



# 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-24-23, VA-2024-00231, PR 2022-006844**

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

**Frank T. Cloak** 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).

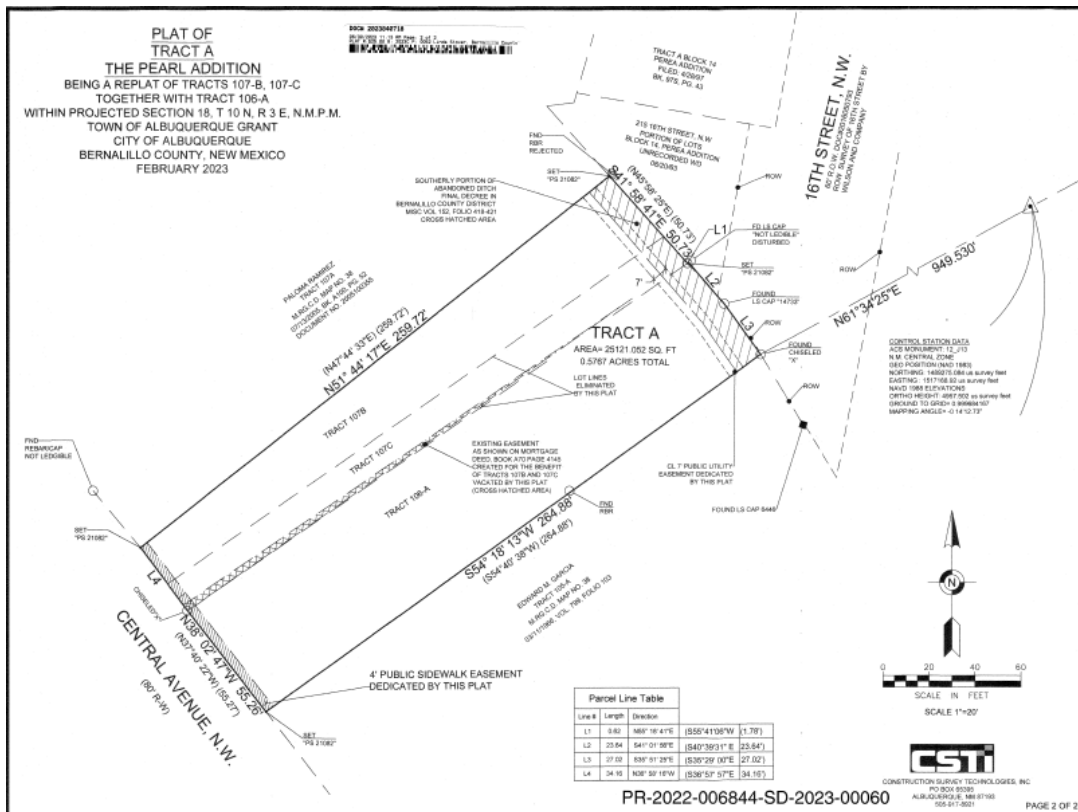
## BACKGROUND

### 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 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 Sub-section 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**

This memo summarizes the appeal statements made by the appellant. Please refer to the filed appeal for the complete text of the appellants statements.

1. **Appellant:** Our Orilla de la Acequia neighborhood is effectively anchored by the Fruit/16<sup>th</sup> intersection. We residents of the dead-end blocks of Fruit and 16<sup>th</sup> cannot leave our homes without passing through the intersection; neither could the residents of the proposed Pearl apartment house. The dead end 200 block of 16<sup>th</sup> Street would become a private driveway for the proposed apartment house. The resulting noise and air pollution would become a serious hazard for the residents of the block and the rest of us neighborhood residents. It would certainly destroy the character of our beloved neighborhood, a clear violation of CPO-3 in general and specific, and with particular reference to Section 14-16-3-4(D)(5)(a)(2)(b).

**Staff Response:** The residential portion of the project that would use 16<sup>th</sup> Street is projected to generate 17 trips in the AM peak hour and 27 trips in the PM peak hour. 16<sup>th</sup> Street and the adjacent Access Locals are designed to handle these traffic volumes.

The cul-de-sac of 16<sup>th</sup> Street will include the driveway access to the parking for the residential portion of the project; a driveway is an allowable access to a cul-de-sac. 16<sup>th</sup>

Street is classified as an Access Local with the intention of providing access between abutting properties and the street network. The current design standard for an Access Local is 26-28 feet from face-of-curb to face-of-curb. 16<sup>th</sup> Street is 27 feet from face-of-curb to face-of-curb and the width can handle the traffic being generated. There is no change to Fruit Avenue segment that terminates in a cul-de-sac.

Figure 2. Neighborhood Context. 'Yellow' highlights the subject site. 'Red lines' outline the driveway for the residential portion.

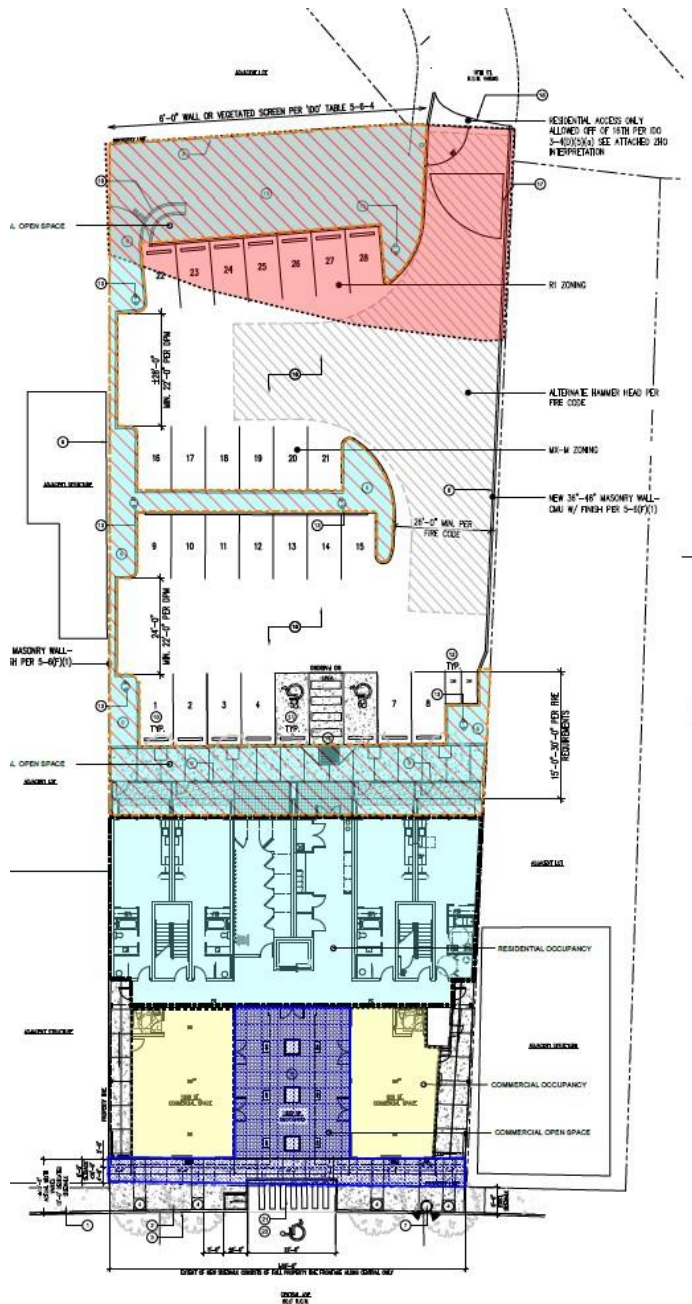


2. **Appellant:** The developer should be required to find another means of ingress and egress from his parking lot. A novel solution would be to provide a car free building (as outlined by appellant) and turn the parking area into a park.

**Staff Response:** The site plan administrative review is done to determine compliance with the IDO. Staff cannot require the applicant to consider a different layout if their proposed site plan is compliant with the IDO.

The site plan that was approved includes a large open space area on the north end of the project.

Figure 3. Site Plan layout with Open Space shown to the north in grey with 'pink' hatched lines.



## **CONCLUSION**

The Planning staff reviewed the site plan-administrative application and found that it met the requirements of the IDO and Development Process Manual (DPM). The access for the project is compliant with IDO 14-16-3-4(D)(5). The residential portion of the project has vehicles access its exclusive parking from 16<sup>th</sup> Street. 16<sup>th</sup> 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.






# Planning\_Memo\_AC-24-23\_Cloak\_Final

Final Audit Report

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