

PLANNING DEPARTMENT
DEVELOPMENT SERVICES DIVISION
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OFFICIAL NOTIFICATION OF DECISION

December 7, 2018

Gamma Development LLC
9798 Coors Blvd. #400
ABQ NM 87114

Project# PR-2018-001402
Application# VA-2018-00173 -Variance

LEGAL DESCRIPTION:

for all or a portion of LOT 4-A & TRACT C-1 PLAT OF TRACTS C-1, C-2 & LOT 4-A LANDS OF SUZANNE H POOLE LOTS 1 THRU 3 BLK 1 PLAT OF WEST BANK ESTATES TOGETHER WITH TR A1 LANDS OF SUZANNE H POOLE, zoned R-A, located east of NAMASTE RD NW and south of LA BIENVENIDA PL NW, containing approximately 22.75 acre(s). (F-11 & F-12

On December 5, 2018, the Development Review Board (DRB) held a public hearing concerning the above referenced application and approved the request, based on the following Findings and subject to the Condition:

Findings:

1. The DRB reviewed a request for a variance to the Access and Connectivity section of the IDO, 14-16-5-3(E)(2)(a) – cited below.

5-3(E)(2) Connections to Adjacent Land

5-3(E)(2)(a) Where adjacent land has been subdivided with stub streets ending adjacent to a new subdivision, or with a local street ending at a street dividing the new subdivision, the new subdivision streets shall be designed to align the streets in the adjacent subdivision to allow through circulation between the 2 adjacent subdivisions.

2. The subject site is a 22.75 acre tract located at the terminus of Namaste Road, adjacent to City owned Open Space and the Rio Grande bosque area. There are two existing homes on the site that will be demolished. The applicant proposes a series of cluster developments with 74 single family units and on site open space.
3. Staff received 130 letters via e-mail regarding this request. The letters opposed request and felt that the EPC should make a decision prior to the DRB decision to

avoid the DRB setting a direction for the EPC review of the site plan. Writers expressed concern about the adjacent Open Space (sensitive land), steep slopes, mature trees, and wetlands. Some letters included comments on the proposed Site Plan EPC and expressed concern about wildlife habitat, proximity the river and Oxbow wetland area, coordination with the Army Corps of Engineers, density of the development on the site, drainage and general infrastructure issues, impact on public safety, health and welfare, the design of the cluster development and concerns about the proposed landscaping with non-native vegetation.

4. The EPC will review the Site Plan for this project because the site is adjacent to Major Public Open Space. Currently the Site Plan is scheduled for the December 13, 2018 EPC hearing. The DRB is the appropriate review body for variances to the access and connectivity standards.
5. The DRB is only reviewing the variance request; all other aspects of the development will be reviewed by the EPC. The variance criteria in section 6-6-(L)(3) requires that the applicant address all applicable criteria. Staff comments are in ***bold italics***. The applicant's justification is spelled out in the letter dated 11-29-2018.
6. The variance criteria in 6-6-(L)(3) is met as follows:
 1. Any of the following applies:
 - a. There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone district and vicinity, including but not limited to size, shape, topography, location, surroundings, and physical characteristics, and such special circumstances were created either by natural forces or by government eminent domain actions for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.

Location and surroundings are listed as variance criteria. The existing subdivisions are built out and the access to these developments is already established. The east end of La Bienvenida road is adjacent to a city park and the portion of the subject site that will be open space. A road connection here would not be appropriate because of the adjacency to the edge of the bluff/open space. Access to the south is proposed at Namaste Road.

- b. There are pre-existing obstructions that cannot be easily or economically relocated or should not be altered, such as grades, fills, water courses, natural topographic features, man-made obstructions, or utility lines

The applicant states that the adjacent open space areas, including a sedimentation pond, San Antonio Arroyo and Rio Grande Oxbow to the northeast, east and south

prevent any access or opportunities for roadway connections.

These would meet the definition of pre-existing obstructions that are listed in the IDO as possibilities (water courses and natural topographic features).

- c. The area or site has been recognized as having historical, archeological, and/or architectural significance by the City, state, or federal government, and a Variance is needed and appropriate to maintain such historical, archeological, and/or architectural significance.

The applicant states that the test is not applicable to the request. The request is not needed to maintain the historical, archeological, or architectural significance of the site. The site was documented by the historic preservation planner and received an archeological certificate of approval.

- d. The established neighborhood character or landscaping on the site would be damaged to a degree that outweighs the public interest in the City's normal technical standards in that location.

The applicant states that access was discussed with the neighbors during the facilitated meeting and that Namaste Road was the preferred access location because the street is wide and has a signal at Coors Blvd. Residents did not want additional traffic on La Bienvenida road. A pedestrian connection will be provided from the northern internal street to La Bienvenida to allow access to the park without adding traffic on Tres Gracias or La Bienvenida. The applicant also states that the subdivision grading plan lowers the elevation of the westernmost lots and limits home height to reduce the impact of the development. This lower grade creates a physical barrier to a future street.

The area is built out in a series of individual developments. By directing traffic onto Namaste , towards the signal at Coors, the impact on the existing neighborhoods is reduced.

- e. Varying from the normal requirements and standards will encourage flexibility, economy, effective use of open space, or ingenuity in design of a subdivision, in accordance with accepted principles of site planning.

The applicant proposes a cluster development on the site to allow the same number of homes as would be allowed under the existing zoning, but with more preserved communal open space. The request will allow flexibility in site design.

2. The Variance will not be materially contrary to the public safety, health, or welfare. ***The site will have an emergency access on to La Bienvenida. The request will not be contrary to the public safety, health, or welfare because emergency access will be provided to the north and main access provided to the south.***
3. The Variance does not cause significant material adverse impacts on surrounding properties. ***The proposed development will allow the development of single family homes adjacent to single family homes and will not add roads adjacent to the Open Space. The request may encourage traffic to avoid the existing residential***

neighborhoods to the north and west and encourage use of the signal at Coors and Namaste.

4. The Variance will not hinder future planning, public right-of way acquisition, or the financing or building of public infrastructure improvements.

The site is last vacant tract in the area and will be required to build all applicable public improvements which will be required with the Site Plan or Plat.

5. The Variance will not conflict significantly with the goals and provisions of any city, county, or AMAFCA adopted plan or policy, this IDO, or any other City code or ordinance.

The applicant is asking for a variance to the connectivity standards in the IDO, 14-16-5-3(E)(2)(a). The IDO encourages connectivity, but also offers the variance process for the sites that are unique. The request will allow access that protects the residents to the north. Pedestrian and emergency access will be provided to the north.

6. The Variance will not allow, encourage, or make possible undesired development in the 100-year Floodplain.

The connectivity variance does not impact the flood zone. All future development will be required to comply with drainage regulations and issues will be discussed with the Site Plan at EPC.

7. The Variance will not materially undermine the intent and purpose of this IDO or the applicable zone district.

The request does not undermine the IDO, as stated in 5, the applicant will provide pedestrian connections and an vehicle emergency access to the north, near the existing park.

8. The Variance does not allow a lot or type of development that does not meet the applicable size, area, and development standards applicable in the zone district where the lot is located, unless a Deviation to such standards is within the thresholds established by Subsection 14-16-6-4(O) (Deviations) and is granted by the DRB as part of this approval.

The request does not impact lot size or zoning.

9. The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.

The request adds a pedestrian connection and emergency access that offset the lack of access. Additionally, there is not a reasonable way to connect to the existing subdivision because of the way they were built and the existing Open Space areas.

10 and 11 are not applicable to the request.

Condition:

1. Per the IDO, a note shall be added to the EPC Site Plan referencing the Variance.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the DRB's decision or by **DECEMBER 20, 2018**. 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,



Kym Dicome
DRB Chair

KD/mg

Consensus Planning 302 8th NW ABQ, NM 87102
Daniels Family Properties LLC, 3550 Sequoia Ct NW ABQ, NM 87120
Becky C. Davis – 500 Leeward DR NW – ABQ, NM 87121
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