

CITY OF ALBUQUERQUE

Planning Department

Brennon Williams, Interim Planning Director

Development Review Division

600 2nd Street NW – 3rd Floor

Albuquerque, NM 87102

NOTICE OF APPEAL



January 23, 2020

TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on January 22, 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-20-2

PLANNING DEPARTMENT CASE FILE NUMBER:

PR-2019-002496, SI-2019-00180, SD-2019-00161, VA-2019-00323, VA-2020-00009

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

APPLICANT: Randolph & Shannon Baca
8501 Alameda Blvd. NE
Albuquerque NM 87122

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

cc: Crystal Ortega, City Council, City county bldg. 9th floor
Kevin Morrow/Legal Department, City Hall, 4th Floor-
DRB File
Hessel E. Yntema Law firm P.A., 215 Gold Ave. SW
Suite 201, Albuquerque NM 87108
Consensus Planning, 302 8th Street NW, Albuquerque NM 87102
Randolph & Shannon Baca, 8501 Alameda Blvd. NE, Albuquerque NM 87122



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

SUBDIVISIONS		<input type="checkbox"/> Final Sign off of EPC Site Plan(s) (Form P2)
<input type="checkbox"/> Major - Preliminary Plat (Form P1)	<input type="checkbox"/> Amendment to Site Plan (Form P2)	<input type="checkbox"/> Vacation of Public Right-of-way (Form V)
<input type="checkbox"/> Minor - Preliminary/Final Plat (Form S2)	MISCELLANEOUS APPLICATIONS	
<input type="checkbox"/> Major - Final Plat (Form S1)	<input type="checkbox"/> Extension of Infrastructure List or IIA (Form S1)	<input type="checkbox"/> Vacation of Public Easement(s) DRB (Form V)
<input type="checkbox"/> Amendment to Preliminary Plat (Form S2)	<input type="checkbox"/> Minor Amendment to Infrastructure List (Form S2)	PRE-APPLICATIONS
<input type="checkbox"/> Extension of Preliminary Plat (Form S1)	<input type="checkbox"/> Temporary Deferral of SNW (Form V2)	<input type="checkbox"/> Sketch Plat Review and Comment (Form S2)
	<input type="checkbox"/> Sidewalk Waiver (Form V2)	
SITE PLANS		APPEAL
<input type="checkbox"/> DRB Site Plan (Form P2)	<input type="checkbox"/> Waiver to IDO (Form V2)	<input checked="" type="checkbox"/> Decision of DRB (Form A)
BRIEF DESCRIPTION OF REQUEST		
Appeal of DRB Site Plan Approval of January 8, 2020 in # PR 2019-002496 (Alameda Luxury Apts.)		

APPLICATION INFORMATION		
Applicant: Randolph & Shannon Greer, and on attached List		Phone: c/o Yntema Law Firm
Address:		Email:
City:	State:	Zip:
Professional/Agent (if any): Hessel E. Yntema III, Yntema Law Firm P.A.		Phone: 505-843-9568
Address: 215 Gold Ave. SW Suite 201		Email: hessel@yntema-law.com
City: Albuquerque	State: NM	Zip: 87102
Proprietary Interest in Site: Abutting Owners & Others		List all owners:
SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)		
Lot or Tract No.: Lots 1-4	Block:	Unit: 3
Subdivision/Addition: Unit 3, North Alh, Acres	MRGCD Map No.:	UPC Code:
Zone Atlas Page(s): C-19 & 20	Existing Zoning: MX-L	Proposed Zoning: MX-L
# of Existing Lots: 4	# of Proposed Lots: 1	Total Area of Site (Acres): 3.38
LOCATION OF PROPERTY BY STREETS		
Site Address/Street: Sec Barstow / Alameda	Between:	and:
CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)		
SD - 2019-00161, AC-19-16, #PR-2019-002496, SF-2019-00180, SI-2019-00085		

Signature: Hessel E. Yntema III	Date: 1-22-20				
Printed Name: Hessel E. Yntema III	<input type="checkbox"/> Applicant or <input checked="" type="checkbox"/> Agent				
FOR OFFICIAL USE ONLY					
Case Numbers	Action	Fees	Case Numbers	Action	Fees
VA-2020-00009	Appeal	\$130			
Meeting Date:			Fee Total: \$130		
Staff Signature: [Signature]			Date: 1-22-2020		
			Project # PR-2019-2496		

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: PR-2019-002496

___ Application number of the case being appealed, if applicable: SI-2019-00180

___ Type of decision being appealed: DRB Site Plan Approval

___ 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: Hersel E. Yntema III

Date: 1-22-20

Printed Name: Hersel E. Yntema III

☐ Applicant or ☒ Agent

FOR OFFICIAL USE ONLY

Case Numbers:

Project Number:

YA-2020-00009

PR-2019-002496

Staff Signature:

Date:



LIST OF APPELLANTS

Randolph and Shannon Baca
8501 Alameda Blvd. NE
Albuquerque, NM 87122

Chun Fu and Hui Shen
8700 Aspen Leaf Dr. NE
Albuquerque, NM 87122

Frank Steves
8701 Aspen Leaf Dr. NE
Albuquerque, NM 87122

Robert Chang
8704 Aspen Leaf Dr. NE
Albuquerque, NM 87122

Pannipa Kiatbarammee
8705 Aspen Leaf Dr. NE
Albuquerque, NM 87122

Michael S. Shackley and Kathleen L. Butler
8800 Henriette Wyeth Dr. NE
Albuquerque, NM 87122

David L. and Anne M. Downing
8801 Henriette Wyeth Dr NE
Albuquerque, NM 87122

Clyde and Dorothy Sanchez
8808 Henriette Wyeth Dr NE
Albuquerque, NM 87122

Lawrence and Lyndah Martell
8809 Henriette Wyeth Dr NE
Albuquerque, NM 87122

Sandy Robbins
8815 Henriette Wyeth Dr NE
Albuquerque, NM 87122

Joe O'Neill and Karen Baehr
8805 Pico La Cueva NE
Albuquerque, NM 87122

Curtis G. Lee
8809 Pico La Cueva NE
Albuquerque, NM 87122

Philip and Amber Le
8815 Pico La Cueva NE
Albuquerque, NM 87122

David and Donna Sauter
8819 Pico La Cueva NE
Albuquerque, NM 87122

Carl Henry
8823 Pico La Cueva NE
Albuquerque, NM 87122

Richard Montoya
8831 Pico La Cueva NE
Albuquerque, NM 87122

Kristen Kim
8801 Rich Ct. NE
Albuquerque, NM 87122

Katie and Philip Lopez
8301 Tierra Linda Pl NE
Albuquerque, NM 87122

Joe T. and Amanda Wright
8305 Tierra Linda NE
Albuquerque, NM 87122

Peter and Sara Dickens
8309 Tierra Linda Pl NE
Albuquerque, NM 87122

Brian C. Thomson
8728 Tierra Montana Pl. NE
Albuquerque, NM 87122

Joey Lobo
8733 Tierra Montana Pl. NE
Albuquerque, NM 87122

Paul and Jennifer Wever
8409 Tierra Morena Pl NE
Albuquerque, NM 87122

Juanita Duran
8419 Tierra Morena Pl NE
Albuquerque, NM 87122

John and Loretta Skidmore
8420 Tierra Morena Pl NE
Albuquerque, NM 87122

Jeff and Olivia Bland
8423 Tierra Morena Pl
Albuquerque, NM 87122

Paul and Marialuz Scarpa
8427 Tierra Morena Pl NE
Albuquerque, NM 87122

Hua Wang
8500 Tierra Morena Pl NE
Albuquerque, NM 87122

Gary Gregos
8501 Tierra Morena Pl NE
Albuquerque, NM 87122

Nancy Jones
8504 Tierra Morena Pl NE
Albuquerque, NM 87122

Steve Wray
8505 Tierra Morena Pl NE
Albuquerque, NM 87122

Mary Jo Barrera-Martinez
8508 Tierra Morena Pl NE
Albuquerque, NM 87122

Bo Tram
8509 Tierra Morena Pl NE
Albuquerque, NM 87122

Juanita Duran
8512 Tierra Morena Pl NE
Albuquerque, NM 87122

Joseph Valdez
8515 Tierra Morena Pl NE
Albuquerque, NM 87122

Erin and Larry D. Caswell
8516 Tierra Morena Pl NE
Albuquerque, NM 87122

Robert Martin
8519 Tierra Morena Pl NE
Albuquerque, NM 87122

Hope Episcopal Church William Fanning
8700 Alameda Blvd. NE
Albuquerque, NM 87122
Attention: William Fanning

Elizabeth Ciccone
8416 Ashton Pl NE
Albuquerque, NM 87122

Nancy Slater
8420 Ashton Pl Ne
Albuquerque, NM 87122

Lucy Baca
8616 Ashton Pl NE
Albuquerque, NM 87122

Holly J. Lovato
7424 Blue Cypress NE
Albuquerque, NM 87113

Carol Ambabo
8921 Glendale Ave NE
Albuquerque, NM 87122

Tacy Van Cleave
8724 Greenarbor Rd NE
Albuquerque, NM 87122

Robin Smith Jacobvitz
8831 Henriette Wyeth Dr. NE
Albuquerque, NM 87122

Adrian Segura
8211 Signal Ave NE
Albuquerque, NM 87122

Hannah Howard
8215 Tierra Linda Pl NE
Albuquerque, NM 87122

Vineyard Estates Neighborhood Association
8405 Vintage Drive NE
Albuquerque, NM 87122
Attention: Elizabeth Meek, President

Nor Este Neighborhood Association
P.O. Box 94115
Albuquerque, NM 87199-0066
Attention: Uri Bassan, President

District 4 Coalition of Neighborhood Associations
4109 Chama St. NE
Albuquerque, NM 97109
Attention: Daniel Regan

North Albuquerque Acres Community Association
11003 Anaheim Ave. NE
Albuquerque, NM 87122
Attention: Carol Ambabo

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

Haitao Cao
8712 Vineyard Ridge Rd NE
Albuquerque, NM 87122

Chelsey J. Bixler
8809 Hampton Ave. NE
Albuquerque, NM 87122

Rigo Tibi
8831 Hampton Ave. NE
Albuquerque, NM 87122

Scott T. Miller
8900 Hampton Ave. NE
Albuquerque, NM 87122

Diego Ruiz
8901 Hampton Ave. NE
Albuquerque, NM 87122

Jason Parkin
8905 Hampton Ave. NE
Albuquerque, NM 87122

Janet McEwen
8908 Hampton Ave. NE
Albuquerque, NM 87122

Qin Hong
8912 Hampton Ave. NE
Albuquerque, NM 87122

David Cardiff
8608 Greenarbor Rd
Albuquerque, NM 87122

Erica Garcia
8001 Brittany Ave. NE
Albuquerque, NM 87122

Steven Sorensen
7612 Oakland Ave. NE
Albuquerque, NM 87122

Teresa Russell
7721 RC Gorman Ave NE
Albuquerque, NM 87122

Jessica Everett
8101 RC Gorman Ave. NE
Albuquerque, NM 87122

Caroline Schmutz
8315 Manuel Cia Ct. NE
Albuquerque, NM 87122

Christy Boyak
8421 Manuel Cia Pl NE
Albuquerque, NM 87122

Russell Trapnell
8401 Joseph Sharp St. NE
Albuquerque, NM 87122

Amber McEntire
8717 Glendale Ave. NE
Albuquerque, NM 87122

Franki Burtenshaw
8801 San Diego Ave. NE
Albuquerque, NM 87122

Julie Anne Fisher
9001 Berryessa Rd NE
Albuquerque, NM 87122

Erika McBee
9032 Walter Bambrook Pl NE
Albuquerque, NM 87122

Paula Castle
9400 Anaheim Ave NE
Albuquerque, NM 87122

Lynda Miller
9606 Desert Mt. Rd NE
Albuquerque, NM 87122

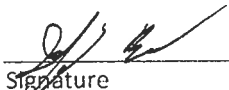
January 11, 2020

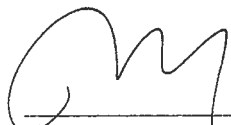
City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

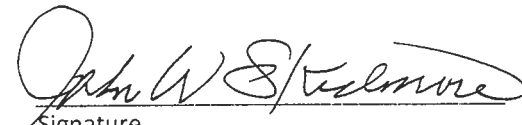
Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments


Dear Planning Department:

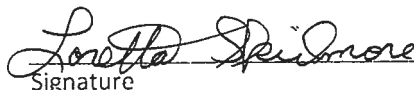
This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.

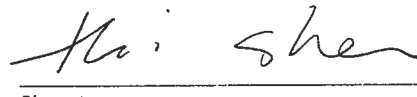

Signature
Jeffrey Bland
Print
8423 Tierra Morena Pl NE
Address ABQ, NM 87122


Signature
Robert Chang
Print
8704 Aspen leaf Drive
Address


Signature
JOHN W SKIDMORE
Print
8420 TIERRA MORENA PL NE
Address


Signature
Chun Fu
Print
8700 Aspendorf Drive NE
Address


Signature
LORETTA SKIDMORE
Print
8420 Tierra Morena Pl. N.E.
Address


Signature
8700 Aspen Leaf Dr NE
Print
Hui-shen
Address


January 11, 2020

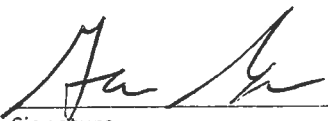
City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

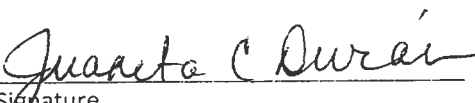
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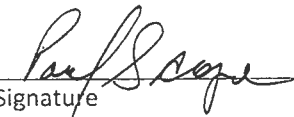
Dear Planning Department:


This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.



Signature
Stephen Wray
Print
8505 Tierra Morena, PL
Address


Signature
Gary Gueles
Print
8501 Tierra Morena
Address
PI NE


Signature
Juanita C. Durán
Print
8419 Tierra Morena PI NE
Address
8512 Tierra Morena PI NE


Signature
PAUL SCARPA
Print
8427 TIERRA MORENA PL NE
Address
ABQ


Signature
MARIA LUZ SCARPA
Print
8427 TIERRA MORENA PL NE
Address


Signature
Nancy Jones
Print
8504 TIERRA MORENA PL NE
Address

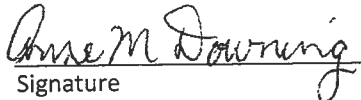
January 12, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.


Signature

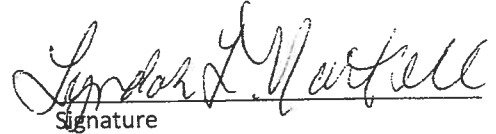
Anne M. Downing
Print

8801 Henriette Wyeth Dr. NE
Address


Signature


David L. Downing
Print

8801 Henriette Wyeth Dr. NE
Address


Signature

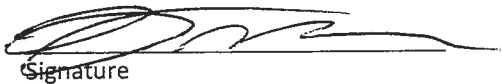
Lyndah L. Martell
Print

8805 Henriette Wyeth Dr. NE
Address


Signature

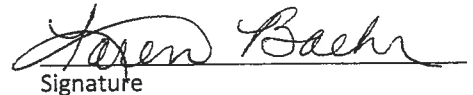
Joe O'Neill
Print

8805 Pico La Cueva
Address


Signature

Lawrence Martell
Print

8809 Henriette Wyeth Dr
Address


Signature

Karen Baehr
Print

8805 Pico La Cueva NE
Address

January 12, 2020

City of Albuquerque Planning Department
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Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments


Dear Planning Department:

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Signature

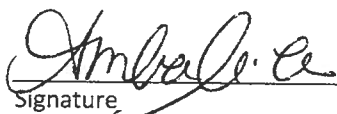
Philip Le
Print

8815 Pico La Cueva NE 87122
Address


Signature

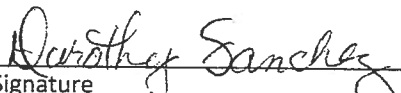
CARL N HENRY
Print

8823 PICO LA CUEVA NE
Address


Signature

Amber M. Le
Print

8815 Pico La Cueva Rd NE
Address


Signature

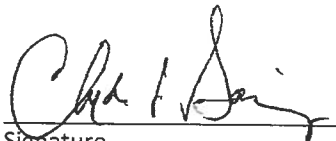
Dorothy Sanchez
Print

8808 Henriette Wyeth Dr. NE
Address


Signature

David Sauter
Print

8819 Pico La Cueva NE. 87122
Address


Signature

CLYDE SANCHEZ
Print

8808 Henriette Wyeth Dr. NE
Address


January 11, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

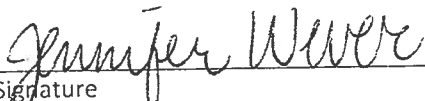
Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.


Signature

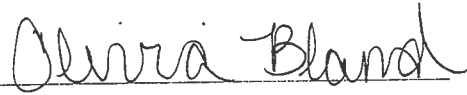
HUA WANG
Print

8500 Tierra Morena PL NE
Address


Signature

Jennifer Wever
Print

8409 Tierra Morena PL
Address NE


Signature

Olivia Bland
Print

8423 Tierra Morena Pl NE
Address


Signature

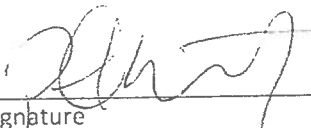
Curtis G. Lee
Print

8809 Pico La Cueva Rd NE
Address


Signature

Sandy Robbins
Print

8815 Henriette Myeth
Address


Signature

Richard Montoya
Print

8831 Pico La Cueva Rd NE
Address

January 11, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
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Alameda Luxury Apartments

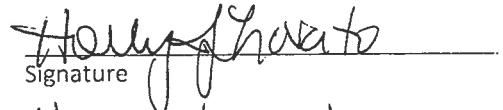
Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.


Signature


MARJO BARRERA-MARTINEZ
Print

8508 Tierra Morena Pl. N.E.
Address


Signature

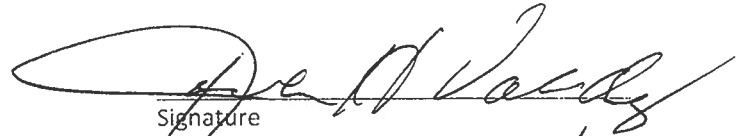
Holly Lovato
Print

7424 Blue Cypress
Address


Signature

Larry D. Caswell Jr.
Print

8516 Tierra Morena Pl NE
Address


Signature

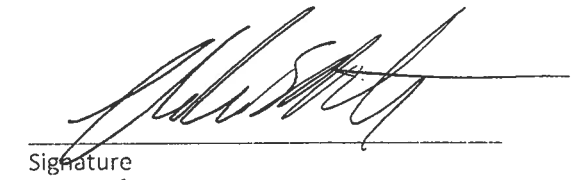
Joseph H Valdez
Print

8515 TIERRA MORENA^{PL}
Address


Signature

Bo Tran
Print

8509 Tierra Morena Pl NE
Address


Signature

Robert B. Martin
Print

8519 Tierra Morena Pl NE
Address

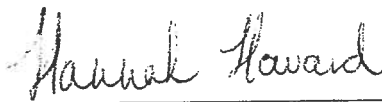
January 18, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102


Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

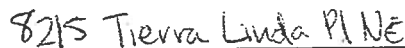
This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.



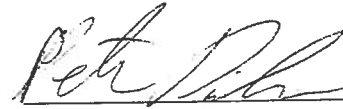
Signature



Print



Address



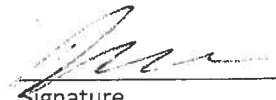
Signature



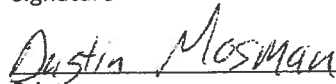
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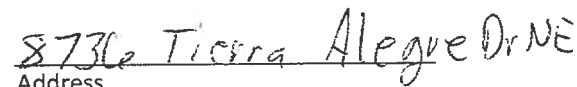
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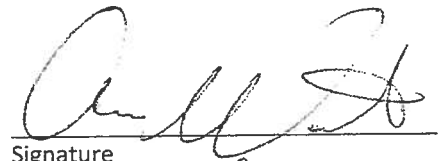
Signature



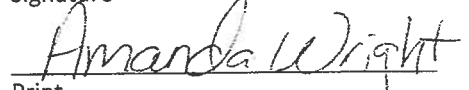
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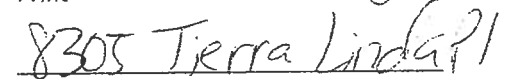
Address



Signature



Print



Address



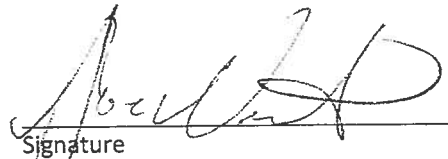
Signature



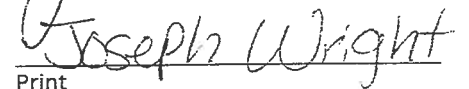
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Address



Signature



Print



Address

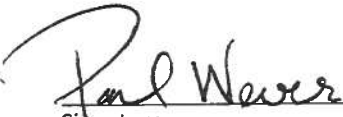
January 16, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.



Signature
PAUL WEAVER

Print
8409 TIERRA MORENA PL NE.

Address
ALBUQUERQUE, NM 87122

January 18, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.

Signature

Print

Address

Signature

Print

Address

Signature

Print

Address

Signature

Print

Address

Signature

Print

Address

Signature

Print

Address

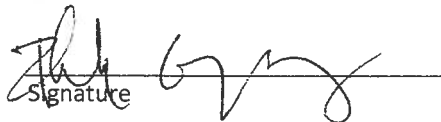
January 12, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

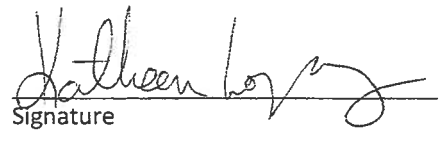
Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

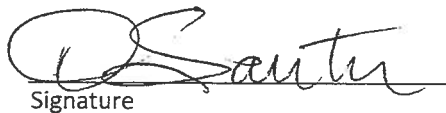
This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.


Signature
Philip Lopez
Print

8301 Tierra Linda Pl NE
Address


Signature
Katie Lopez
Print

8301 Tierra Linda Pl NE
Address


Signature

Donna Sauter
Print

8819 1/2 N La Cereva Pl NE
Address

Signature

Print

Address

Signature

Print

Address

Signature

Print

Address

January 11, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

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Lucy Baca
Signature

LUCY BACA
Print

8616 Ashton Pl N.E.
Address

Signature

Print

Address

Nancy P. Slater
Signature

Nancy P. Slater
Print

8420 Ashton
Address

Signature

Print

Address

Elizabeth Ciccone
Signature

Elizabeth Ciccone
8416 Ashton Pl NE

Signature

January 12, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for
Representation for
Appeal of PR-2019-002496 and
SI 2019-00180

Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III,
Yntema Law Firm P.A., to represent the undersigned
Appellants in their appeal of the DRB decision of
January 8, 2020, for the referenced "Alameda Luxury
Apartments" site plan.

Signature
Print
Address

Kristen Kim

Kristen Kim

880 Rich Ct. NE

Albuquerque, NM 87122

January 19, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.

Carol Ambabo
Signature
Carol Ambabo
Print
8921 Glendale Ave NE
Address


January 14, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.



Signature
Erin Caswell

Print
8516 Tierra Morana PL NE ABO

Address

1/15/2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.

U.S. Shackley
Signature

Michael S. Shackley
Print

8600 Henriette Wyeth Dr NE
Address
Albuquerque, NM 87122

Kathleen L Butler
Signature

Kathleen L Butler
Print

8800 Henriette Wyeth Dr NE
Address
Albuquerque NM 87122


January 18, 2020


City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

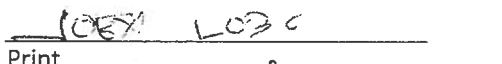
Dear Planning Department:

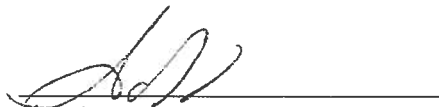
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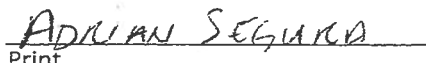

Signature



Print
8728 Tierra Montana Dr NE
Albuquerque, NM 87122
Address
albthomson5@comcast.net

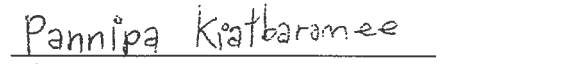

Signature

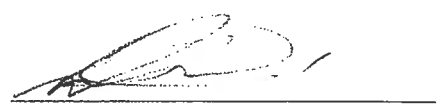

Print
8728 Tierra Montana Dr NE
Albuquerque, NM 87122
Address



Signature


Print
8211 Signal Ave NE
Address 87122


Signature


Print
8705 Aspen Leaf Dr NE 87122
Address


Signature


Print
8701 Aspen Leaf Dr NE
Address Albuquerque, NM 87122

Signature

Print

Address

January 12, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for
Representation for
Appeal of PR-2019-002496 and
SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III,
Yntema Law Firm P.A., to represent the undersigned
Appellants in their appeal of the DRB decision of
January 8, 2020, for the referenced "Alameda Luxury
Apartments" site plan.

Signature
Print
Address

Robin Smith Jacobvitz
Robin Smith Jacobvitz
8831 Henriette Wyeth NE
Albuquerque, NM 87122

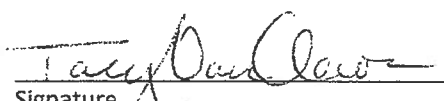
January 19, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.


Signature
TACY VAN CLEAVE
Print
8724 GREENARBOR RD NE
Address

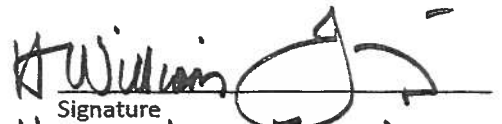
January 12, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.


Signature
H. William Fanning
Print
Sr. Warden
Address

Hope in the Desert
Episcopal Church
8700 Alameda Blvd. NE
Albuquerque, NM 87122

January 10, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496, SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.

Nor Este Neighborhood Association
P.O. Box 94115
Albuquerque, NM 87199-0066



Uri Bassan, President

January 14, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for
Representation for
Appeal of PR-2019-002496 and
SI 2019-00180

Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III,
Yntema Law Firm P.A., to represent the undersigned
Appellants in their appeal of the DRB decision of
January 8, 2020, for the referenced "Alameda Luxury
Apartments" site plan.

Vineyard Estates Neighborhood
Association

By

Its

PRESIDENT

ELIZABETH S. MEEK

8405 Vintage Drive NE
Albuquerque, NM 87122

djesmeek@comcast.net

January 11, 2020

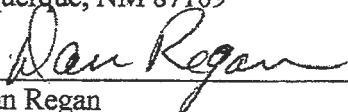
City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496, SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.

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



By Dan Regan
Zoning / Development Committee, Chair

January 11, 2020


City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496, SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.

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



By Dan Regan
Its President

January 19, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.

North Albuquerque Acres Community Association

By Cesar Ambato
Its President
(address)

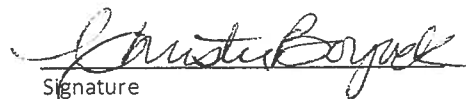
January 16, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

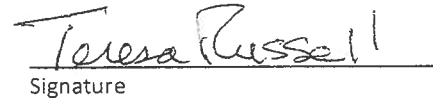
Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.


Signature

CHRISTIE BOYACK
Print

8421 Manuel Cía Pl NE
Address


Signature

TERESA RUSSELL
Print

7721 RC Cornejo Ave
Address


Signature

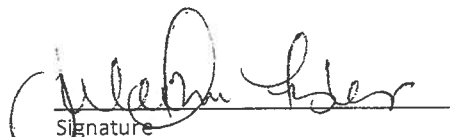
Franki Burtenshaw
Print

8801 San Diego Ave NE
Address ABQ 87122


Signature

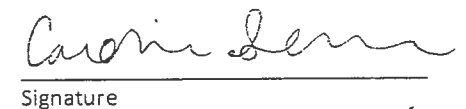
PAULA CASTLE
Print

9400 Anaheim Ave NE
Address


Signature

JulieAnne Fisher
Print

9001 Bernyessa Rd NE
Address ABQ 87122


Signature

Caroline Schmutz
Print

8315 Manuel Cía Ct NE
Address 87122

January 15, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.



Signature

Hessel E. Yntema III

Print

City of Albuquerque, NM

Address

January 15, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.


Signature

DIEGO RUIZ

Print

8901 HAMPTON AVENUE

Address

ABQ, NM 87122

January 15, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:

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Signature


QIN

HONG

Print

8912

Address

Hampton Ave. NE APO 87122

January 15, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

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Signature

Print

Address

January 16, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

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Signature

Chadsey J. Bixler

Print

8500 Hampton Ave NE

Address



Signature

Steven Sorensen

Print

7612 Oakland Ave NE

Address




Signature

Kings Tibi

Print

2821 Hampton Ave NE

Address



Signature

Jason Parkin

Print

8905 Hampton Ave NE

Address

ABQ NM 87122

Signature

Print

Address

Signature

Print

Address

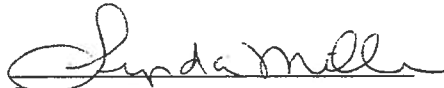
January 16, 2020

City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

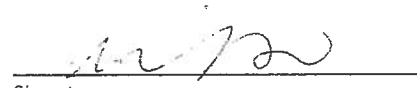
Dear Planning Department:

This letter is to authorize Hessel E. Yntema III, Yntema Law Firm P.A., to represent the undersigned Appellants in their appeal of the DRB decision of January 8, 2020, for the referenced "Alameda Luxury Apartments" site plan.


Signature

Lynda Miller
Print

9605 Desert Mt Pk NE
Address


Signature

Hai Tao Cao
Print

8712 Vineyard Ridge Rd NE
Address
87122

Signature

Print

Address

Signature

Print

Address

Signature

Print

Address

Signature

Print

Address

January 16, 2020

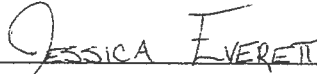
City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

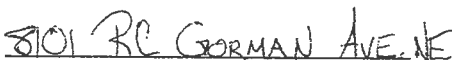
Authorization Letter for Representation for
Appeal of PR-2019-002496 and SI 2019-00180
Alameda Luxury Apartments

Dear Planning Department:


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Signature


Print

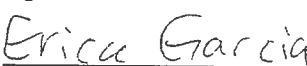

Address

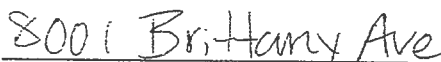

Signature



Print



Address



Signature



Print


Address

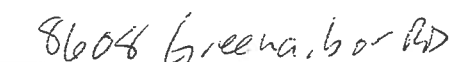

Signature


Print



Address



Signature


Print


Address


Signature


Print

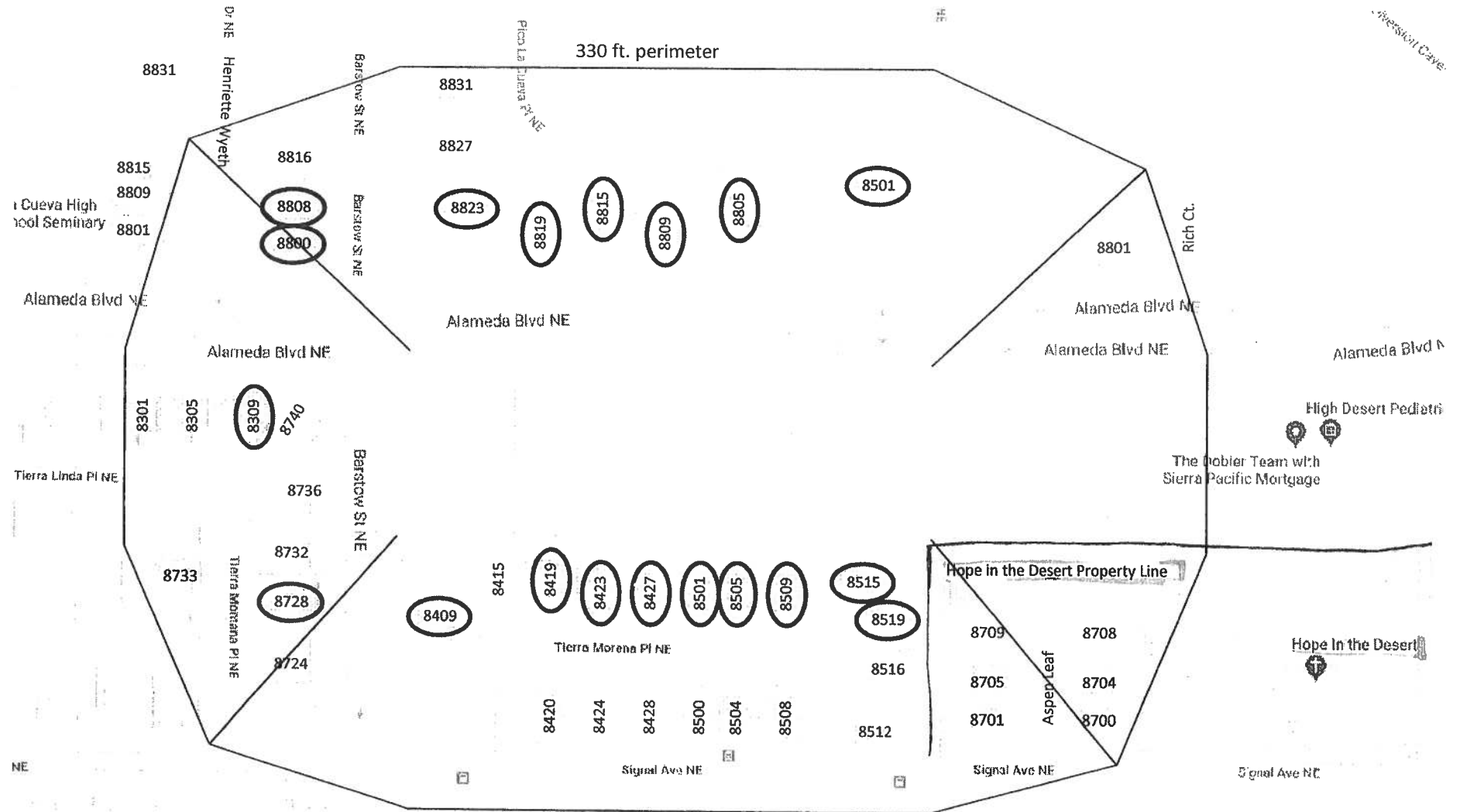

Address

**APPELLANTS' BASIS OF STANDING
FOR APPEAL OF DRB SITE PLAN APPROVAL DECISION
OF JANUARY 8, 2020 IN PROJECT# PR-2019-002496, SI-2019-00180**

Upon information and belief, various Appellants are property owners within the applicable IDO proximity requirements. Appellants are adversely affected by the subject decision, because the decision will harm their quality of life in various respects including excessive density of use, public safety, privacy, noise, odors, drainage, traffic and transportation issues, and the process for the decision was arbitrary, unfair, violated due process, violated the City's Integrated Development Ordinance and other City policies and requirements, did not follow the Land Use Hearing Officer's remand decision (to which some of Appellants were parties), and appears to have been made mainly in closed meetings in substantive and procedural violation of the Open Meetings Act. Attached for reference is a sketch prepared by Appellants showing Appellants' properties within 100 feet of the site, excluding roadways, and within 330 feet of the site. The names and addresses of the Appellants are attached.

**January 2020 – Alameda/Barstow
Appeal of PR-2019-002496 and SI 2019-00180**

- Highlighted - Appellants within 330 ft
○ - Appellants within 100 ft (excluding roadways)



REASONS FOR APPEAL

1. The DRB did not conduct its January 8, 2020 meeting on this matter as a “quasi-judicial” hearing, contrary to the City’s Integrated Development Ordinance (“IDO”) and state law, and the DRB’s decision violated due process.

IDO Section 6-4(M)(3) (p. 348) sets out when a meeting or hearing is to be “quasi-judicial”:

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

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

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

Regardless of the IDO provisions, state case law requires that site-specific development determinations (as is the DRB decision) are quasi-judicial proceedings, see West Old Town Neighborhood Association v. City of Albuquerque, 1996-NMCA-107, ¶ 11, 122 N.M. 495, and Lewis v. City of Santa Fe, 2005-NMCA-032, ¶ 18, 137 N.M. 152.

The DRB record for the January 8, 2020 meeting was not sufficient for a quasi-judicial hearing. There was no apparent website record. Various DRB comments were not made available to Appellants until the eve of the January 8,

2020 hearing. The DRB refused to disclose its ex parte meetings and communications, relevant to its decision. It appears that important decisions about the site plan were effectively made outside the January 8, 2020 hearing. The DRB was interested, biased and predisposed towards site plan approval on the terms approved by the Planning Department and as ruled substantively by the Land Use Hearing Officer (“LUHO”) remand decision.

Procedural due process requires a fair and impartial hearing before a trier of fact who is “disinterested and free from any form of bias or predisposition regarding the outcome of the case”. New Mexico Bd. of Veterinary Medicine v. Riegger, 2007-NMSC-044, ¶27, 142 N.M. 248. Parties are entitled to an impartial tribunal, i.e. having had no pre-hearing or ex parte contacts concerning the question at issue. Albuquerque Commons Partnership v. City Council of the City of Albuquerque, 2008-NMSC-025, ¶34, 144 N.M. 99. In this case, the substantive decisions to approve the site plan were made by the LUHO and the DRB before the January 8, 2020 hearing and without consideration of Appellants’ submissions for the January 8, 2020 hearing.

The DRB should have conducted a quasi-judicial hearing including on the merits of Appellants’ objections to the site plan. Instead, the DRB did not consider Appellant’s arguments and acted based apparently on the advisory decisions set out in the LUHO remand decision, and Planning Department decisions made before and outside the hearing. Appellants objected and object to the LUHO’s decisions which go beyond the remand based on due process failings. IDO Section 1-2 states that “In enacting this IDO, the City intends to comply with the provisions of state law on the same subject, and the provisions of this IDO should be interpreted to achieve that goal.” Under New Mexico law, land use decisions that violate due process are void. In Miller v. City of Albuquerque, 1976-NMSC-052, ¶¶ 21, 22, by failing to follow statutory procedures (including denial of the right to an impartial decision-maker), due process of law was violated and no subsequent act could correct the defect. Under Nesbit v. City of Albuquerque, 1977-NMSC-107, ¶10, when an underlying decision is void, further proceedings based on the voided decision are invalid; development plan decisions, including court decision of reversal, were declared invalid due to the underlying decision lacking due process. Under Zuni Indian Tribe v. McKinley County Board, 2013-NMCA-041, ¶21, the applicant takes the risk that an appealed underlying decision will be void, thus

voiding all subsequent governmental actions dependent on that approval. These cases apply to the LUHO decision dated November 15, 2019 and the DRB decision of January 8, 2020. The first DRB decision cannot be invalid on due process grounds and still be valid on other grounds. Under this line of reasoning, the LUHO's various advisory rulings about density, applicability of the Neighborhood Edges provisions of the IDO, application of Section 3-21-6(C) NMSA 1978 and other points were not binding on the DRB, being based on a decision which was void.

2. The DRB decision did not follow the LUHO remand instructions.

The LUHO remand decision states on p. 7 that DRB members' ex parte contacts with the developers should be disclosed. The DRB refused to disclose its members' ex parte contacts.

3. The DRB erred in not applying the IDO "Neighborhood Edges" provisions.

The "Neighborhood Edges" requirements of the IDO (IDO Section 5-9, p. 286) apply to this site plan application and those provisions require a reworking of the site plan. The issue deserves a full record and an impartial decision-maker. As set out in Appellants' submissions, the "Neighborhood Edges" provisions apply because there are Tierra Morena Place NE lots abutting the site which are and have been for months zoned "R-1B". The "voluntary zoning conversion" rezoning to "R-1B" was a legislative rezoning and was contemplated as such by the IDO, in the nature of an option to rezone legislatively, established with the IDO. The Planning Department should explain the analyses for its reverse turns on this issue.

The DRB ruled (in Finding No. 6) that the date to apply the zoning of abutting properties for the application was "at the time the site plan was filed and set for hearing". The DRB's ruling on this point apparently was based somewhat on the LUHO remand decision's advisory ruling on this issue that the applicable measurement date was the date the application was "deemed complete" (pp. 16-18 of the LUHO decision). However the DRB did not find that the application was "deemed complete" or that the application was ever declared "complete" as is required under the IDO. Both the LUHO formulation and the DRB formulation provide that even incomplete applications may be effective against any later

legislation. In Appellants' view, both the LUHO formulation and the DRB formulation interpret the IDO language incorrectly. The result obtained by the LUHO and the DRB is contrary to the IDO when read as a whole.

Both the LUHO formulation and the DRB formulation run counter to New Mexico state law concerning "vested rights". Brazos Land, Inc. Board of County Commissioners of Rio Arriba County, 1993-NMCA-013, 115 N.M. 168, sets out that a developer achieves vested rights in a project not upon filing and setting a hearing, nor upon a "deemed complete" application, but only when the project has been finally approved and the developer has relied substantially on that approval. Both the LUHO formulation and the DRB formulation limit the City Council from exercising its legislative authority to amend zoning or other City enactments effective as to pending applications. Effectively, the LUHO and the DRB interpret the IDO such that the City Council renounces its sovereign authority to make legislative decisions which are effective, across the board, to pending applications.

An illustrative case in this area is Mandel v. City of Santa Fe, 1995-NMCA-062, 119 N.M. 248. In Mandel, the developer's proposal was tabled twice. During the time that the application was tabled, the City amended its zoning code to allow the Historic Review Design Board to further limit the height of structures, which the Board did. The Board then denied the developer's application as violating the recently enacted height limitations. The Court of Appeals upheld the Board's decision, under Brazos, stating in ¶ 7:

An application for approval is not a pending case, and Mandel did not have a vested right in having the old ordinance applied to him. Moreover, chaos would occur if it would be "unfair" to apply land-use regulations to people who had merely submitted their first application for approval. Upon hearing of the possible enactment of new regulations, people would rush to city hall to file applications and preserve their right to proceed under an old law. Such a result would thwart an orderly governmental process. The Brazos formulation protects people in their rights without unnecessarily tying government's hands. Therefore, the City acted lawfully in applying the Height Amendment to Mandel's proposed development.

IDO Section 1-2 (p. 1) provides that "the City intends to comply with the provisions of existing state law on the same subject, and the provisions of this IDO

should be interpreted to achieve that goal.” IDO Section 1-6 (p. 2) provides that the standards and regulations of the IDO apply to the areas of the city shown with the zone districts on the Official Zoning Map, and that the Official Zoning Map is the latest version of the zoning as approved or amended by the City Council. IDO Section 1-8 (p. 4) provides that the more restrictive provision of any conflicting provisions of the IDO, state law or City regulations applies. Considering these provisions, IDO Section 1-10(B) (p. 5) cannot reasonably be interpreted to change long-standing New Mexico law as to vested rights and legislative authority.

Appellants are entitled to the protection of the “Neighborhood Edges” provisions. The Tierra Morena lots are zoned “R-1B”. The legislation establishing that zoning apparently has not been appealed or amended. To recognize the applicant’s pending application as superior to the Tierra Morena legislatively enacted zoning would be a denial of the City Council’s sovereign authority to amend the zoning map or ordinances. Even if the developer has “vested rights” as of the date an application is “deemed complete” or “filed and set for hearing”, the City Council has legislative authority to change that, and the City Council did change, legislatively, the rights the developer had with respect to the zoning of abutting properties. The DRB and the LUHO lack authority to amend the zoning protections provided by the IDO for the Tierra Morena lots.

4. The DRB decision was made in violation of the New Mexico Open Meetings Act (the “OMA”).

The DRB is governed by the OMA as the DRB is a public body which has discretionary and effective policymaking authority granted by the City Council under the IDO. The DRB has final authority (subject to appeal) to approve a site plan involving disputed facts and interpretations of the IDO. It appears that the DRB members communicated or met separately and privately with the applicant’s representatives and effectively made policy decisions contrary to the OMA.

5. The site plan exceeds the appropriate density under MX-L zoning.

The subject property is zoned “MX-L”, described in IDO Section 2-4(B)(1) (p. 25), which sets out “low density multi-family residential dwellings” as a “primary land use” (among other possible uses). The site plan proposes 93 apartments on 2.9 acres, or a density of approximately 32.1 units per acre. Such a

density is not “low density” in the context of the surrounding low density single family residential neighborhood. “Low density” does not appear to be numerically defined in the IDO. The proposed dense use cannot be considered “low density” in NE Albuquerque under any reasonable definition of that term, and does not “protect the quality and character of” the existing, surrounding low density residential neighborhood (see IDO Purpose, Section 1-3(D), p.1).

6. Not requiring a traffic study was an abuse of discretion by the DRB.

The cumulative effects of significantly increased traffic from the proposed intense multi-family development, particularly during the times that people arrive at and depart from local schools, are a concern of Appellants. Three schools, La Cueva High School, Desert Ridge Middle School, and Altura Preparatory Charter School, are each within a quarter mile of the proposed 93-unit site. Approximately 2,900 students travel to and from school each day in the area. The site plan proposes only 150 parking spaces for 93 apartments, which likely will result in congestion and substantial off-site parking. The DRB should have required a traffic study for the project’s likely impacts on the neighborhood, based on site specific circumstances.

7. The decision does not comply with all applicable provisions of the IDO and other adopted City regulations.

The DRB decision does not comply with the following requirements of the IDO: quasi-judicial hearing requirements, Open Meetings Act requirements, applicable zoning allowable density, provisions for protection of abutting lots zoned “R-1B”, and traffic measures, among others. The DRB decision does not comply with the Development Process Manual (“DPM”), as the DPM does not mention the IDO, provides for processing of applications under the prior Zoning Code (including Sector Development Plans, purportedly obsolete under the IDO), does not mention MX-L zoning, contemplates “site development plans” rather than “site plans”, and provides for different appeal rights. The DRB decision does not comply with the Comprehensive Plan because the project violates the “area of consistency” provisions and because the Comprehensive Plan in Appendices C and D incorporates the Vineyard Sector Development Plan for consideration in decisions, and that Plan was not considered.

8. The City's existing infrastructure and public improvements may not have adequate capacity to serve the proposed development.

The City's road network may not be adequate for the traffic generated by the proposed project particularly in light of the various schools nearby. Variations in water pressure already are a problem for residents and the effect of this large project could be detrimental. Storm water drainage is a problem for some area residents and this large project will exacerbate an already uncertain drainage situation.

9. The site plan does not mitigate all significant adverse impacts on the surrounding area to the maximum extent practicable.

The IDO establishes that adverse impacts of intense development affect adjacent single family residential properties and intends to protect single family residences with certain measures such as spacing, height limitations, and buffering. The DRB decision in this case does not mitigate the predicted impacts as contemplated by the IDO. The DRB decision does not treat the abutting and nearby single family residential landowners with the protections contemplated by the IDO. The proposed height and lighting of the project will adversely affect the privacy and quiet of the neighbors. The DRB decision places commercial apartment dumpsters next to abutting single family residential back yards, which effects the DRB decision does not mitigate. The traffic and likely off-site parking impacts from the project are not mitigated by the DRB decision. The approved color scheme is not appropriate for the neighborhood. The DRB decision did not consider the cumulative site specific traffic problems identified by opponents.

10. The decision is not supported by substantial evidence.

Appellants will elaborate this appeal issue after review of the DRB record on appeal.

11. The DRB decision was not effective to approve the site plan under NMSA 1978, Section 3-21-6(C) which requires approval by a majority vote of the members of the City Council when 20% or more of adjacent landowners within a certain area protest in writing.

Appellants protest the site plan approval. As set out in Appellants' submissions, written protests to the proposed site plan were made or are being made by this appeal by the owners of 8409, 8415, 8419, 8423, 8427, 8501, 8505, and 8515 Tierra Morena Place NE, 8805, 8809, 8815, 8819, and 8823 Pico La Cueva NE, 8501 Alameda Blvd. NE, and other properties within the definitional scope of the Section 3-21-6(C). The City Council should determine if the Section 3-21-6(C) conditions are met for application of the statute's vote approval requirements. Attached for reference is a sketch prepared by Appellants showing Appellants' properties within 100 feet of the site, excluding roadways.

Appellants restate all other arguments and issues set out in prior submissions, and reserve the right to amend, supplement, revise or elaborate their Reasons for Appeal upon review of the record of the DRB proceedings.

**PLANNING DEPARTMENT
DEVELOPMENT SERVICES DIVISION
600 2nd Street NW, Ground Floor, 87102
P.O. Box 1293, Albuquerque, NM 87103
Office (505) 924-3946**

OFFICIAL NOTIFICATION OF DECISION

Bella Tesoro
12809 Donnette Ct. NE
Albuquerque, NM 87112

Project# PR-2019-002496
Application#
SI-2019-00180 SITE PLAN – DRB

LEGAL DESCRIPTION:

All or a portion of LOTS 1--4 BLOCK 4 TRACT 3
UNIT 3 NORTH ALBUQUERQUE ACRES, zoned
MX-L, located at the SEC of BARSTOW ST NE AND
ALAMEDA BLVD NE, containing approximately
3.38 acre(s). (C-19 & 20)

On January 8 2020, the Development Review Board (DRB) held a public meeting concerning the above referenced application and approved the request, with delegation to Planning and ABCWUA to address minor issues as stated in the comments and discussed at the hearing, based on the following Findings:

SI-2019-00085 SITE PLAN – DRB

1. This request was approved by the DRB on September 11, 2019. The project was appealed to the City Council through the Land Use Hearing Office (LUHO). The LUHO decision of November 15, 2020 date remanded the request back to the DRB to address procedural issues.
2. This is a request for a 75,083 square foot apartment complex including two 34,017 square foot residential buildings and a 7,049 square foot community building with a maximum height of 35 feet. The site contains open spaces, a dog park, pool and picnic area.
3. The site will be developed in three phases as shown on sheet DRB 1.2.
4. The applicant provided notice as outlined in the IDO Table 6-1-1. The applicant notified property owners within 100 feet and affected neighborhood associations for the initial DRB meeting and for this DRB remand meeting.
5. The proposed use is allowed within the MX-L zone. The IDO does not address density, but does control density by restricting height and requiring parking, useable open space, and

landscaping. The MX-L zone allows for maximum building height of 35 feet.

6. The abutting property to the south was zoned MX-T (allowing both commercial and residential uses) at the time this Site Plan was filed and set for hearing. The Neighborhood Edge requirements of the IDO apply to subject sites that abut exclusively residentially-zoned property. Therefore, the Neighborhood Edge requirements do not apply in this case.
7. A Traffic Impact Study was not required for this project because it does not meet the threshold for such study as stated by the Traffic Engineer.
8. The applicant relocated the carport structures so that they are out of the 15-foot required setback (see condition 2, NOD 9-11-19).
9. The applicant agreed to add six tall shrubs and three trees along southern border landscape strip of the site plan to better screen the project for the residential use to the south.
10. Staff received letters of opposition to the project and there were members of the public who spoke at the DRB meeting. Major concerns included the density of the development, increased traffic, impact on local school capacity, lack of privacy for the residential development to the south, safety, and the lack of Neighborhood Edge protections in relation to the voluntary zone conversion in process for the homes on the southern boundary.
11. Two facilitated meetings were held as part of the original approval process. The applicant declined to have a third facilitated meeting prior to the DRB remand meeting.
12. Pursuant to 6-6(G)(3) Review and Decision Criteria. An application for a Site Plan – DRB shall be approved if it meets all of the following criteria:
 - a. 6-6(G)(3)(a) The Site Plan complies with all applicable provisions of this IDO, the DPM, other adopted City regulations. *Specifically, the height, parking, open space, landscaping and façade meet or exceed the IDO requirements.*
 - b. 6-6(G)(3)(b) The City's existing infrastructure and public improvements, including but not limited to its street, trail, drainage, and sidewalk systems, have adequate capacity to serve the proposed development. *The site has access to a full range of urban services including utilities, roads, and emergency services. The ABCWUA issued an availability statement for the site. A Traffic Impact Study was not required, but the applicant has committed to street improvements for Alameda and Barstow. A grading and drainage plan for the entire site has been approved by Hydrology.*
 - c. 6-6(G)(3)(c) The Site Plan mitigates any significant adverse impacts on the surrounding area to the maximum extent practicable. *The proposed buildings are set back approximately 90 feet from the residential development to the south; the minimum required setback is 15 feet, see 14-16-2-4(B)(1). The site has landscaping around the perimeter, on-site landscaping, and usable open space. The required landscaping would be 15,024 square feet, see 14-16-5-6(C)(20(a)), 30,510 square feet are provided. The required useable open space would be 21,450 square feet; 77,117 square feet are provided.*

Conditions:

1. This Site Plan is valid 5 years from DRB approval (1-23-2020). An extension may be requested prior to the expiration date.
2. Final sign off is delegated to Planning and ABCWUA for payment of pro rata.
3. Once the site plan has all the required signatures, a pdf of the complete signed off set

Official Notice of Decision

Project # PR-2019-002496 Application# SI-2019-00180

Page 3 of 3

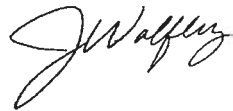
will then be email to the PLNDRS.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the DRB's decision or by **JANUARY 23, 2020**. The date of the DRB's decision is not included in the 15-day period for filing an appeal, and if the 15th 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 14-16-6-4(U) of the Integrated Development Ordinance (IDO). A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed.

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. Applicants submitting for building permit prior to the completion of the appeal period do so at their own risk. Successful applicants are reminded that there may be other City regulations of the IDO that must be complied with, even after approval of the referenced application(s).

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Wolfley', with a stylized, cursive script.

Jolene Wolfley
DRB Chair

JW/mg

Consensus Planning 302 8th Street NW ABQ, NM 87102