

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

RON PAIZ SR request(s) a special exception to Section 14-16-2-12(C): a VARIANCE of 9' to the 26' maximum elevation for a proposed multi-family dwelling for all or a portion of Lot(s) 24A, Block(s) 39, RIDGECREST ADDITION zoned R-3, located on 4801 GIBSON BLVD. SE (L-17)

Special Exception No:..... **12ZHE-80134**
Project No: **Project# 1009229**
Hearing Date: 05-15-12
Closing of Public Record: 05-15-12
Date of Decision: 05-31-12

STATEMENT OF FACTS: Susan Price, agent for Ron Paiz Sr., requests a variance of 9' to the 26' maximum elevation for a proposed multi-family dwelling at 4801 Gibson Blvd SE. Ms. Price testified that in February 2011, a 48-unit apartment complex burnt down leaving the property vacant. The property is zoned R-3, which under the City of Albuquerque Comprehensive City Zoning Code allows high density housing outside of urban centers. Ms. Price testified that her client, Ron Paiz Sr., would like to construct a nice quality apartment building at the Gibson site. She believes that the lot is exceptional because the lot is shallow and has a 4' to 5' grade difference from the adjacent properties to the north of the subject site. Ms. Price feels that nice quality apartments will add to the area and bring commerce to the neighborhood. She met with various City of Albuquerque departments and knows that if the request is approved, it must meet all pertinent city regulations for a building permit. Due to the fact that the property has such a great grade difference, Ms. Price met with the City's Hydrology Department to make sure that there is proper drainage to Gibson SE and Jackson SE, as to not damage the adjacent neighbors. The apartments will be two stories on the north side and three stories on the Gibson side. The three story is needed to cover the stairway from the elements. Ms. Price submitted a petition signed by 23 people who reside in the near vicinity of the request that are in support. There are two letters of concern for the development pertaining to visibility and drainage run-off. The yellow signs were posted.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this parcel is exceptional as compared to other parcels in the vicinity and, therefore, it meets the test for the granting of a variance as provided for by Section 14. 16. 4. 2. I further find that, as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Furthermore, I find that the particular variance is appropriate to prevent the unnecessary hardship and further find that the variance will differ from development which will be permitted under the existing regular zoning regulations no more than what is necessary to overcome the unnecessary hardship.

Finally, the variance will not significantly interfere with the enjoyment of other land in the vicinity and is consistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

DECISION: Approved.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

If you wish to appeal this decision, you may do so by 5:00 p.m., on June 15, 2012 in the manner described below:

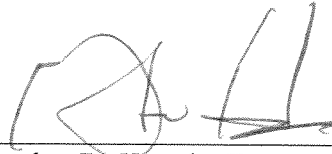
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** ~~When an application is withdrawn, the fee shall not be refunded.~~

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14. 16. 4. 4. (B)., of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.



Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

- cc: Zoning Enforcement
ZHE File
Ron Paiz Sr, 2255 Muniz SW, 87105
Susan Price, 3700 Coors Blvd NW, Suite E, 87120
Nancy Musinski, 4818 Crest Ave SE, 87106
Rigel Piper, 1912 Ross Pl, 87106
Ruben Perea and Julie A. Rose, 1904 Ross Pl, 87106
Nayich Hartberg, 1900 Ross Pl SE, 87106
Charles White, 4713 Crest SE, 87106
Amy Nilds, 1200 Pampas Pl SE, 87106
Pat Duy, 1111 Pampas Pl SE, 87106
Rebecca Munoz, 1103 Pampas Pl SE, 87106
Katrina and Edward Martin, 1812 Ross Pl SE, 87106
Stephanie Zamora, 1916 Ross Pl SE, 87106
Catherine Grace, 4822 Crest SE, 87106
Erica Bearman, 4816 Crest SE, 87106
Hayley Mann, 4810 Crest SE, 87106
Sergio Gonzalez, 4708 Crest SE, 87106
Ethan Palmer, 1877 Ross Pl SE, 87106
Henman Bodwell, 1815 Ross Pl SE, 87106
Jared Olguin, 4814 Crest Ave SE, 87106
Debbie and Phillip Lovato Jr, 4802 Crest Ave SE, 87106
Bruce Turner, 4821 Crest SE, 87106
Gail Martinez, 4808 Crest Ave , 87106