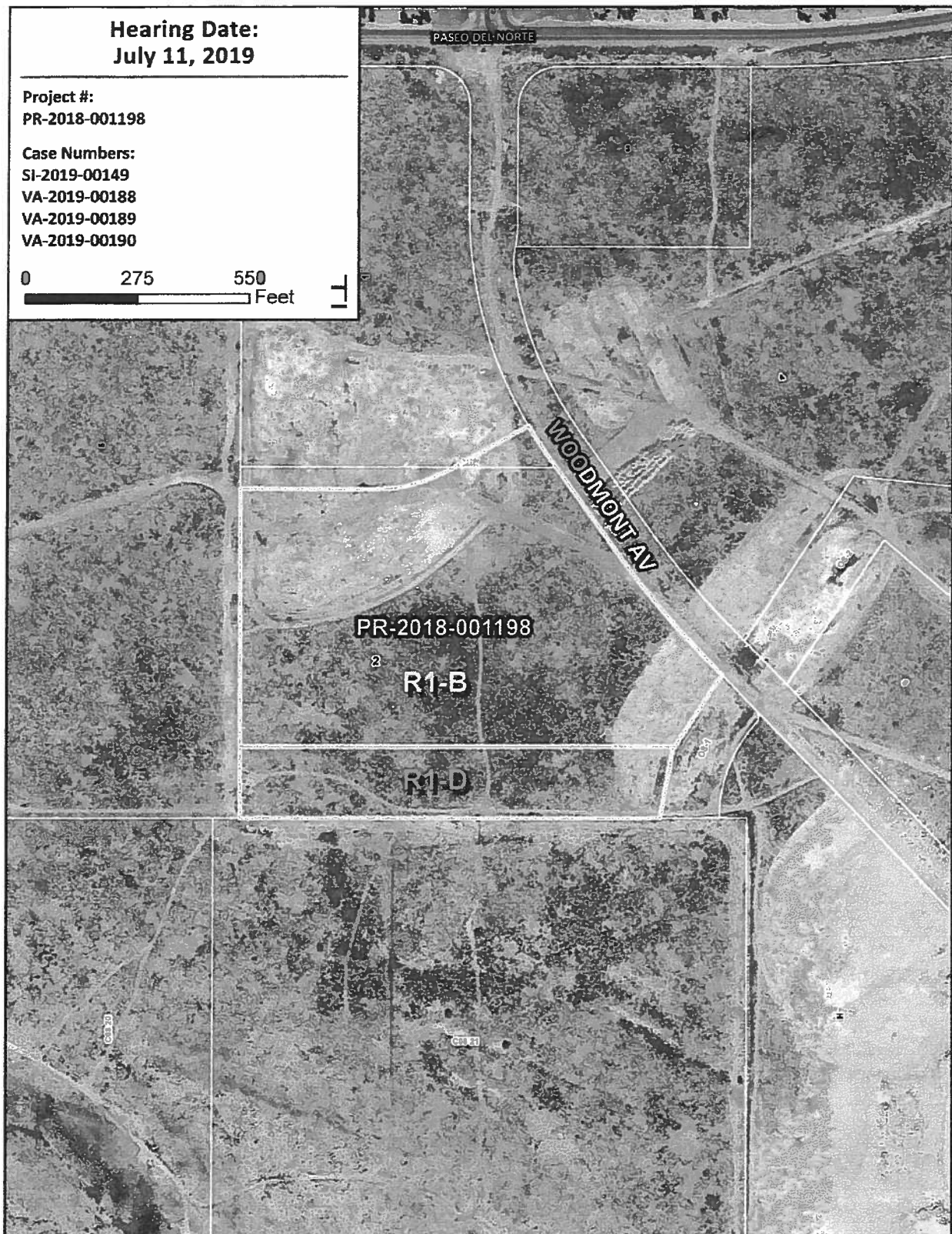
Date: 7-26-19

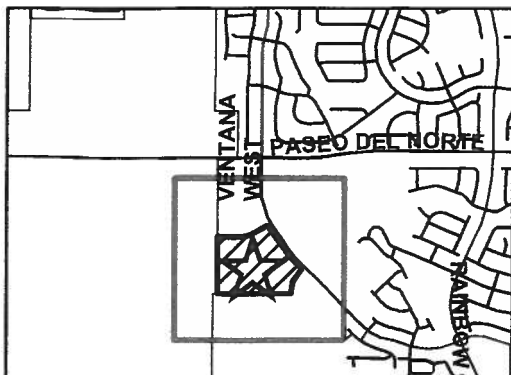
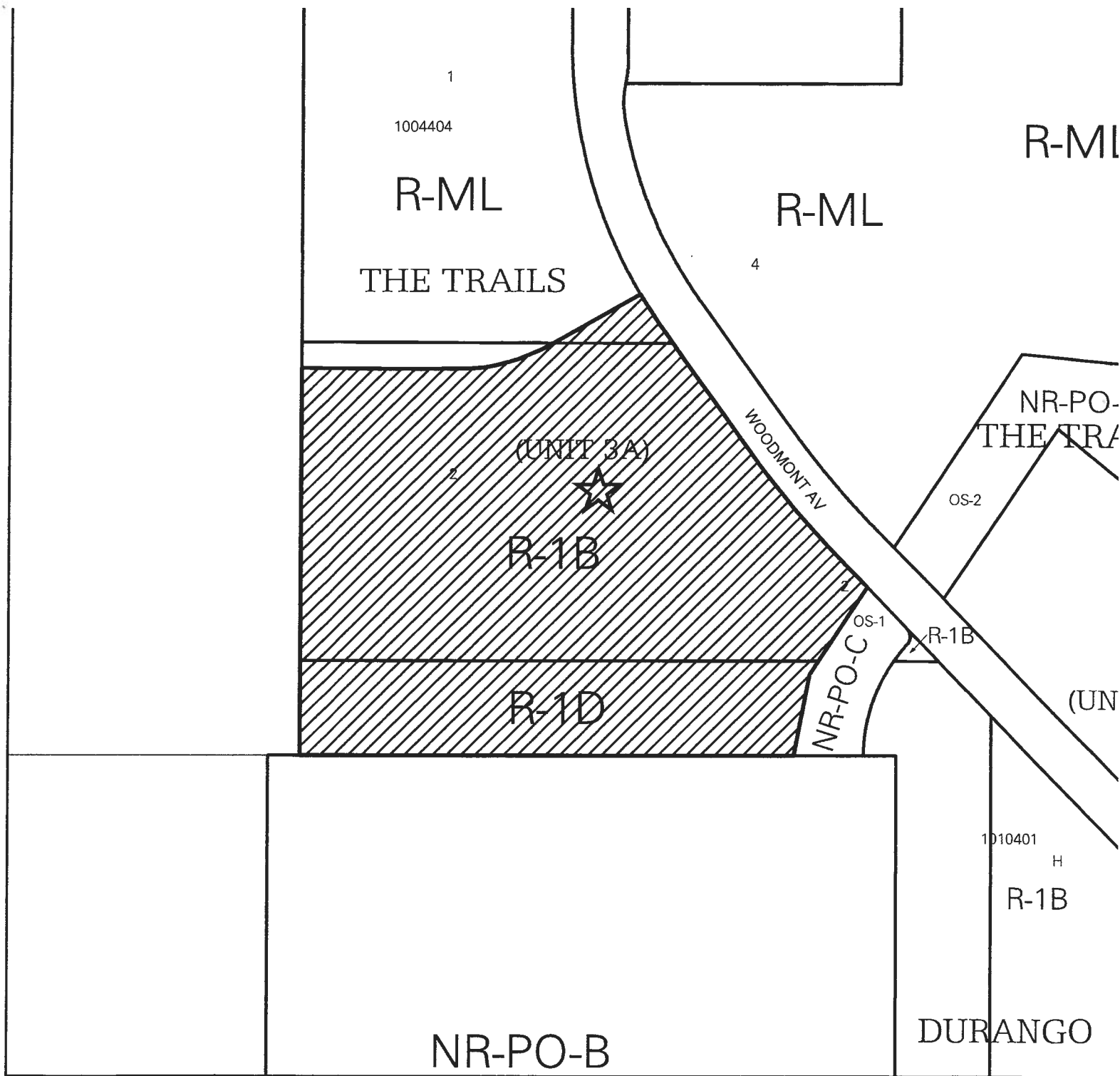


**CITY OF ALBUQUERQUE  
PLANNING DEPARTMENT**

**CURRENT PLANNING SECTION**

**ENVIRONMENTAL PLANNING COMMISSION**  
**Project #: 2018-001198, SI-2019-00149,**  
**VA-2019-00188, VA-2019-00189, VA-2019-00190**  
**Hearing Date: July 11, 2019**





## IDO ZONING MAP

Note: Gray shading  
indicates County.



1 inch = 300 feet

Hearing Date:  
7/11/2019  
Project Number:  
PR-2018-001198  
Case Number:

26 July 2019

**Planning Department Director**  
City of Albuquerque Planning Department  
Plaza del Sol Building  
600 Second Street NW  
Albuquerque, NM 87102

Re: In appeal to Variances VA-2019-00188 and VA-2019-00190 Project # PR-2018-001198

**The West Side Coalition of Neighborhood Associations (WSCONA) appeals variances VA-2019-00188 and VA-2019-00190 which were granted by the EPC 11 July 2019.**

**1. STANDING:** WSCONA is a coalition duly registered with the City of Albuquerque's Office of Neighborhood Coordination. It represents numerous neighborhood associations on the West Side from three different City Council Districts. The respective properties are contained within the boundaries of WSCONA.

**2. BASIS FOR APPEAL:**

The Environmental Planning Commission (EPC) is a 9-member board nominated by City Council (Council) members and appointed by the Mayor with the advice and consent of the Council. The EPC is the "City Planning Commission" or the "Planning Commission" for the purposes of any other law or policy that refers to such body.

**THIS APPEAL IS IN OPPOSITION TO TWO VARIANCES VA-2019-00188 AND VA-2019-00190 WHICH WERE GRANTED BY THE EPC 11 JULY 2019. IN GRANTING THESE VARIANCES THE EPC ACTED ARBITRARILY AND CAPRICIOUSLY. THESE VARIANCES SET A DANGEROUS PRECEDENT BY GRANTING THE APPLICANT VARIANCES WITHOUT MEETING ALL OF THE CRITERIA OUTLINED IN THE IDO (EFFECTIVE 17 MAY 2018) AND WILL NULLIFY KEY BUILDING STANDARDS IN THE CHARACTER PROTECTION OVERLAY 12 (CPO-12) IF NOT OVERTURNED.**

**A. Decision Criteria Which Govern Approval of a Variance**

**IDO 14-16-6-6:(M)(3)(A)** "Except as indicated in Subsections (b) and (c) below, an application for a Variance – EPC shall be approved if it meets **all** of the following criteria:

1. There **are special circumstances** applicable to the subject property that are **not self-imposed and that do not apply generally to other property in the same zone district** and vicinity, including but not limited to size, shape, topography, location, surroundings, and physical

characteristics, and such special circumstances were created either by natural forces or by government eminent domain actions for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.

2. The Variance will not be materially contrary to the public safety, health, or welfare.
3. The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.
4. The Variance will not materially undermine the intent and purpose of this IDO or the applicable zone district.
5. The Variance approved is the **minimum necessary** to avoid extraordinary hardship or practical difficulties.”

HARDSHIPS OF THE TYPE TO MEET THE CRITERIA FOR A VARIANCE ARE HISTORICALLY DEMONSTRATED BY INDIVIDUAL LOTS WITHIN A DEVELOPMENT. THESE INDIVIDUAL LOTS, DUE TO THEIR CONFIGURATION WHICH IS NOT SELF IMPOSED BY THE APPLICANT WOULD QUALIFY. HOWEVER, IN THIS CASE, THE APPLICANT MADE APPLICATION FOR VARIANCE NOT TO A GROUP OF INDIVIDUAL LOTS, BUT TO THE ENTIRE DEVELOPMENT. NOT ONLY IS SUCH AN APPLICATION UNPRECEDENTED, IT ALSO DEMONSTRATES THAT THE HARDSHIPS FOR WHICH THE APPLICANT SEEKS VARIANCE ARE NOT SPECIAL OR UNIQUE TO THIS DEVELOPMENT. RATHER, THEY ARE PART OF THE CPO-12 OVERLAY AND GENERALLY APPLY TO ALL PROPERTY WITHIN THE OVERLAY THAT IS CURRENTLY BEING DEVELOPED. THE APPLICANT FAILS TO MEET THESE HARDSHIP CRITERIA—ESPECIALLY WHEN AN ENTIRE SITE PLAN IS SEEKING VARIANCE.

**B. IDO 14-16-6-6:(M)(3)(A)(5)** “The Variance approved is the **minimum necessary** to avoid extraordinary hardship or practical difficulties.”

THE EPC ACTED CAPRICIOUSLY WHEN IT ALLOWED THE APPLICANT/AGENT TO DRAFT THEIR OWN FINDINGS AND DETERMINATION WITHOUT PUBLIC REVIEW AND INPUT. WE THEREFORE OBJECT TO THESE FINDINGS BEING FACTUAL. THIS PROCEDURAL MISCONDUCT LED TO VARIANCE MODIFICATION WITHOUT ANY OPPORTUNITY FOR PUBLIC COMMENT. CONSEQUENTLY, VA-2019-00188 WAS



MODIFIED ON THE FLOOR OF THE 11 JULY 2019 HEARING TO ALLOW FOR SECOND STORIES UP TO 100% OF THE FIRST STORY INSTEAD OF 75%. BY GRANTING THE APPLICANT MORE THAN THEIR ORIGINAL APPLICATION THIS MINIMUM NECESSARY REQUIREMENT WAS ENTIRELY IGNORED.

C.      **Staff findings prior to the EPC hearing 11 July 2019:**

THE CITY PLANNING STAFF REPORT COMPILED PRIOR TO THE HEARING REACHED A SIMILAR CONCLUSION. THEIR OPINION TO IDO 14-16-6-6:(M)(3)(A)(1) IS AS FOLLOWS:

Although effectiveness of IDO regulations was not self-imposed, this event was not unique to the subject site. City Council adoption of the IDO was City-wide and affected all properties within City boundaries including all those within the same zone district and vicinity and CPO-12 boundaries. Regulations different from what was in the old Zoning Code became effective throughout the City for a **great many properties. Zoning regulations apply to all properties in the CPO-12 area and do not make properties in this area undevelopable.** Per the City's Legal Department, Zoning is not considered an eminent domain action because the City did not acquire any property and the applicant can still use/develop the property per IDO regulations.

Although the regulations limiting two stories and garage placement may not have been in place for this area prior to effectiveness of the IDO, they are intended to provide variety and distinctiveness to the area near the Petroglyph Monument. The City's old Zoning Code and Sector Development Plans were replaced with the IDO via a long and detailed process of City evaluation and synthesis and public input to arrive at the effective version. The Applicant's desire to increase the permitted percentage area for two-story homes and decrease the garage setback is understandable; however **the requests do not apply to a specific lot where it is an extraordinary hardship to comply with the regulations.** Because the Variances are requested for the entire Site Plan as opposed to one of the proposed lots, the Applicant does not cite physical characteristics or natural forces that create a special circumstance preventing compliance.

Staff contends **the Applicant has not met the burden of proof** for this criterion, and the appropriate application for this request is for a text amendment to the IDO. The EPC must determine whether there are special circumstances of the property that represent a substantial and unjustified limitation on the reasonable use or return on the property. (Staff Report: Pg 8)

**APPELLANTS AGREE WITH FINDINGS BY STAFF TO OPPOSE THESE VARIANCES ON THE BASIS OF NOT MEETING THE HARDSHIP CRITERIA AND ATTEMPTING TO SEEK A VARIANCE FOR AN ENTIRE SITE PLAN.**



**D. Setting a New Precedent**

APPROVAL OF THESE VARIANCES SET A DANGEROUS PRECEDENT. BY IGNORING KEY DECISION CRITERIA OF THE IDO, THE EPC GAVE THE APPLICANT A SITE WIDE ZONING WAIVER AND OPENED THE DOOR FOR FURTHER CARTE BLANCHE VARIANCE REQUESTS.

**3. FINDINGS REGARDING THE APPLICANTS CLAIMS**

ON PAGE 7 OF THE STAFF REPORT, THE APPLICANT MAKES THE FOLLOWING CLAIM:

“The Volcano Mesa CPO-12 created or imposed special restrictions that were not applicable to other property in the same zone district (now R-1A and R-1B) within The Trails community. These restrictions were imposed by government action and do not meet the stated purpose of the Character Protection Overlay” (11 July 2019 EPC Staff Report Pg 7)

THE VOLCANO TRAILS SECTOR PLAN EMBODIED THE BUILDING STANDARDS OF THE PROPERTIES IN QUESTION PRIOR TO THE PASSAGE OF THE IDO. CAREFUL EXAMINATION OF THE VOLCANO TRAILS SECTOR PLAN SHOWS PRECEDENT FOR 5 FOOT GARAGE SETBACKS AND 50% SECOND STORY DWELLINGS.

A: PAGES 34 AND 36 OF THE VOLCANO TRAILS SECTOR PLAN – AMENDED 5 NOVEMBER 2014 SHOWS THAT FOR MEDIUM AND SMALL LOTS (R1-B AND R1-A) THE HOUSE SETBACK FROM THE FRONT OF THE PROPERTY LINE COULD BE A MINIMUM OF 5 FEET AND A MAXIMUM OF 15. TABLE 3 ON PAGE 48 OF THE VOLCANO TRAILS SECTOR PLAN (AMENDED 5 NOVEMBER 2014) SHOWS THAT THE MINIMUM ATTACHED GARAGE SETBACK BE A MINIMUM OF 20 FEET FROM THE FRONT PROPERTY LINE. CONSEQUENTLY, THE MINIMUM GARAGE SETBACK FROM THE FRONT FAÇADE OF THE HOUSE WAS 5 FEET AS CURRENTLY IMPOSED BY CPO-12. THIS REQUIREMENT CANNOT BE VIEWED AS A SPECIAL RESTRICTION IMPOSED BY CPO-12 WITH THE PASSAGE OF IDO BECAUSE IT EXISTED PRIOR TO IDO IN THE VOLCANO TRAILS SECTOR PLAN.

B: THE VOLCANO TRAILS SECTOR PLAN ALSO SETS PRECEDENCE FOR RESTRICTING SECOND STORY DWELLINGS TO 50% OF THE BUILDING FOOTPRINT. PAGE 37 OF THE VOLCANO TRAILS SECTOR PLAN – AUGUST 2011 SETS THE MAXIMUM HEIGHT FOR DWELLINGS ON VTML LOTS (R1-B UNDER IDO) TO 18 FEET WITH “ A height allowance up to 26 feet is permitted for a maximum of 50% of the building footprint (Volcano Trails Sector Plan – August 2011 Pg 37).” THIS PROVISION WAS REMOVED IN THE 5 NOVEMBER 2014 REVISION OF THE

SECTOR PLAN, HOWEVER IT WAS REINSTATED BY THE IDO IN THE CPO-12 OVERLAY. THIS REQUIREMENT SHOULD NOT BE VIEWED AS A SPECIAL RESTRICTION IMPOSED BY CPO-12 WITH THE PASSAGE OF IDO BECAUSE IT EXISTED PRIOR TO IDO IN A PREVIOUS VOLCANO TRAILS SECTOR PLAN

**For these and other reasons, the West Side Coalition of Neighborhood Associations strongly encourages overturning variances VA-2019-00188 and VA-2019-00190 granted by the EPC 11 July 2019.**

**Respectfully submitted,**

**René Horvath: Executive Committee Member WSCONA**

# CITY OF ALBUQUERQUE



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

## OFFICIAL NOTIFICATION OF DECISION

July 11, 2019

PV Trails Albuquerque, LLC  
303 Roma Ave. NW  
ABQ, NM 87102

**Project #2018-001198**

SI-2019-00149 – Site Plan  
VA-2019-00188 – Variance  
VA-2019-00189 – Variance  
VA-2019-00190 – Variance

For all or a portion of Tract 1 and Tract 2, Bulk Land Plat of The Trails Unit 3A, zoned R-1B and R-1D, located on Woodmont Avenue NW, between the Petroglyph National Monument and Paseo del Norte Boulevard NW, containing approximately 20.5 acres. (C-8)  
Staff Planner: Cheryl Somerfeldt

On July 11, 2019 the Environmental Planning Commission (EPC) voted to APPROVE Project 2018-001198 / SI-2019-00149, a Site Plan-EPC, VA-2019-00188, a Variance, and VA-2019-00190, a Variance; and to WITHDRAW VA-2019-00189, a Variance, based on the following Findings.

FINDINGS, SITE PLAN-EPC, SI-2019-00149

Albuquerque

NM 87103

www.cabq.gov

1. This is a request for a Site Plan-EPC for all or a portion of Tract 1 and Tract 2, Bulk Land Plat of The Trails, Unit 3A located on Woodmont Avenue NW, between Paseo del Norte Boulevard NW and Major Public Open Space and containing approximately 20.5 acres.
2. This request is in association with three Variances:
  - VA-2019-00188, a Variance to IDO 3-4(M)(4)(b);
  - VA-2019-00189, a Variance to IDO 3-4(M)(5)(a)2; and
  - VA-2019-00190, a Variance to IDO 3-4(M)(5)(c).
3. This is a request for a Site Plan-EPC, a Major Amendment to a conditionally approved Site Plan-EPC from February 2019, in order to add the Variance approvals to the Site Plan notes.
4. The conditionally approved Site Plan required EPC review, because the subject site is over 5 acres and adjacent to Major Public Open Space (MPOS) pursuant to IDO Section 6-6(H)(1)(b)3. Compliance with IDO Section 5-2, Site Design and Sensitive Lands, is required and the subject site was found to be in conformance to those regulations during EPC review and approval in February, 2019.
5. The subject site is required to meet Review and Decision Criteria for Site Plan-EPC pursuant to IDO Section 6-6(H)(3), and the subject site was found to be in conformance during EPC review and approval in February, 2019.
6. The subject site for the request is currently zoned R-1D within 200 feet from Major Public Open Space and R-1B for the remainder, which both permit the proposed single-family use.

OFFICIAL NOTICE OF DECISION

Project #2018-001198

July 11, 2019

Page 2 of 11

7. The subject site is located in an Area of Consistency as designated by the Comprehensive Plan which has policies to protect and enhance the character of existing single-family neighborhoods, parks, and MPOS.
8. The subject site is within the Volcano Mesa Character Protection Overlay (CPO-12), and the Northwest Mesa View Preservation Overlay (VPO-2). The associated Variance requests are to regulations within IDO Section 3-4(M), Volcano Mesa, CPO-12.
9. The applicable Comprehensive Plan policies are consistent with the Site Plan-EPC:
  - Policy 4.1.1 Distinct Communities: Encourage quality development that is consistent with the distinct character of communities.  
  
The Site Plan-EPC is consistent with the existing character of the surrounding community and consistent with Policy 4.1.1.
  - Policy 5.6.3 Areas of Consistency: Protect and enhance the character of existing single-family neighborhoods, areas outside of Centers and Corridors, parks, and Major Public Open Space.
  - b) Ensure that development reinforces the scale, intensity, and setbacks of the immediately surrounding context.  
  
The Site Plan reinforces the scale, intensity, and setbacks of the immediately surrounding context, which is an Area of Consistency, and is consistent with Policy 5.6.3 and 5.6.3 b).
  - Goal 9.1 Supply: Ensure sufficient supply and range of high-quality housing types that meet current and future needs at a variety of price levels to ensure more balanced housing options.  
  
The Site Plan-EPC will ensure sufficient supply and range of housing types that meet current and future needs at a variety of price levels with the existing R-1B (5,000 sf lots) and R-1D (10,000 sf lots) Zone Districts. The Site Plan-EPC is consistent with Policy 9.1.
10. The Site Plan-EPC has been evaluated for conformance with applicable goals and policies in the Comprehensive Plan and the IDO. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Integrated Development Ordinance (IDO) are incorporated herein by reference and made part of the record for all purposes.
11. The subject site is zoned R-1D within 200-feet from the Major Public Opens Space and R-1B for the remainder of the property. In the R-1D area, the site plan meets the minimum lot size of 10,000 square feet, a minimum lot width of 70-feet, and minimum setbacks of front 20-feet, side 10-feet, and rear 25-feet. In the R-1B area, the Site Plan meets the minimum lot size of 5,000 square feet, a minimum lot width of 37.5-feet, and minimum setbacks of front 15-feet, side 5-feet, and rear 15-feet.
12. The Applicant contacted the Westside Coalition of Neighborhood Associations as well as property owners within 100 feet of the property as required.
13. The Applicant and agent attended a Neighborhood Association Pre-Application Meeting on May 29, 2019. The Westside Coalition of Neighborhood Associations, the Valle Prado Neighborhood Association, the Taylor Ranch Neighborhood Association, and the Petroglyph Estates Homeowners Association attended the meeting. Participants had concern over the strain on schools, traffic, and incomplete construction.

OFFICIAL NOTICE OF DECISION

Project #2018-001198

July 11, 2019

Page 3 of 11

14. There is both support for and opposition to this request.

CONDITIONS OF APPROVAL, SITE PLAN-EPC, SI-2019-00149

1. The applicant shall coordinate with the staff planner to ensure that all Conditions of Approval are met and then submit it to the DRB for final review and sign-off, including review and approval of technical issues/requirements.
2. The proposed lot layout shown on the site, including but not limited to Lot 32 and other nearby lots, shall be adjusted to ensure that all Zone Boundaries correspond to a lot line.
3. The Site Plan shall maintain a minimum 20-foot buffer from Major Public Open Space at the southwest corner of the development, where there is not a single-loaded street, per 14-16-5-2(H)(2)(a)1.
4. Submit evidence of delineation of the rock outcropping for the record to include the topographic survey, aerial photographs, and site visit photographs.
5. Notes shall be added to the Site Plan to reflect any approved Variances and relevant Conditions of Approval, including 7 and 8 below.
6. Conditions of Approval from other Departments and Agencies:
  - a) Transportation Development:
    - Developer is responsible for permanent improvements to the transportation facilities adjacent to the proposed development site plan, as required by the Development Review Board (DRB)
    - Site plan shall comply and be in accordance with all applicable City of Albuquerque requirements, including the Development Process Manual and current ADA criteria.
  - b) ABC Water Utility Authority (ABCWUA):
    - A Serviceability letter was issued (Serviceability Letter 190126) 05/22/2019 which outlined the conditions for service.
    - The subject property is outside of the Service Area.
    - Master Plan infrastructure will be required prior to sale of service.
    - A Development Agreement will be required as part of requirements for service.
  - c) Public Service Company of New Mexico (PNM):
    - It is the Applicant's obligation to determine if existing utility easements or rights-of-way are located on or adjacent to the property and to abide by any conditions or terms of those easements.
    - It will be necessary to contact the PNM New Service Delivery Department to coordinate electric service regarding this project. Contact: Andrew Gurule, PNM Service Center, 4201 Edith Boulevard NE, Albuquerque, NM 87107, Phone: (505) 241-0589.
7. Two-story buildings are limited to only 60% of the lots in the R-1B zone.
8. Any lots over 10,000 square feet in the existing R-1B or R-1D zones shall be one-story buildings.

OFFICIAL NOTICE OF DECISION

Project #2018-001198

July 11, 2019

Page 4 of 11

FINDINGS, VARIANCE-EPC, 2019-00188

1. This is a request for a Variance for all or a portion of Tract 1 and Tract 2, Bulk Land Plat of The Trails, Unit 3A located on Woodmont Avenue NW, between Paseo del Norte Boulevard NW and Major Public Open Space and containing approximately 20.5 acres.
2. This request is in association with three other requests:
  - SI-2019-00149, a Site Plan-EPC;
  - VA-2019-00189, a Variance to IDO 3-4(M)(5)(a)2; and
  - VA-2019-00190, a Variance to IDO 3-4(M)(5)(c).
3. This is a request for a Variance-EPC to IDO Section 3-4(M)(4) which states that the Building height, maximum is 18 feet but may be increased to 26 feet on a maximum of 50% of the building footprint. The Applicant requested a Variance to permit 75% of the building footprint to be two-story instead of 50% for the R-1B zoned portion of the subject site. The EPC voted to allow only 60% of the lots in the R-1B zoned portion of the Site Plan to have two-story houses.
4. The subject site for the request, Tract 2, is currently zoned R-1D within 200 feet from Major Public Open Space and R-1B for the remainder, which both permit the proposed single-family use.
5. The subject site is located in an Area of Consistency as designated by the Comprehensive Plan which has policies to protect and enhance the character of existing single-family neighborhoods.
6. The subject site is within the Volcano Mesa Character Protection Overlay (CPO-12), and the Northwest Mesa View Preservation Overlay (VPO-2). The associated Variance requests are to regulations within IDO Section 3-4(M), Volcano Mesa, CPO-12.
7. Similar properties in the same zone district and vicinity (Ventana Ranch and Ventana West) are not subject to the restrictions imposed by CPO-12.
8. An application for a Variance-EPC shall be approved if it meets all of the following criteria:
  1. *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone district and vicinity, including but not limited to size, shape, topography, location, surroundings, and physical characteristics, and such special circumstances were created either by natural forces or by government eminent domain actions for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*

The property is unique and has special circumstances due to its location and surroundings within The Trails master-planned community and Public Improvement District, and the adjacency to the Petroglyph National Monument. These special circumstances are amplified by the adoption of the IDO and CPO-12 to this property that are not consistent with the characteristics of the existing 1,100+ homes in The Trails community. The application of these regulations to the subject property create an unnecessary hardship in the applicant's ability to develop a single family neighborhood with one and two stories that is consistent with its location, surroundings, and market demand.

OFFICIAL NOTICE OF DECISION

Project #2018-001198

July 11, 2019

Page 5 of 11

2. *The Variance will not be materially contrary to the public safety, health, or welfare.*

The requested Variance will not be materially contrary to public safety, health, or welfare. Increasing the square footage allowed on the second story will only occur on each individual lot, not affect surrounding neighborhoods, and will be similar to other development in the community.

3. *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*

The requested Variance will not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity. Increasing the square footage allowed on the second story will only occur on each individual lot, not affect surrounding neighborhoods, and will be similar to other development in the community. A Variance to increase the square footage allowed on the second story would make the proposed homes similar to many of the constructed homes in the area which vary from 60% to 100% two-story.

4. *The Variance will not materially undermine the intent and purpose of this IDO or the applicable zone district.*

Pursuant to IDO 1-3, the purpose of the IDO is to:

1-3(A) Implement the adopted Albuquerque/Bernalillo County Comprehensive Plan (ABC Comp Plan), as amended.

1-3(B) Ensure that all development in the City is consistent with the spirit and intent of any other plans and policies adopted by City Council.

1-3(C) Ensure the provision of adequate public facilities and services for new development.

1-3(D) Protect the quality and character of residential neighborhoods.

1-3(E) Promote the economic development and fiscal sustainability of the City.

1-3(F) Provide for the efficient administration of City land use and development regulations.

1-3(G) Protect the health, safety, and general welfare of the public.

1-3(H) Provide for orderly and coordinated development patterns.

1-3(I) Encourage the conservation and efficient use of water and other natural resources.

1-3(J) Implement a connected system of parks, trails, and open spaces to promote improved outdoor activity and public health.

1-3(K) Provide reasonable protection from possible nuisances and hazards and to otherwise protect and improve public health.

1-3(L) Encourage efficient and connected transportation and circulation systems for motor vehicles, bicycles, and pedestrians.

Pursuant to IDO 2-3(B)(1), the purpose of the R-1 zone district is to provide for neighborhoods of single-family homes on individual lots with a variety of lot sizes and dimensions. When applied in developed areas, an additional purpose is to require that redevelopment reinforce the established character of the existing neighborhood.

Pursuant to IDO 3-4(A) the purpose of the Character Protection Overlay (CPO) zone is to preserve areas with distinctive characteristics that are worthy of conservation but are not historical or may lack sufficient significance to qualify as Historic Protection Overlay (HPO) zones.



OFFICIAL NOTICE OF DECISION

Project #2018-001198

July 11, 2019

Page 6 of 11

CPO-12 is a Character Protection Overlay area because it mirrors the boundaries and intent of the three Sector Development Plans designed to recognize neighborhood identity and character. Regulations cited in the Variance request were part of a Sector Development Plan that did not encompass the subject site, however, a process was established to integrate the Sector Development Plans into the IDO, which prioritized neighborhood character and protection. The intent to protect the City's established neighborhoods and streamline the City's development review and approval procedures was implemented. Since the Volcano Trails SDP did not include the regulations requested to be varied from, the requested Variances do not "materially undermine" the intent and purpose of this IDO. In fact, the requested Variances further the IDO purpose and policies as stated above.

5. *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.*

Evaluation of the "minimum necessary to avoid extraordinary hardship or practical difficulties" is designed to result in similar built conditions as other neighborhoods within The Trails that were governed by the previous Sector Development Plan. The changes will allow reasonable development of the entire neighborhood, which is appropriate and consistent with the context of the surrounding neighborhoods. It imposes extraordinary hardship and practical difficulties to apply the CPO 12 regulations related to second story massing and garage setbacks to this entire neighborhood in contrast to the characteristics of the surrounding neighborhoods.

9. The Applicant contacted the Westside Coalition of Neighborhood Associations as well as property owners within 100 feet of the property as required.
10. The Applicant and agent attended a Neighborhood Association Pre-Application Meeting on May 29, 2019. The Westside Coalition of Neighborhood Associations, the Valle Prado Neighborhood Association, the Taylor Ranch Neighborhood Association, and the Petroglyph Estates Homeowners Association attended the meeting. Participants had concern over the strain on schools, traffic, and incomplete construction.
11. There is both support for and opposition to this request.

OFFICIAL NOTICE OF DECISION

Project #2018-001198

July 11, 2019

Page 7 of 11

FINDINGS, VARIANCE-EPC, 2019-00189

1. This is a request for a Variance for all or a portion of Tract 1 and Tract 2, Bulk Land Plat of The Trails, Unit 3A located on Woodmont Avenue NW, between Paseo del Norte Boulevard NW and Major Public Open Space and containing approximately 20.5 acres.
2. This request is in association with three other requests:
  - SI-2019-00149, a Site Plan-EPC;
  - VA-2019-00188, a Variance to IDO Section 3-4(M)(4)(b); and
  - VA-2019-00190, a Variance to IDO 3-4(M)(5)(c)
3. VA-2019-00189 - Variance from IDO Section 3-4(M)(5)(a)2 to simplify the options required for homes to address the street, to include a porch, courtyard, or window on the front facade.
4. The Applicant requests withdrawal of this request.

## OFFICIAL NOTICE OF DECISION

Project #2018-001198

July 11, 2019

Page 8 of 11

### FINDINGS, VARIANCE-EPC, 2019-00190

1. This is a request for a Variance for all or a portion of Tract 1 and Tract 2, Bulk Land Plat of The Trails, Unit 3A located on Woodmont Ave. NW, between Paseo del Norte NW and Major Public Open Space and containing approximately 20.5 acres.
2. This request is in association with three other requests:
  - SI-2019-00149, a Site Plan-EPC;
  - VA-2019-00189, a Variance to IDO 3-4(M)(5)(a)2; and
  - VA-2019-00190, a Variance to IDO 3-4(M)(5)(c).
3. This is a request for a Variance-EPC to IDO Section 3-4(M)(5)(c) to decrease the garage setback from the front facade from 5 feet to 2 feet.
4. The subject site for the request, Tract 2, is currently zoned R-1D within 200 feet from Major Public Open Space and R-1B for the remainder, which both permit the proposed single-family use.
5. The subject site is located in an Area of Consistency as designated by the Comprehensive Plan which has policies to protect and enhance the character of existing single-family neighborhoods.
6. The subject site is within the Volcano Mesa Character Protection Overlay (CPO-12), and the Northwest Mesa View Preservation Overlay (VPO-2). The associated Variance requests are to regulations within IDO Section 3-4(M), Volcano Mesa, CPO-12.
7. Similar properties in the same zone district and vicinity (Ventana Ranch and Ventana West) are not subject to the restrictions imposed by CPO-12.
8. An application for a Variance-EPC shall be approved if it meets all of the following criteria:
  1. *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone district and vicinity, including but not limited to size, shape, topography, location, surroundings, and physical characteristics, and such special circumstances were created either by natural forces or by government eminent domain actions for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*

The property is unique and has special circumstances due to its location and surroundings within The Trails master-planned community and Public Improvement District, and the adjacency to the Petroglyph National Monument. These special circumstances are amplified by the adoption of the IDO and CPO-12 to this property that are not consistent with the characteristics of the existing 1,100+ homes in The Trails community. The application of these regulations to the subject property create an unnecessary hardship in the applicant's ability to develop a single family neighborhood with one and two stories that is consistent with its location, surroundings, and market demand.

OFFICIAL NOTICE OF DECISION

Project #2018-001198

July 11, 2019

Page 9 of 11

2. *The Variance will not be materially contrary to the public safety, health, or welfare.*

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3. *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*

The requested Variance will not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity. Increasing the square footage allowed on the second story will only occur on each individual lot, not affect surrounding neighborhoods, and will be similar to other development in the community. A Variance to increase the square footage allowed on the second story would make the proposed homes similar to many of the constructed homes in the area which vary from 60% to 100% two-story.

4. *The Variance will not materially undermine the intent and purpose of this IDO or the applicable zone district.*

Pursuant to IDO 1-3, the purpose of the IDO is to:

1-3(A) Implement the adopted Albuquerque/Bernalillo County Comprehensive Plan (ABC Comp Plan), as amended.

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1-3(C) Ensure the provision of adequate public facilities and services for new development.

1-3(D) Protect the quality and character of residential neighborhoods.

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1-3(H) Provide for orderly and coordinated development patterns.

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1-3(K) Provide reasonable protection from possible nuisances and hazards and to otherwise protect and improve public health.

1-3(L) Encourage efficient and connected transportation and circulation systems for motor vehicles, bicycles, and pedestrians.

Pursuant to IDO 2-3(B)(1), the purpose of the R-1 zone district is to provide for neighborhoods of single-family homes on individual lots with a variety of lot sizes and dimensions. When applied in developed areas, an additional purpose is to require that redevelopment reinforce the established character of the existing neighborhood.

Pursuant to IDO 3-4(A) the purpose of the Character Protection Overlay (CPO) zone is to preserve areas with distinctive characteristics that are worthy of conservation but are not historical or may lack sufficient significance to qualify as Historic Protection Overlay (HPO) zones.

OFFICIAL NOTICE OF DECISION

Project #2018-001198

July 11, 2019

Page 10 of 11

CPO-12 is a Character Protection Overlay area because it mirrors the boundaries and intent of the three Sector Development Plans designed to recognize neighborhood identity and character. Regulations cited in the Variance request were part of a Sector Development Plan that did not encompass the subject site, however, a process was established to integrate the Sector Development Plans into the IDO, which prioritized neighborhood character and protection. The intent to protect the City's established neighborhoods and streamline the City's development review and approval procedures was implemented. Since the Volcano Trails SDP did not include the regulations requested to be varied from, the requested Variances do not "materially undermine" the intent and purpose of this IDO. In fact, the requested Variances further the IDO purpose and policies as stated above.

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9. The Applicant contacted the Westside Coalition of Neighborhood Associations as well as property owners within 100 feet of the property as required.
10. The Applicant and agent attended a Neighborhood Association Pre-Application Meeting on May 29, 2019 (see attached Meeting Minutes). The Westside Coalition of Neighborhood Associations, the Valle Prado Neighborhood Association, the Taylor Ranch Neighborhood Association, and the Petroglyph Estates Homeowners Association attended the meeting. Participants had concern over the strain on schools, traffic, and incomplete construction.
11. There is both support for and opposition to this request.

OFFICIAL NOTICE OF DECISION

Project #2018-001198

July 11, 2019


Page 11 of 11

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **JULY 26, 2019**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15<sup>th</sup> day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

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

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

Sincerely,

  
for Brennan Williams  
Acting Planning Director

BW/CS

cc: PV Trails Albuquerque, LLC, 303 Roma Ave. NW, ABQ, NM 87102  
Consensus Planning, Inc., 302 8<sup>th</sup> St., NW, ABQ, NM 87102  
Harry Hendrikson, Westside Coalition of NA's, 10592 Rio Del Sol NW, ABQ, NM 87114  
Rene Horvath, Westside Coalition of NA's, 5515 La Palomino Dr. NW, ABQ, NM 87120  
Paul Wymer, [paul-wymer@putegroup.com](mailto:paul-wymer@putegroup.com)  
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