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MEMBER CALIFORNIA BAR ALSO  
MEMBER FLORIDA BAR ALSO  
MEMBER IOWA BAR ALSO  
MEMBER TEXAS BAR ALSO

November 21, 1984

Mr. James P. Fitzgerald  
Assistant City Attorney  
P. O. Box 1293  
Albuquerque, New Mexico 87103

RE: PACIFIC REALTY CORPORATION vs. CITY OF ALBUQUERQUE -  
BERNALILLO COUNTY DISTRICT COURT CAUSE NO. CV-84-01688

Dear Jim:

Enclosed please find an endorsed copy of the Order entered on November 21, 1984. By copy of this letter, I am providing a copy of this Order to Jack Leaman, Director of the City Planning Department. It is my understanding that a copy of this Order will be placed in the file on this property and that the City Planning Department will sign off on the Site Plan.

Please let me know if I am incorrect.

Yours very truly,

JOHNSON AND LANPHERE, P.C.

Original Signed by  
By JOHN A. MYERS  
John A. Myers

JAM:ldc  
Enclosure  
cc w/enc:

Mr. Jack Leaman  
Mr. Howard M. Kaplan  
Mr. Robert E. Towne  
Mr. Ian Ekholm  
Mr. Bill Hooten

SECOND JUDICIAL DISTRICT COURT  
COUNTY OF BERNALILLO  
STATE OF NEW MEXICO

No. CV-84-01688

PACIFIC REALTY CORPORATION,  
a Texas corporation,

Petitioner,

vs.

CITY OF ALBUQUERQUE,  
a municipal corporation,

Respondent.

ENDORSED  
FILED IN MY OFFICE THIS

NOV 21 1984

*Elmer E. Young*  
CLERK DISTRICT COURT

O R D E R

This matter having come before the Court upon Motion by Petitioner, the Petitioner having been represented by its attorneys, Johnson and Lanphere, P.C., the Respondent having been represented by its attorney, James P. Fitzgerald, and the Court having heard the arguments of counsel and having been fully advised in the premises,

The Court finds:

1. On July 24, 1984, this Court entered its Judgment remanding the subject matter of this cause to the City Council of the City to reconsider the appeal of the Site Plan.
2. The Judgment of this Court stated that when conducting such review of the Site Plan, the City may not disapprove the Site Plan based upon the approved density of 300 dwelling units being excessive.

3. This Court further found that the City's decision to deny approval of the Site Plan based upon the density of 300 dwelling units was arbitrary, capricious and illegal.

4. On August 20, 1984, the City conducted a rehearing pursuant to this Court's remand.

~~5. At the August 20, 1984, City Council meeting, the discussion focused upon whether the site was appropriate for 300 dwelling units.~~ JPF

6. The City Council refused to approve the Site Plan, ~~based upon the density of 300 dwelling units for the property being excessive, in contravention of the Court's Judgment.~~ JPF

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1. This action is remanded to the City and the City is ordered to administratively approve the Site Plan;

2. The City shall bear the costs of this action and <sup>if subsequently</sup> Petitioner's attorneys' fees ~~in an amount to be determined~~ by the Court. <sup>to be appropriate.</sup> JPF

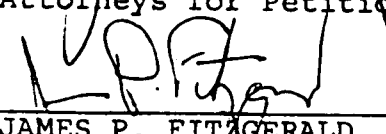
3. This Court shall retain jurisdiction over this matter to monitor compliance with this Order.

  
DISTRICT COURT JUDGE

APPROVED:

  
JOHNSON AND LANPHERE, P.C.

By   
John A. Myers  
Attorneys for Petitioner

  
JAMES P. FITZGERALD  
Assistant City Attorney