



CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Planning Department

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

September 4, 2024

TO: Dan Lewis, President, City Council

FROM: Alan Varela, Planning Director 
Alan Varela (Sep 9, 2024 11:16 MDT)

SUBJECT: **AC-24-22, VA-2024-00229, PR-2022-006844**

BP-2024-10295, BP 2024-15349, BP-2024-15353

Carol Johnson appeals the Site Plan-Administrative decision to approve a Site Plan for all or a portion of TRACT A THE PEARL ADDITION (being a replat of Tracts 107-B, 107-C together with Tract 106-A within projected Section 18 T10 N, R3E) zoned MX-M and R1-A, located at 1701/1623 Central Avenue, NW containing approximately 0.5767 acre(s). (J-13)

REQUEST

This is an appeal of the administrative approval of a Site Plan for a mixed-use development including 34 multi-family units and 19,926 square feet of commercial space. The Site Plan is for a project less than 50,000 square-foot and less than 5 acres and, therefore, was filed in conjunction with the building permit. The site plan portion of the site plan/building permit submittal is the item under appeal.

The application was received on April 11, 2024 and was deemed complete on June 7, 2024. The review was according to the IDO Effective Date of July 2023. The Site Plan was approved with the Building Permit on July 18, 2024.

The appellant made a timely appeal of the application by filing by August 5, 2024.

An appeal of a site plan decision must show the following:

IDO 14-16-6-4(V)(4) Criteria for Decision

The criteria for review of an appeal shall be whether the decision-making body or the prior appeal body made 1 of the following mistakes.

6-4(V)(4)(a) The decision-making body or the prior appeal body acted fraudulently, arbitrarily, or capriciously.

6-4(V)(4)(b) The decision being appealed is not supported by substantial evidence.

6-4(V)(4)(c) The decision-making body or the prior appeal body erred in applying the requirements of this IDO (or a plan, policy, or regulation referenced in the review and decision-making criteria for the type of decision being appealed).

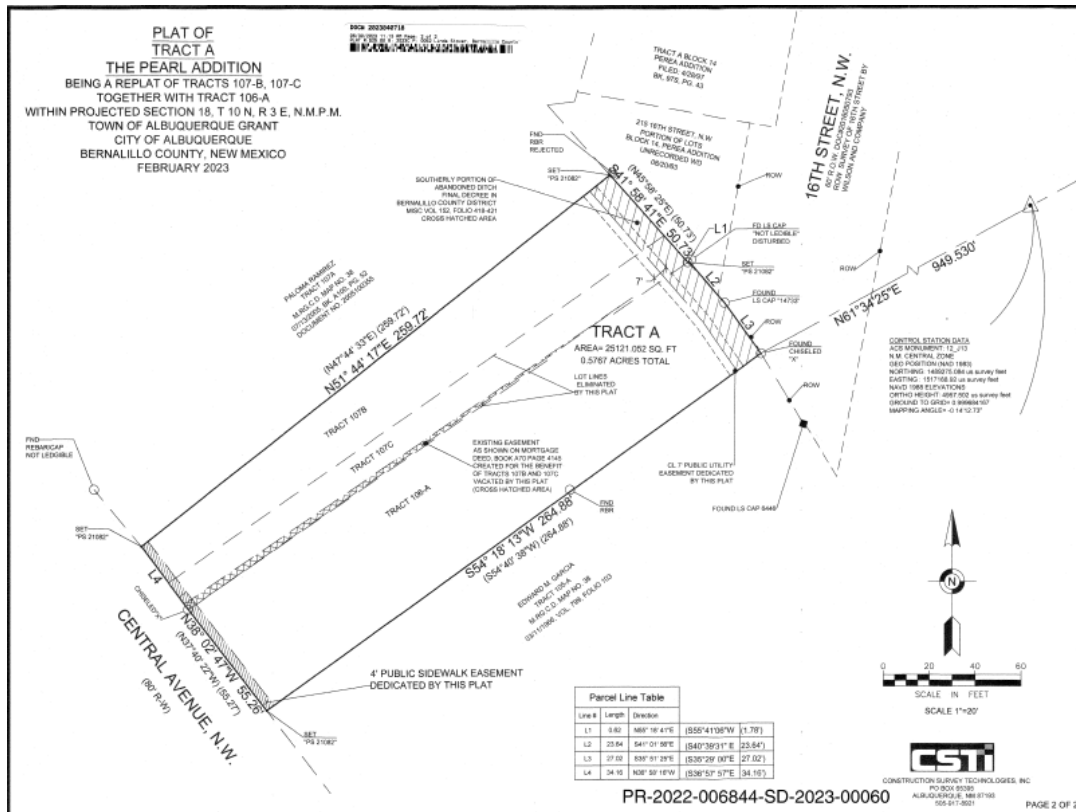
BACKGROUND

A. Previous Approvals

Preliminary/Final Plat. On March 22, 2023, the Development Hearing Officer (DHO) reviewed and approved a request for a replat of the subject property (PR 2022-006844). The plat consolidated three lots (Tracts 107-B, 107-C, and 107-A) into one parcel and vacated a private easement. The R1-A zoning over the abandoned MRCGD acequia was existing on the three parcels and was retained on the replat.

Staff had previously reviewed the proposed plat and proposed development for multifamily and commercial at a sketch plat on April 20, 2022. Staff review comments are in the 'Additional Information' section of the Record.

Figure 1. Preliminary Plat approved by the DHO, March 22, 2023. The full Plat is in the Record under 'Additional Information.'



An Infrastructure List for the widening of the Central Avenue sidewalk was reviewed with the plat and received final approved on March 31, 2023.

B. Site Plan-Administrative Approval Under Appeal:

The application for a Site Plan for projects less than 50,000 square feet and under 5 acres are reviewed administratively by Planning Department staff, including transportation, hydrology, and code enforcement. This occurs concurrently with the Building Safety review of the building permit. The site plan and building plan submittal combine to become a building permit approval. The full application was received April 11, 2024. The Site Plan-Administrative portion was reviewed subject to the following criteria from the IDO:

IDO 14-16-6-5(G)(3) Review and Decision Criteria

An application for Site Plan – Administrative shall be approved if it meets all of the following criteria.

6-5(G)(3)(a) The Site Plan complies with all applicable standards in this IDO, the DPM, other adopted City regulations, and any conditions specifically applied to development of the property in a prior permit or approval affecting the property.

6-5(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 or the applicant has agreed to install required infrastructure and public improvements pursuant to Subsection 14-16-1-7(B)(2) and 14-16-5-4(N) and/or a signed an Infrastructure Improvements Agreement (IIA) pursuant to Subsection 14-16-5-4(O) to add adequate capacity.

REASONS FOR THE APPEAL

1. **Appellant:** The entrance and exit to the Pearl should be from Central and not from 16th Street, which is a clear violation of Character Protection Overlay Zone 3 in general and in spirit, with particular reference to IDO 14-16-3-4(D)(5)(a)2(b) “For properties west of 14th Street, primary vehicular access shall be from Central Avenue. Access to non-residential development along Central from 15th Street, 16th Street, and Fruit Avenue is prohibited.”

Staff Response: On August 18, 2022, the Zoning Enforcement Officer (ZEO) issued an official interpretation on the applicability and extent of IDO 14-16-3-4(D)(5)(a)2. Parking Access. The applicant Rembe Urban Design and Development requested an official interpretation to determine if this Subsection of the IDO prohibits parking access to residential development along Central Avenue from 15th Street, 16th Street, and Fruit Avenue. The ZEO stated:

The language of IDO Subsection 14-16-3-4(D)(5)(a)2.b. is explicit and unambiguous in prohibiting access to non-residential development along Central Avenue from 15th Street, 16th Street, and Fruit Avenue. Nowhere in the provision is an explicit or unambiguous reference, nor is the construction of language in the provision meant to extend the prohibition of access to residential development. Therefore, I interpret this provision as explicitly prohibiting

access to non-residential development along Central from 15th Street, 16th Street, and Fruit Avenue. This prohibition does not extend to residential projects accessing 15th street, 16th Street and Fruit Ave.

In conclusion, the proposed parking area located to the rear (north end) of the subject site with access for a residential use on 16th Street complies with the provisions of IDO 14-16-3-4(D)(5)(a)2.b. To address the concerns of existing adjacent neighbors regarding potential changes to 16th Street as a result of this proposed development, the parking area shall be limited only to residential tenants of the proposed development and should be gated to discourage access by others. It is also strongly recommended that all potential impacts to 16th Street resulting from the proposed development be mitigated without creating major changes to the street's existing character, parking scheme, and usage. (See *"Interpretation-14-16-3-4 'Additional Information' Section of the Record.*)

Staff incorporated the ZEO interpretation in its review to approve the multi-family portion of the project to take parking access from 16th Street. The 34 units have 28 parking spaces.

The commercial portion only has access from Central Avenue and is memorialized in a Shared Parking Agreement recorded with the County Clerk (standard practice). The commercial access is in the form of dedicated on-street parking ADA space on Central in front of the project, as approved by the Department of Municipal Development (DMD). Three required spaces and one motorcycle space is across Central Avenue on property owned by the same applicant. This type of parking agreement is allowed per IDO 5-5(C)(5)(b) 'Shared Parking Reduction' and IDO 5-5(C)(6)(e) 'Off-site Parking Credit':

IDO 5-5(C)(6)(e) Off-site Parking Credit

1. The provision of required parking at an off-site parking area may be counted toward required off-street parking spaces on a 1-for-1 basis and is allowed for 100 percent of the required parking spaces, except that those required to satisfy the Americans with Disabilities Act shall be provided on the site of the building or use.
2. Off-site parking must meet the location standards in Subsection 14-16-5-5(F)(1)(a) and shall be guaranteed by a legally binding agreement between the owner of the parking area and the owner of the building or use that is located on a different lot and served by the parking area.

The location standard for this project is that the designated parking is within 330 feet of the premises served by the parking (See IDO 14-16-5-5(F)(1)(a)(10)). These parking arrangements are in support of Main Street/Premium Transit for this segment of Central which emphasize access by transit and pedestrians. (See *"Approved Shared Parking Agreement" in "Submittals" section of the Record.*)

The **residential** portion of the project will generate approximately 17 trips in the AM peak hour and 27 trips in the PM peak hour, based on the latest ITE Trip Generation Manual. All residential required parking is north of the multi-family building with access via 16th Street,

Figure 2. Graphic from the Recorded Shared Parking Agreement. (Additions by staff are: (1) a red circle indicating location of required ADA parking space, (2) a blue circle indicating required parking spaces, (3) a black circle indicated location of required motorcycle space, and (4) a yellow highlight showing the property boundary.)

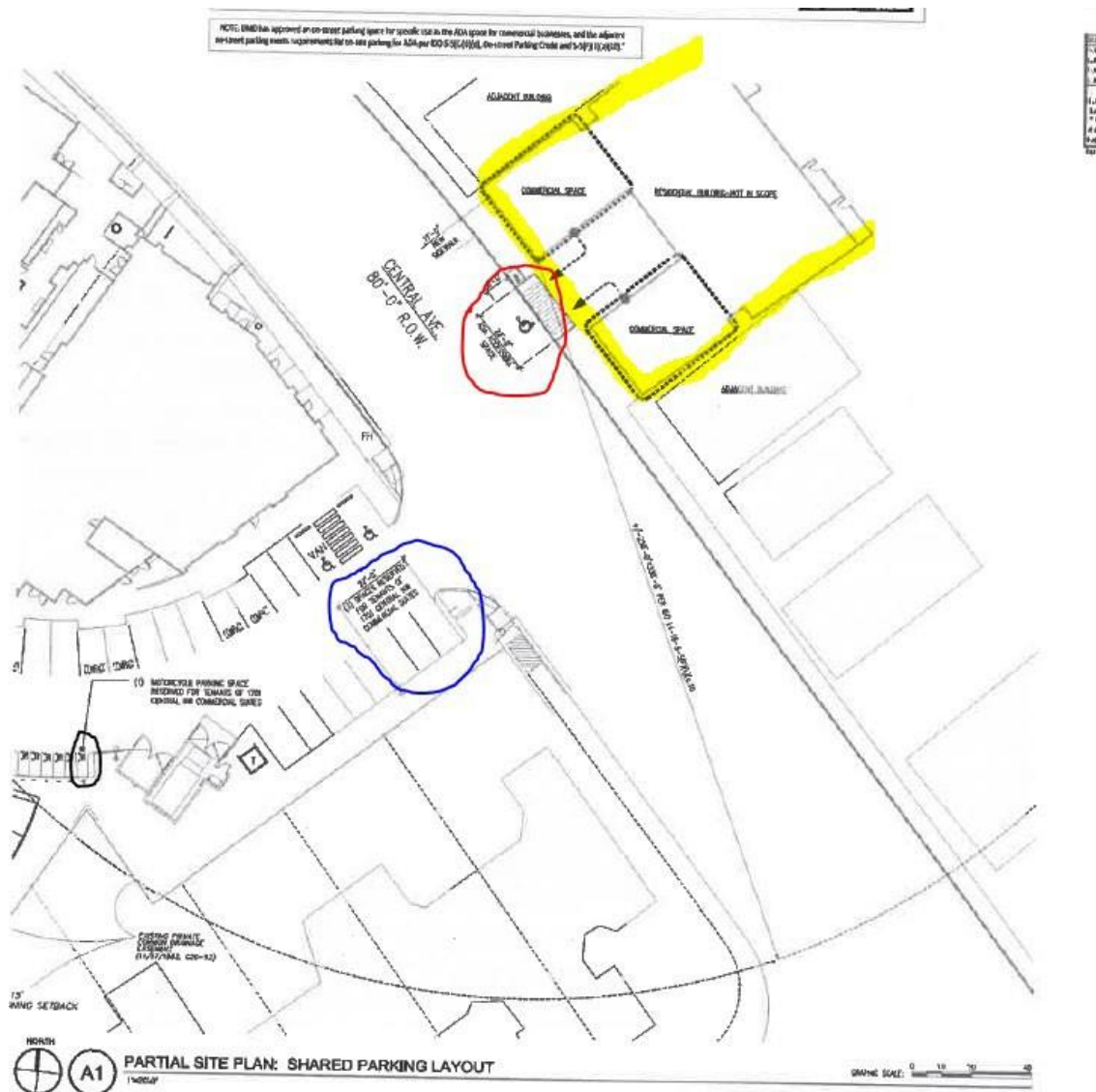
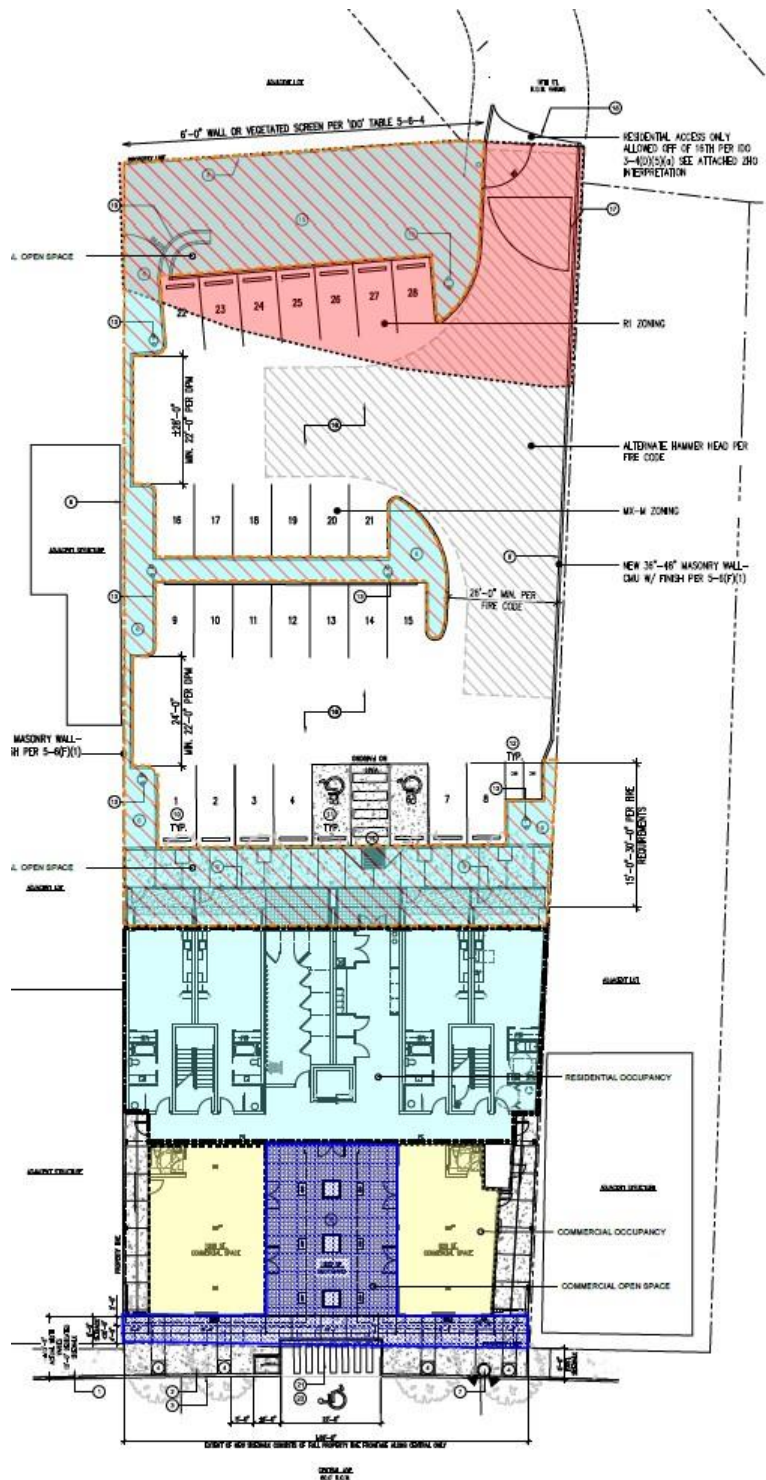


Figure 3. The Pearl, mixed-use development, approved Site Plan.



CONCLUSION

The Planning staff reviewed the site plan-administrative application and found that it met the requirements of the IDO and DPM. The access for the project is compliant with IDO 14-16-3-4(D)(5). The Site Plan uses Central Ave. as the primary access for vehicles, transit riders, and pedestrians. The required parking is provided through an Off-Site Parking agreement with most parking provided across Central Ave. The residential portion of the project has vehicles access its exclusive parking from 16th Street. 16th Street is the standard width of 27 feet for an Access Local. The decision was supported by substantial evidence and was not arbitrary or capricious. The Planning staff did not err in applying the IDO and DPM to the site plan.

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Final Audit Report

2024-09-09

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