

CITY OF ALBUQUERQUE



Planning Department

Brennon Williams, Director

Development Review Division

600 2nd Street NW – 3rd Floor

Albuquerque, NM 87102

NOTICE OF APPEAL

January 15, 2020

TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on January 15, 2020. 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-20-1
PLANNING DEPARTMENT CASE FILE NUMBER:
PR-2018-001402, SI-2018-00171, VA-2020-00004

PO Box 1293

APPLICANT: Taylor Ranch N.A.
P.O. Box 66288
Albuquerque NM 87193-6288

Albuquerque

AGENT: Hessel E. Yntema Law firm P.A.
215 Gold Ave. SW Suite 201
Albuquerque NM 87108

NM 87103

www.cabq.gov

cc: Crystal Ortega, City Council, City county bldg. 9th floor
Kevin Morrow/Legal Department, City Hall, 4th Floor-
Zoning Enforcement
Kevin Dullea, 4704 Almeria NW, Albuquerque, NM 87120
Taylor Ranch NA, P.O. Box 66288, Albuquerque, NM 87193-6288
Barbara Tegtmeier, 4623 Almeria Dr. NW, Albuquerque, NM 87120
Susan Chaudoir, 4040 St. Joseph's Pl. NW #116, Albuquerque, NM 87120
Kathy Adams, 5 Arco Court NW, Albuquerque, NM 87120
Becky Davis, 500 Leeward Dr. NW Albuquerque, NM 87121
Kenneth H. Churchill, 4612 Almeria Dr. NW, Albuquerque, NM 87120-1840
Terri Godfrey, 4620 Almeria Dr. NW, Albuquerque, NM 87120
William T. Godfrey, 4620 Almeria Dr. NW, Albuquerque, NM 87120
Westside Coalition of NA (WSCONA)
Jerry Worrall, 1039 Pinatubo NW, Albuquerque, NM 87129
District 4 Coalition (D4C), Daniel Regan, 6413 Northland Ave. NE Abq., NM 87109
Albuquerque - Making History 1706-2006

CC: Alameda North Valley Association (ANVA), Steve Wentworth,
8919 Boe Lane NE, Albuquerque, NM 87113
Knapp Heights Neighborhood Association (KHNA), Daniel Regan,
4109 Chama St. NE, Albuquerque, NM 87109
La Luz Landowners Association (LLLA), 1A Loop One NW Albuquerque, NM 87120
Grande Heights Neighborhood Association (GHNA)
Dr. Joe L. Valles, 5020 Grande Vista Ct. NW, Albuquerque, NM 87120-1115
Inter-Coalition Panel (1-C P), Dr. Joe L. Valles, 5020 Grande Vista Ct. NW Abq., NM 87120-1115
West La Cueva NA, Peggy Neff, 8305 Calle Soquella NE, Albuquerque, NM 87113
West Bluff N.A., Lan Sena, 2212 Ana Ct. NW, Albuquerque, NM 87120



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)
		Appeals
		<input checked="" type="checkbox"/> Decision by EPC, LC, ZHE, or City Staff (Form A)

APPLICATION INFORMATION

Applicant: <u>Taylor Ranch N.A. and other Appellants on attached list</u>		Phone:
Address: <u>P.O. Box 66288</u>		Email:
City: <u>Albuquerque</u>	State: <u>NM</u>	Zip: <u>87193-6288</u>
Professional/Agent (if any): <u>Hessel E. Yntema III, Yntema Law Firm P.A.</u>		Phone: <u>505-843-9565</u>
Address: <u>215 Gold Ave SW Suite 201</u>		Email: <u>hesselyntema-law.com</u>
City: <u>Albuquerque</u>	State: <u>NM</u>	Zip: <u>87102</u>
Proprietary Interest in Site:		List <u>all</u> owners:

BRIEF DESCRIPTION OF REQUEST

Appeal of Declaratory A-ling, final written version dated April 23, 2019, re Consensus Planning/Overlook at Oxbow

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

Lot or Tract No.:	Block:	Unit:
Subdivision/Addition:	MRGCD Map No.:	UPC Code:
Zone Atlas Page(s): <u>F-11, F-12</u>	Existing Zoning:	Proposed Zoning:
# of Existing Lots: <u>4</u>	# of Proposed Lots:	Total Area of Site (acres):

LOCATION OF PROPERTY BY STREETS

Site Address/Street: <u>5001 Namaste NW</u>	Between: <u>Tros Gracia Rd.</u>	and: <u>San Antonio Arroyo + MPUS</u>
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CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)

AC-19-7; Project # 2018-001402 / SI-2018-00171

Signature: <u>Hessel E. Yntema III</u>	Date: <u>1-15-20</u>
Printed Name: <u>Hessel E. Yntema III</u>	<input type="checkbox"/> Applicant or <input checked="" type="checkbox"/> Agent

FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees	Case Numbers	Action	Fees
<u>PA-2020-00004</u>	<u>Appeal</u>	<u>\$130</u>			

Meeting/Hearing Date:	Fee Total: <u>\$130</u>
Staff Signature: <u>[Signature]</u>	Date: <u>1-15-2020</u> Project # <u>PR-2018-001402</u>

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 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: 2018-001402

___ Application number of the case being appealed, if applicable: SI-2018-00171

___ Type of decision being appealed: Declaratory Ruling

___ 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: Hessel E. Yntema III

Date: 1-15-20

Printed Name: Hessel E. Yntema III

☐ Applicant or ☒ Agent

FOR OFFICIAL USE ONLY

Case Numbers:

Project Number:

YA-2020-00004

PR-2018-001402

Staff Signature: [Signature]

Date: 1-15-2020



LIST OF APPELLANTS
FOR APPEAL OF THE DECLARATORY RULING DATED APRIL 22, 2019, FOR
CONSENSUS PLANNING CONCERNING THE OVERLOOK AT OXBOW PROJECT
(PR-2018-001402, SI-2018-00171, VA-2019-00103)

Taylor Ranch Neighborhood Association
P.O. Box 66288
Albuquerque, NM 87193-6288

Kevin Dullea
4704 Almeria NW
Albuquerque, NM 87120

Barbara Tegtmeier
4623 Almeria Dr. NW
Albuquerque, NM 87120

Susan Chaudoir
4040 St. Joseph's Pl. NW #116
Albuquerque, NM 87120

Kathy Adams
5 Arco Court NW
Albuquerque, NM 87120

Becky Davis
500 Leeward Dr. NW
Albuquerque, NM 87121

Kenneth H. Churchill
4612 Almeria Dr. NW
Albuquerque, NM 87120-1840

Terri Godfrey
4620 Almeria Dr. NW
Albuquerque, NM 87120

William T. Godfrey
4620 Almeria Dr. NW
Albuquerque, NM 87120

Westside Coalition of Neighborhood Associations (WSCONA)
1039 Pinatubo NW
Albuquerque, NM 87129
Attention: Jerry Worrall

District 4 Coalition (D4C)
6413 Northland Ave. NE
Albuquerque, NM 87109
Attention: Daniel Regan

Alameda North Valley Association (ANVA)
8919 Boe Lane NE
Albuquerque, NM 87113
Attention: Steve Wentworth

Knapp Heights Neighborhood Association (KHNA)
4109 Chama St. NE
Albuquerque, NM 87109
Attention: Daniel Regan

La Luz Landowners Association (LLLA)
1A Loop One NW
Albuquerque, NM 87120
Attention: Tim Bowen

Grande Heights Neighborhood Association (GHNA)
5020 Grande Vista Ct. NW
Albuquerque, NM 87120-1115
Attention: Dr. Joe L. Valles

Inter-Coalition Panel (I-C P)
5020 Grande Vista Ct. NW
Albuquerque, NM 87120-1115
Attention: Dr. Joe L. Valles

West La Cueva Neighborhood Association
8305 Calle Soquelle NE
Albuquerque, NM 87113
Attention: Peggy Neff

West Bluff Neighborhood Association
2212 Ana Ct. NW
Albuquerque, NM 87120
Attention: Lan Sena

January 8, 2020

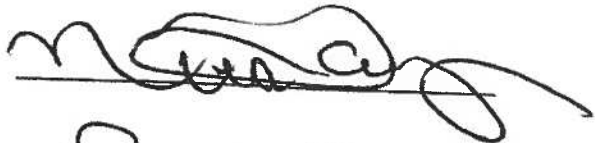
City of Albuquerque Planning Department
600 Second St. NW
Albuquerque, NM 87102

Authorization Letter for Appeal of
Consensus Planning Declaratory Ruling dated
April 22, 2019 for Overlook at Oxbow, Project
2018-001402, SI 2018-00171, VA-2019-00103

Dear Planning Department,

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellant(s) in the referenced appeal of the Consensus Planning Declaratory Ruling dated April 22, 2019 for Overlook at Oxbow, and any related proceedings concerning that Declaratory Ruling.

Very truly yours,

A handwritten signature in black ink, appearing to read "Nita C. Day", written over a horizontal line.

By Nita C. Day
Its President H.E. Yntema III, P.A.

January 6, 2020

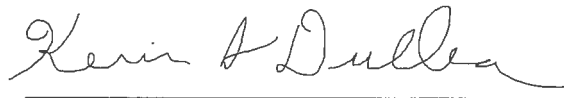
City of Albuquerque Planning Department
600 Second St. NW
Albuquerque, NM 87102

Authorization Letter for Appeal of
Consensus Planning Declaratory Ruling dated
April 22, 2019 for Overlook at Oxbow, Project
2018-001402, SI 2018-00171, VA-2019-00103

Dear Planning Department,

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellant(s) in the referenced appeal of the Consensus Planning Declaratory Ruling dated April 22, 2019 for Overlook at Oxbow, and any related proceedings concerning that Declaratory Ruling.

Very truly yours,

A handwritten signature in cursive script, reading "Kevin J. Dullea", written in dark ink. The signature is fluid and stylized, with a horizontal line underneath it.

Kevin J. Dullea
4704 Almeria Dr NW
Albuquerque, NM 87120

January 7, 2020

City of Albuquerque Planning Department
600 Second St. NW
Albuquerque, NM 87102

Authorization Letter for Appeal of
Consensus Planning Declaratory Ruling dated
April 22, 2019 for Overlook at Oxbow, Project
2018-001402, SI 2018-00171, VA-2019-00103

Dear Planning Department,

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellant(s) in the referenced appeal of the Consensus Planning Declaratory Ruling dated April 22, 2019 for Overlook at Oxbow, and any related proceedings concerning that Declaratory Ruling.

Very truly yours,

Barbara J. Tegmeier

By BARBARA TEGMEIER
Its _____
4623 Almeria Dr NW
Albuquerque, NM 87120

January 6, 2020

City of Albuquerque Planning Department
600 Second St. NW
Albuquerque, NM 87102

Authorization Letter for Appeal of
Consensus Planning Declaratory Ruling dated
April 22, 2019 for Overlook at Oxbow, Project
2018-001402, SI 2018-00171, VA-2019-00103

Dear Planning Department,

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellant(s) in the referenced appeal of the Consensus Planning Declaratory Ruling dated April 22, 2019 for Overlook at Oxbow, and any related proceedings concerning that Declaratory Ruling.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Susan Chaudoir', written over a horizontal line.

Susan Chaudoir
4040 St. Josephs Place NW #116
Albuquerque, NM 87120

January 6, 2020

City of Albuquerque Planning Department
600 Second St. NW
Albuquerque, NM 87102

Authorization Letter for Appeal of
Consensus Planning Declaratory Ruling dated
April 22, 2019 for Overlook at Oxbow, Project
2018-001402, SI 2018-00171, VA-2019-00103

Dear Planning Department,

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellant(s) in the referenced appeal of the Consensus Planning Declaratory Ruling dated April 22, 2019 for Overlook at Oxbow, and any related proceedings concerning that Declaratory Ruling.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kathleen K Adams', is written over a horizontal line.

Kathleen K Adams
5 Arco Court NW
Albuquerque, NM 87120

1/9/2020

City of Albuquerque Planning Department
600 Second St. NW
Albuquerque, NM 87102

Authorization Letter for Appeal of
Consensus Planning Declaratory Ruling dated
April 22, 2019 for Overlook at Oxbow, Project
2018-001402, SI 2018-00171, VA-2019-00103

Dear Planning Department,

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellant(s) in the referenced appeal of the Consensus Planning Declaratory Ruling dated April 22, 2019 for Overlook at Oxbow, and any related proceedings concerning that Declaratory Ruling.

Very truly yours,

Becky C. Davis

By _____
Its _____

Becky C. Davis
500 Leeward Dr. NW
Albuquerque, NM 87121

January 6, 2020

City of Albuquerque Planning Department
600 Second St. NW
Albuquerque, NM 87102

Authorization Letter for Appeal of
Consensus Planning Declaratory Ruling dated
April 22, 2019 for Overlook at Oxbow, Project
2018-001402, SI 2018-00171, VA-2019-00103

Dear Planning Department,

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellant(s) in the referenced appeal of the Consensus Planning Declaratory Ruling dated April 22, 2019 for Overlook at Oxbow, and any related proceedings concerning that Declaratory Ruling.

Very truly yours,

Ken Churchill

Kenneth H. Churchill
4612 Almeria Dr NW
Albuquerque, NM 87120

January 12, 2020

City of Albuquerque Planning Department
600 Second St. NW
Albuquerque, NM 87102

Authorization Letter for Appeal of
Consensus Planning Declaratory Ruling dated
April 22, 2019 for Overlook at Oxbow, Project
2018-001402, SI 2018-00171, VA-2019-00103

Dear Planning Department,

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellant(s) in the referenced appeal of the Consensus Planning Declaratory Ruling dated April 22, 2019 for Overlook at Oxbow, and any related proceedings concerning that Declaratory Ruling.

Very truly yours,

Terri Godfrey

Terri Godfrey

4620 Almeria Dr NW

Albuquerque, NM 87120

January 12, 2020

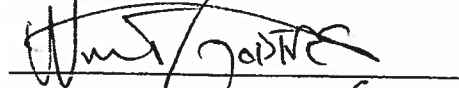
City of Albuquerque Planning Department
600 Second St. NW
Albuquerque, NM 87102

Authorization Letter for Appeal of
Consensus Planning Declaratory Ruling dated
April 22, 2019 for Overlook at Oxbow, Project
2018-001402, SI 2018-00171, VA-2019-00103

Dear Planning Department,

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellant(s) in the referenced appeal of the Consensus Planning Declaratory Ruling dated April 22, 2019 for Overlook at Oxbow, and any related proceedings concerning that Declaratory Ruling.

Very truly yours,



William I. Garvey

4620 AMERICA DE NW

ALBUQUERQUE NM 87120

January 8, 2020

Albuquerque Planning Department

c/o Catalina Lehner

Authorization Letter Regarding:

Appeal of Declaratory Ruling related to:

Project #2018-001402 S1-2018-00171

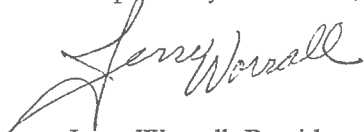
The Poole Property - Overlook at Oxbow

Greetings,

The West Side Coalition of Neighborhood Associations (WSCONA) joins in the appeal of the Declaratory Ruling issued by the Zoning Enforcement Manager to Consensus Planning in the above related matter. We base our support for this appeal on significant concerns with due process violations and inequitable application of procedural rules.

The West Side Coalition of Neighborhood Associations thereby authorizes Hessel E. Yntema III, Yntema Law Firm P.A. to represent its interests in the appeal.

Respectfully submitted,



Jerry Worrall, President

CC: Attorney Hessel Yntema

January 5, 2020

City of Albuquerque Planning Department
600 Second St. NW
Albuquerque, NM 87102

Authorization Letter for Appeal of
Consensus Planning Declaratory Ruling dated
April 22, 2019 for Overlook at Oxbow, Project
2018-001402, SI 2018-00171, VA-2019-00103

Dear Planning Department,

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellant(s) in the referenced appeal of the Consensus Planning Declaratory Ruling dated April 22, 2019 for Overlook at Oxbow, and any related proceedings concerning that Declaratory Ruling.

Very truly yours,



District 4 Coalition (D4C)
6413 Northland Ave. NE
Albuquerque, NM 87109

By Daniel Regan

Its Zoning / Development Committee, Chair

March 23, 2019

City of Albuquerque Planning Department
600 Second St. NW
Albuquerque, NM 87102

Authorization Letter for Appeal of
EPC Site Plan Approval in
Project #: 2018-001402, SI 2018-00171

Dear Planning Department,

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellant in the referenced appeal of the EPC decision dated March 14, 2019, approving the proposed referenced site plan.

The Alameda North Valley Association will not be responsible for any costs of any type associated with the appeal processes now or in the future.

Very truly yours,

ALAMEDA NORTH VALLEY
ASSOCIATION

By 
Its President -

3-23-2019

January 5, 2020

City of Albuquerque Planning Department
600 Second St. NW
Albuquerque, NM 87102

Authorization Letter for Appeal of
Consensus Planning Declaratory Ruling dated
April 22, 2019 for Overlook at Oxbow, Project
2018-001402, SI 2018-00171, VA-2019-00103

Dear Planning Department,

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellant(s) in the referenced appeal of the Consensus Planning Declaratory Ruling dated April 22, 2019 for Overlook at Oxbow, and any related proceedings concerning that Declaratory Ruling.

Very truly yours,



Knapp Heights Neighborhood Association
4109 Chama St. NE
Albuquerque, NM 87109

By Daniel Regan

Its President

1/7/2020

City of Albuquerque Planning Department
600 Second St. NW
Albuquerque, NM 87102

Authorization Letter for Appeal of
Consensus Planning Declaratory Ruling dated
April 22, 2019 for Overlook at Oxbow, Project
2018-001402, SI 2018-00171, VA-2019-00103

Dear Planning Department,

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellant(s) in the referenced appeal of the Consensus Planning Declaratory Ruling dated April 22, 2019 for Overlook at Oxbow, and any related proceedings concerning that Declaratory Ruling.

Very truly yours,

La Loz Landowners Association

Dan Jensen

By

Blair Jensen
Its President

1A Loop One NW
Albuquerque NM 87120

January 7, 2020

Albuquerque Planning Department
C/O Catalina Lehner

Authorization Letter Regarding:
Appeal of Declaratory Ruling related to:
Project #2018-001402 S1-2018-00171
The Poole Property - Overlook at Oxbow

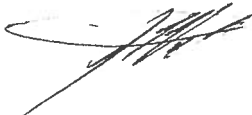
Greetings,

The Grande Heights Neighborhood Association (GHNA) joins in the appeal of the Declaratory Ruling issued by the Zoning Enforcement Manager to Consensus Planning in the above related matter. We base our support for this appeal on significant concerns with due process violations and inequitable application of procedural rules.

The Grande Heights Neighborhood Association thereby authorizes Hessel E. Yntema III, Yntema Law Firm P.A. to represent its interests in the appeal.

Respectfully submitted,

Dr. Joe L. Valles, President, GHNA

A handwritten signature in black ink, appearing to read 'Joe L. Valles', written over a horizontal line.

CC: Attorney Hess Yntema

January 7, 2020

Albuquerque Planning Department
c/o Catalina Lehner

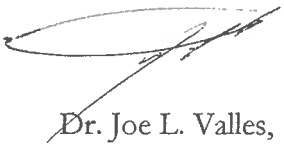
Authorization Letter Regarding:
Appeal of Declaratory Ruling related to:
Project #2018-001402 S1-2018-00171
The Poole Property - Overlook at Oxbow

Greetings,

The Inter-Coalition Panel (I-CP) joins in the appeal of the Declaratory Ruling issued by the Zoning Enforcement Manager to Consensus Planning in the above related matter. We base our support for this appeal on significant concerns with due process violations and inequitable application of procedural rules.

The Inter-Coalition thereby authorizes Hessel E. Yntema III, Yntema Law Firm P.A. to represent its interests in the appeal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joe L. Valles", with a stylized flourish at the end.

Dr. Joe L. Valles, Chair

CC: Attorney Hessel Yntema

1/8/2020

City of Albuquerque Planning Department
600 Second St. NW
Albuquerque, NM 87102

Authorization Letter for Appeal of
Consensus Planning Declaratory Ruling dated
April 22, 2019 for Overlook at Oxbow, Project
2018-001402, SI 2018-00171, VA-2019-00103

Dear Planning Department,

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellant(s) in the referenced appeal of the Consensus Planning Declaratory Ruling dated April 22, 2019 for Overlook at Oxbow, and any related proceedings concerning that Declaratory Ruling.

Very truly yours,

West La Cueva Neighborhood Assoc.

By Peggy Webb
Its President

c/o 8305 Calle Saguella NE
Albuquerque, NM
87113

January 8, 2020

Albuquerque Planning Department
C/O Catalina Lehner

Authorization Letter Regarding:
Appeal of Declaratory Ruling related to:
Project #2018-001402 S1-2018-00171
The Poole Property - Overlook at Oxbow

Greetings,

The West Bluff Neighborhood Association (WBNA) joins in the appeal of the Declaratory Ruling issued by the Zoning Enforcement Manager to Consensus Planning in the above related matter. We base our support for this appeal on significant concerns with due process violations and inequitable application of procedural rules.

The West Bluff Neighborhood Association thereby authorizes Hessel E. Yntema III, Yntema Law Firm P.A. to represent its interests in the appeal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lan Sena", with a stylized flourish extending to the right.

Lan Sena, President

**APPELLANTS' BASIS OF STANDING
FOR APPEAL OF THE DECLARATORY RULING DATED APRIL 22, 2019, FOR
CONSNSUS PLANNING CONCERNING THE OVERLOOK AT OXBOW PROJECT
(PR-2018-001402, SI-2018-00171, VA-2019-00103)**

Appellants appeal the subject Declaratory Ruling under Section 6-4(U)(2)(a)(3) of the Integrative Development Ordinance ("IDO"). There do not appear to be proximity requirements for appeal of a declaratory ruling under the IDO. Taylor Ranch Neighborhood Association ("TRNA") is a recognized neighborhood association and upon information and belief TRNA is within the applicable IDO proximity requirements for site plan or other decisions for the subject site. Upon information and belief, some of the other Appellants are within the applicable IDO proximity requirements for site plan or other decisions for the subject site. Appellants are adversely affected by the subject decision, because the decision will affect cluster dwelling developments throughout the City, will harm Appellants' quality of life including street and pedestrian access, density, public safety, transportation issues, and preservation of and access to open space and other open space issues, and the process for the decision was arbitrary, unfair, violated due process, was not in conformance with the IDO and appears to have been decided by City staff in closed meetings in violation of the Open Meetings Act. The names and addresses of Appellants are attached.

**REASONS FOR APPEAL OF
THE CONSENSUS PLANNING DECLARATORY
RULING DATED APRIL 22, 2019 FOR
OVERLOOK AT OXBOW**

The subject Declaratory Ruling dated April 22, 2019, and all prior oral or written rulings, statements, interpretations or agreements by the Planning Department or the Zoning Enforcement Officer (“ZEO”) on similar matters (collectively herein “DR”; in its April 22, 2019 written form, the “written DR”) should be voided or reversed, pursuant to Integrated Development Ordinance (“IDO”) Sections 1-2 (p. 1); 4-3(b)(2) (pp. 135-136); Table 6-1-1 (p. 327); 6-4(H) (p. 343); 6-4(U)(4) (p. 361); 6-5(B) (p. 372); and Definitions (pp. 458, 485), among other IDO provisions and other authorities, for the following reasons:

1. The Planning Department and the ZEO acted in a constructively fraudulent manner, and acted arbitrarily and capriciously, in issuing and not properly advising Appellants, the LUHO and the City Council about the DR.

The written DR, dated April 22, 2019, was not made available to Appellants until December 23, 2019. The written DR apparently was issued only to Consensus Planning, after the Environmental Planning Commission (“EPC”) hearing on the applicant’s site plan on March 14, 2019, and while Appellants’ appeal of the EPC site plan decision was pending. The Planning Department and the applicant, through their representatives, misrepresented the status of the DR. For example, at the City Council hearing on August 5, 2019, for Appellants’ appeal of the EPC site plan approval, Mr. Brito of the Planning Department told the City Council that “there was not a declaratory ruling . . . no declaratory ruling was deemed necessary for this.” Previously, the ZEO testified at the March 14, 2019 EPC hearing that the effective decision (that a project site could include multiple clusters) resulted from an agreement: “We then agreed that more than one cluster development can be proposed for a site plan.” At the hearing of the Land Use

Hearing Officer (“LUHO”) on May 20, 2019, the applicant’s agent, Mr. Strozier, testified that there had been a signed declaratory ruling, which had been appealed. However, Mr. Strozier testified that his client had not asked for a “declaratory ruling on whether multiple clusters were allowed on the site plan” because “we received guidance and direction from City Staff and we proceeded accordingly.” ZEO Mr. Martinez later testified that the declaratory ruling was “on appeal”. However, according to Mr. Brito’s e-mail dated December 23, 2019 (copy attached, which transmitted the written DR), there was no appeal. It appears that the DR evolved or was negotiated over time. The DR was improvidently not issued in writing and issued privately before the EPC hearing, and then was improvidently issued in writing when the EPC decision was on appeal. The written DR should have been made public and provided to Appellants, the LUHO and the City Council on or shortly after its issuance on April 22, 2019, based on Appellants’ then pending appeal to the City Council, which involved the same issue. Delay in issuing the DR and then delay in providing the written DR were prejudicial to Appellants because the written DR was not available for review and appeal pursuant to IDO Section 6-5(B) (p. 372), until after the LUHO and the City Council heard and decided Appellants’ appeal of the EPC decision.

The DR resulted from a closed door, ex parte process. It appears that the closed door negotiations began before submittal of the applicant’s site plan application, as early as August 8, 2018, followed with a meeting on August 13, 2018, based on City e-mails and the “Meeting Minutes” of the August 13, 2018 meeting. The communications and meetings involved various representatives of the applicant and various representatives of the Planning Department, including the ZEO, the Planning Manager, and the Chair of the Development Review Board, all of whom would make discretionary decisions in favor of the applicant’s proposal. Upon

information and belief, there is incomplete written evidence of the communications and negotiations from which the DR emerged and evolved. There appears to be no public record of the DR and no public record available to learn how the agreement resulting in the DR was reached.

2. The DR is not supported by substantial evidence. Planning Staff apparently did not research or determine “the largest geography specified in the earliest request for decision on the first application related to a particular development”, which according to the IDO is the key definition for a “Project Site” (discussed below). It appears that when some sort of initial agreement for the DR was reached (at the meeting on August 13, 2018), the applicant had not even submitted a “complete” application.

3. The DR erred in applying the requirements of the IDO. The IDO’s definition of Project Site is at p. 485:

Project Site: A lot or collection of lots shown on a Subdivision – Minor or Major or on a Site Plan. This term refers to the largest geography specified in the earliest request for decision on the first application related to a particular development. For example, if a large parcel is subdivided and submitted for development in phases, any regulation referring to the project site would apply to the entirety of the land in the original parcel included in the Subdivision application.

It appears from the available documents that the applicant’s earliest request for decision was on August 8, 2018, preliminarily to the August 13, 2018 closed meeting, which involved the entire approximately 23 acre site. It does not appear that the applicant ever submitted any application which identified the project site as other than the 23 acres. Thus the ruling of the written DR that “Pursuant to the IDO, a Dwelling, Cluster Development is a project site” is erroneous as it ignores the clear language of the IDO, reads new language into the IDO (that any cluster development is a “project site”), and ignores the applicant’s own submissions on the

definition of a “project site”. The DR’s ruling that “A single site plan may show multiple project sites to be reviewed for approval” is nonsensical in the context of the IDO’s definition of “Project Site” as the largest geography specified in the earliest request for decision.

4. The DR was issued and withheld in violation of due process. The DR as issued and then withheld is essentially a private agreement between the Planning Department and the applicant that multiple clusters are allowed on the applicant’s single project site, to backstop approval of the applicant’s particular development proposal. The written DR was issued without any public notice or hearing, while an appeal on the same issue was pending before the City Council, without any opportunity for submission of evidence, cross examination or argument by concerned parties, and then was hidden from the appeal process by failure to disclose, obfuscation and misrepresentation.

5. The DR was issued in violation of the Open Meeting Act (“OMA”). The DR constitutes City policy and was formed in closed meetings between the Planning Department, the ZEO and the applicant and its agents which were not conducted in accordance with the OMA. There does not appear to be even a single proper open meeting, of the admitted dozens of meetings between the Planning Department and the applicant to negotiate the DR and, generally, approval of the applicant’s application.

6. The DR may render moot the EPC remand hearing (scheduled for February 13, 2020) for the multiple clusters issue and perhaps other issues. The EPC appears to lack authority under the IDO to overrule a verbal ZEO “interpretation” of the IDO (see IDO Section 6-4(A), p. 339), or a ZEO declaratory ruling (under IDO Table 6-1-1, p. 327, appeal for a declaratory ruling is to the City Council). Practically, the EPC defers to the Planning Department in its evaluation of the applicant’s site plan and previously has relied upon, without any separate investigation or

analysis, the rulings of the ZEO. The DR essentially approves the applicant's basic layout and then purports to control the result of Appellants' appeal from the EPC about the issue, from closed meetings.

7. The DR is contrary to the apparent current stated City policy, expressed in the City Council's remand decision dated August 27, 2019 (which requests a specific finding from the EPC on the multiple clusters issue), that the multiple clusters issue has not been decided.

8. The earliest forms of the DR were issued in violation of the IDO Section 6-4(H)(4) (p. 343) requirement that "No development application shall be reviewed for compliance with this IDO.....until it is determined to be complete".

9. The written DR is void under Section 3-21-8(B), NMSA 1978, which states in pertinent part as to proceedings when an appeal has been taken to the City Council as in this matter, and no certification as to imminent peril has been made:

An appeal shall stay all proceedings in furtherance of the action appealed unless the officer, commission or committee from whom the appeal is taken certifies that by reason of facts stated in the certificate, a stay would cause imminent peril of life or property.

Appellants reserve the right to supplement or amend their reasons for appeal based on review of the record for the DR.



CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Planning Department

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

April 22, 2019

TO: David Campbell, Planning Director

FROM: Jacobo Martinez, Code Compliance Manager *h*

Subject: Consensus Planning Declaratory Ruling Request

This is a request for a declaratory ruling made by Consensus Planning concerning the application of Integrated Development Ordinance "IDO" Section 14-16-4-3(B)(2)(b) and its applicability to a proposed residential development of the Overlook at Oxbow project. More specifically, this is a request of a declaratory ruling of what constitutes a project site and a site plan for the proposed cluster projects and how should set backs pursuant to 14-16-4-3(B)(2)(b) be applied.

Background

The proposed site plan has been reviewed by the EPC through the Site Plan-EPC process (Project #2018-001402, SI 2018-00171). The site plan proposes two cluster development projects (Cluster A and Cluster B). EPC has approved the Site Plan with conditions specific to set backs. Condition #5 pursuant to the approved site plan states:

5. Setbacks at the perimeter of each cluster are required to be per the underlying R-A Zone District as follows:

- Front, minimum 20-feet
- Side, minimum 10-feet
- Rear, minimum 25-feet – this affects all rear lots facing Namaste Road NW, Tres Gracias Road NW, La Bienvenida Place NW,

If this results in a Major change to the Site Plan, it will be required to be reviewed and approved again by the EPC. The common open space must retain a minimum length and width of 35 feet if lots are adjusted for setbacks per 14-16-4-3(B)(2)(d)1.

Dwelling, Cluster Development

- Pursuant to the IDO Definitions
 - Dwelling, Cluster Development: A development type that concentrates single-family or two-family dwellings on smaller lots than would otherwise be allowed in the zone district in return for the preservation of common open space within the same site, on a separate lot, or in an easement.

- Dwelling, Cluster Development is permitted in the R-1, R-C, R-T, R-ML, ad MX-T zoning categories.
- Dwelling, Cluster Developments are governed by the Use Specific Standard 4-3(B)(2).
- Pursuant to 4-3(B)(2)(a):
 - Minimum project size for this use is 1 acre.
- Pursuant to 4-3(B)(2)(b):
 - Zone district lot and setback requirements, including contextual standards in Subsection 14-16-5-1(C)(2), shall apply to the project site as a whole, but not to individual dwellings.
- Pursuant to 4-3(B)(2)(d):
 - The cluster development project site shall include a common open space set aside for agriculture, landscaping, on-site ponding, outdoor recreation, or any combination thereof allowed in the zone district, and for the use and enjoyment of the residents.
- Pursuant to the IDO Definitions:
 - Project Site: A lot or collection of lots shown on a Subdivision – Minor or Major or on a Site Plan. This term refers to the largest geography specified in the earliest request for decision on the first application related to a particular development. For example, if a large parcel is subdivided and submitted for development in phases, any regulation referring to the project site would apply to the entirety of the land in the original parcel included in the Subdivision application.
- Pursuant to the IDO Definitions:
 - Site Plan: An accurate plan that includes all information required for that type of application, structure, or development.

Conclusion

Pursuant to the IDO, a Dwelling, Cluster Development is a project site. The proposed site plan that has been reviewed and approved by the EPC shows two Dwelling, Cluster Development project sites. A single site plan may show multiple project sites to be reviewed for approval. Each project site must meet the Use Specific Standards as defined by the IDO. Therefore, each proposed Dwelling, Cluster Development shall meet the requirements established by 4-3(B)(2)(b) Zone district lot and setback requirements.



Jacobo Martinez, Manager
Code Compliance Division
Planning Department



CONSENSUS

April 3, 2019

Landscape Architecture
Urban Design
Planning Services

Mr. Jacobo Martinez
Code Enforcement Officer
City of Albuquerque
600 2nd Street, NW
Albuquerque, NM 87102

302 Eighth St. NW
Albuquerque, NM 87102

Re: Declaratory Ruling Request

(505) 764-9801
Fax 842-5495
cp@consensusplanning.com
www.consensusplanning.com

Dear Mr. Martinez:

The purpose of this letter is to request a written declaratory ruling on behalf of Gamma Development, LLC regarding the application of IDO Section 14-16-4-3(B)(2)(b) and its applicability to the proposed residential development of the Overlook at Oxbow project, zoned RA.

The use, as proposed and as approved by the Site Plan – EPC, Project #2018-001402, SI-2018-00171, is a cluster development containing two areas of clustered homes. Cluster Development is a permissive use in the RA zone. The specific concern is related to how this regulation is applied to the property. Section 14-16-4-3(B)(2)(b), which states:

*Zone district lot and setback requirements, including contextual standards in Section 14-16-5-1(C)(2), shall apply to the **project site** as a whole, but not to individual dwellings (emphasis added).*

Project Site is a defined term in the IDO as follows:

*A lot or collection of lots shown on a subdivision – Minor or Major or on a Site Plan. This term refers to **the largest geography specified in the earliest request for decision on the first application related to a particular development**. For example, if a large parcel is subdivided and submitted for development in phases, any regulation referring to the project site would apply to the entirety of the land in the original parcel included in the Subdivision application (emphasis added).*

PRINCIPALS

James K. Strozier, AICP
Christopher J. Green, PLA,
ASLA, LEED AP
Jacqueline Fishman, AICP

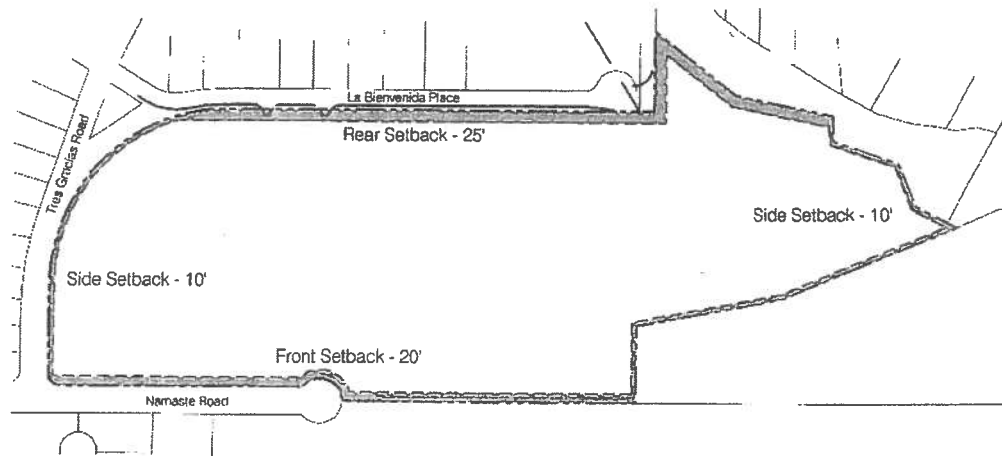
The Site Plan – EPC covered the entire 22.75-acre site. Gamma Development has not submitted an application for a smaller development site. In fact, the first submittal made to the City under the IDO was for a sketch plat, that also considered the entire 22.75-acre property. The EPC considered the Site Plan application with the understanding that the two clustered areas each constituted a separate “project site” for the purpose of Section 14-16-4-3(B)(2)(b). This interpretation does not appear to be consistent with the plan



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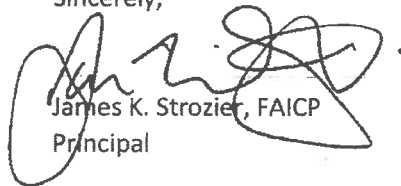
PLANNING

language of the IDO and its definition of project site. Therefore, we are requesting a declaratory ruling about what constitutes a project site for purpose of this 22.75 acre Site Plan and the application of Section 14-16-4-3(B)(2)(b) setbacks to this development. If the 22.75 acres comprises one project site, does that also give us the flexibility to define, what the front, side and rear of the property is for the purposes of this regulation? Our preference would be that the southern property line be considered the front of the project site as a whole with the east and west property lines being the sides, and the northern property line being the rear. The following diagram shows how this would be applied to the project site as a whole:



Based on the above information, we respectfully request a written declaratory ruling as to how the cluster setback regulations will be applied to this property. Please do not hesitate to contact me if you have any questions or require any additional information.

Sincerely,


James K. Strozier, FAICP
Principal

From: "Brito, Russell D." <RBrito@cabq.gov>

Date: December 23, 2019 at 11:18:03 AM MST

To: "JOEVALLES@aol.com" <JOEVALLES@aol.com>, "joevalles7474@gmail.com" <joevalles7474@gmail.com>

Cc: "Lehner, Catalina L." <CLehner@cabq.gov>, "Aranda, James M." <jmaranda@cabq.gov>

Subject: FW: Consensus Planning Declaratory Ruling Request

Dr. Valles,

In response to your request for information:

- The content of the attached declaratory ruling memo from then ZEO Jacobo Martinez was discussed on-the-record at the EPC public hearing by the Zoning Enforcement Officer as his reading of the IDO language regarding cluster developments and setbacks for each cluster, which are reflected in the EPC's March 14, 2019 approval of the Site Plan - EPC (PR-2018-001402), specifically Condition number 5.
- Consensus Planning did not request a Declaratory Ruling about the matter until *after* the EPC's March 14, 2019 approval decision, hence the April 22, 2019 date on Mr. Martinez's memo.
- The Declaratory Ruling does not appear to be favorable to Mr. Strozier's or his client's position. This Declaratory Ruling has not been appealed to the City Council and it appears that the applicant's updated site plan reflects at least the intent of the IDO, the Declaratory Ruling, and the City Council's EPC Remand Instructions numbers 1, 2, and 3.
- The City Council's EPC Remand Instructions number 4 requires a "duly noticed" hearing, which includes email notice to Neighborhood Associations and an offer for a neighborhood meeting. We notified Consensus Planning that the remanded Site Plan - EPC will have to be scheduled for the February 13, 2020 EPC hearing because we have not yet received documentation of the email notice and offer for a neighborhood meeting nor a neighborhood meeting report/summary (see IDO Subsection 6-4(K)(7)).

Please let me know if you need any other information.

Thank you,

- Russell

RUSSELL D BRITO

division manager

urban design & development

o 505.924.3337

e rbrito@cabq.gov

cabq.gov/planning

From: Martinez, Jacobo R.
Sent: Monday, December 23, 2019 10:12 AM
To: Brito, Russell D.
Subject: Consensus Planning Declaratory Ruling Request

Attached is the declaratory ruling memo regarding the question of what constitutes a project site and a site plan for the proposed cluster projects and how should set backs pursuant to 14-16-4-3(B)(2)(b) be applied

JACOBO MARTINEZ
code compliance manager
o 505.924.3301
e jacobomartinez@cabq.gov
cabq.gov/planning

— Attachments: —

image002.jpg	4.3 KB
image001.jpg	4.9 KB
Consensus Planning Declaratory Ruling Request.pdf	2.2 MB

CITY OF ALBUQUERQUE



Planning Department
Brennon Williams, Director

Development Review Division
600 2nd Street NW – 3rd Floor
Albuquerque, NM 87102

NOTICE OF APPEAL

January 15, 2020

TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on January 15, 2020. 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-20-1
PLANNING DEPARTMENT CASE FILE NUMBER:
PR-2018-001402, SI-2018-00171, VA-2020-00004

PO Box 1293

APPLICANT: Taylor Ranch N.A.
P.O. Box 66288
Albuquerque NM 87193-6288

Albuquerque

AGENT: Hessel E. Yntema Law firm P.A.
215 Gold Ave. SW Suite 201
Albuquerque NM 87108

NM 87103

www.cabq.gov

cc: Crystal Ortega, City Council, City county bldg. 9th floor
Kevin Morrow/Legal Department, City Hall, 4th Floor-
Zoning Enforcement