



MODULUS ARCHITECTS & LAND USE PLANNING, INC.

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May 28, 2024

Tyson R. Hummell
Assistant City Attorney / ADR Coordinator
(505) 768-4660 (Office)

RE: Facilitated Meeting Request – Applicant Response to Questions for Major Preliminary Platting Action – Project# PR-2022-007712

Mr. Hummell and Members of the West Side Coalition of Neighborhood Associations:

Thank you for reaching out and expressing your concerns regarding the application for Preliminary Major Plat. We appreciate your active involvement and dedication to the community's development. This letter serves as our written response to questions received for the Facilitated Meeting being held on May 28, 2024 which was requested in response to our application for a Preliminary Plat for the subject site located at the SWC of Paseo Del Norte and Kimmick Drive (PR#2022-007712). The following outlines the questions we received from members of the Westside Coalition of Neighborhood Associations. We have provided a written record of the questions submitted to us as well as our responses to those questions.

Questions submitted by Mr. Jim Price

1. Is this an attempt to circumvent the existing ordinances and overlays applying to this land?

Applicant Response: *No, this is not an attempt to circumvent any ordinances or overlays.*

2. Did the purchasers practice due diligence when obtaining this or these properties to understand the existing ordinances and overlays for this property?

Applicant Response: *The purchaser is working thru due diligence items and has engaged Modulus Architects & Land Use Planning in this effort.*

3. Was there any misleading information given by any party when the property or properties were acquired as to the existing ordinances and overlays that applied to the property or properties?

Applicant Response: *Modulus is unaware of any misleading information provided for the subject property.*

4. Was there any assurance by anyone in the private or public sector that exceptions or variances to the ordinances and overlay protections would easily be obtained?

Applicant Response: *There have not been any discussions by anyone in the public or private sector regarding exceptions or variances.*

5. Would the property or properties have been acquired if the existing ordinances and overlays were to remain?

Applicant Response: *The subject property is being acquired with the understanding that all applicable standards, regulations and requirements of the City of Albuquerque must be met.*

6. Were the property or properties purchased with knowledge of the existing ordinances and overlay protections and with the intent to challenge the existing ordinances and overlay protections?

Applicant Response: *The subject site is being purchased with the understanding that the subsequent development(s) must follow the standards of the IDO as DPM in place at the time that a project is being proposed.*

Questions submitted by Mrs. Rene Horvath

1. Why is the parcel being broken into 6 separate tracts?

Applicant Response: *We are requesting a subdivision of the subject site for multiple reasons*

- ***Lower Initial Investment:*** *Smaller parcels can be developed incrementally, which reduces the upfront financial burden on our client. This allows the client to phase their investments according to market conditions and funding availability.*
- ***Spreading Risk:*** *By dividing the larger tract into several smaller ones, my client reduces financial exposure on any single project. If one parcel encounters development issues, it doesn't jeopardize the entire tract's value or the developer's financial stability.*
- ***Flexibility in Development:*** *Our client can adjust their development plans for individual parcels based on changing economic conditions, local market demands, or regulatory environments. This flexibility will be crucial in managing risks associated with a large-scale development such as this.*
- ***Managing Construction Costs***
- ***Phased Development:*** *Smaller parcels allow for phased construction, which will align better with cash flow and reduce carrying costs. My client can prioritize certain parcels based on their profitability or readiness for development.*
- ***Economies of Scale in Purchasing and Contracting:*** *When developing smaller parcels, it's easier to manage construction resources and logistics. My client can negotiate better terms with contractors and suppliers for each phase or parcel, potentially lowering overall costs.*
- ***Simplifying Infrastructure Development***
- ***Cost-Effective Infrastructure Development:*** *Developing infrastructure such as roads, utilities, and public services can be more manageable and less costly when done incrementally for smaller parcels.*

2. What sort of uses are being planned for those tracts?

Applicant Response: *The subject site, called the Glyphs at Volcano Mesa is still in the preliminary planning stage but we have a vision - Imagine the possibilities with our conceptual design for The Glyphs at Volcano Mesa, designed by Modulus Architects & Land Use Planning - A visionary project set to redefine the essence of community living.*

Step into a realm of retail innovation with our thoughtfully curated boutiques and specialty shops. While still in the conceptual phase, envision a shopping experience like no other, where every storefront tells a story and every purchase supports local artisans and entrepreneurs.

Picture yourself indulging in culinary delights from around the globe at our diverse array of restaurants and eateries. Though still in the design stage, anticipate a culinary journey filled with flavors, aromas, and experiences that tantalize the senses and inspire the palate.

Envision a boutique grocer where quality meets convenience, offering a carefully curated selection of fresh produce, artisanal goods, and everyday essentials. While still in the conceptual phase, our vision for this space is to create a shopping experience that delights the senses and fosters a deeper connection to the food we eat.

At the core of our conceptual design is a commitment to holistic well-being, with medical office concepts designed to support both physical and emotional health. While still in the planning stages, envision a wellness hub where personalized care meets cutting-edge technology, creating a space where every individual can thrive.

Concepts currently being discussed include a boutique grocer, local restaurants, breweries/tasting rooms with outdoor patios, small retail, medical offices, early childhood learning center. The subject site is zoned MX-M, all uses being explored are permissive and are compatible with the surrounding community.

3. What are the building heights being proposed? Will the heights meet the VPO-2 requirements?

Applicant Response: *There are no buildings being proposed at this time. When a project is identified, we will follow all applicable standards of the IDO and DPM.*

4. Is the applicant willing to work with the neighborhoods, and the Park Service to discuss appropriate uses and limit the building heights in order to develop a desirable site plan for all parties, which complements the volcanic landscape and its scenic views?

Applicant Response: *The Applicant has already been working with the community to determine uses in which the community would like to see, we have launched a website demonstrating our commitment to complete transparency – www.glyphsatvolcanomesa.com – We have updated the website with our progress including the posting of our request for a Subdivision actions and links to the hearing. We have posted multiple updates on the website and on social media and news outlets. To-date, we have been contacted by many residents of Albuquerque’s Westside in support of a mixed-use development project.*

Modulus is also working with the Westside Business Coalition members and will be hosting a Town Hall forum for all members of Albuquerque’s Westside to give voice to their thoughts on a desirable project.

5. Other: What is the latest status on the parcel just south of this site?

Applicant Response: *Modulus is not involved with the parcel on the south side as this is a completely separate project being designed and represented by another firm not associated with our project.*

Questions Submitted by Mr. Mike T. Vorhees

1. My principal concern is that such a hearing at this stage would be in violation of the IDO. Under 5-2(J)(2)(b) 9 & 10, 5-4(C)(6), and 6-6(I)(1)(a), the subject site, which is adjacent to the LaCuentista Major Public Open Space, must first obtain a Site Plan – EPC, which itself must conform to 5-2(A), 5-2(C)(1), 5-2(J)(2), 5-4(C)(1), 5-4(C)(4), and 6-6(L)(3)(a). It is thus premature for the DHO to hear any such application prior to the Site Plan – EPC.

Applicant Response: *The subject site, which was replatted and recorded with the Bernalillo County Clerks office on March 4, 2024 is not adjacent to Major Public Open Space –Further, the issue of “adjacency” has been litigated and determined by the State of New Mexico Second Judicial District Court No. D-202-CV-2023-02637 After thorough review and legal consultation, it has been definitively established through litigation that the specific standards you referenced do not govern our site. This conclusion was reached based on detailed legal analysis and confirmed by the relevant courts.*

See Figures 1-3 Below:

Figure 1- Plat recorded with the Bernalillo Clerks Office on March 4, 2024
 Figure 2- GIS Map of Major Public Open Space
 Figure 3 – Ruling from the Second Judicial District Court regarding “Adjacency”
Figure 1- Plat recorded with the Bernalillo Clerks Office on March 4, 2024

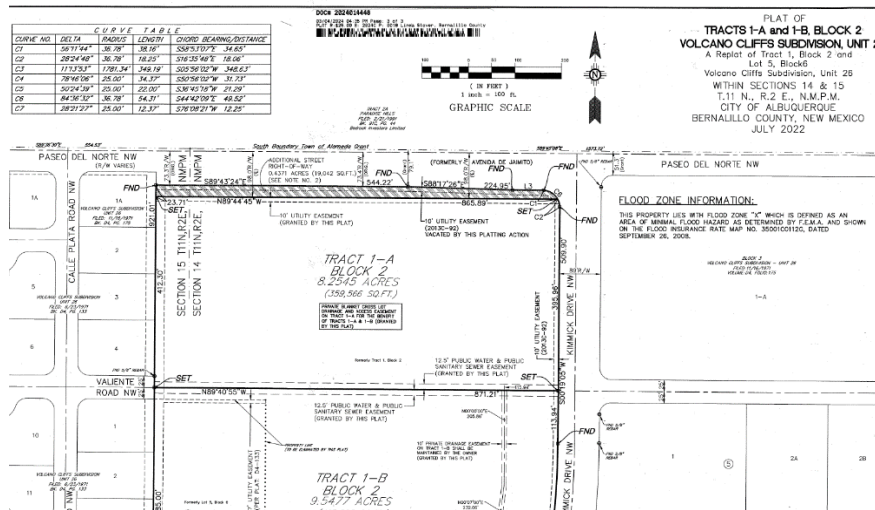


Figure 2 – GIS Map Boundary of La Cuentista Public Open Space

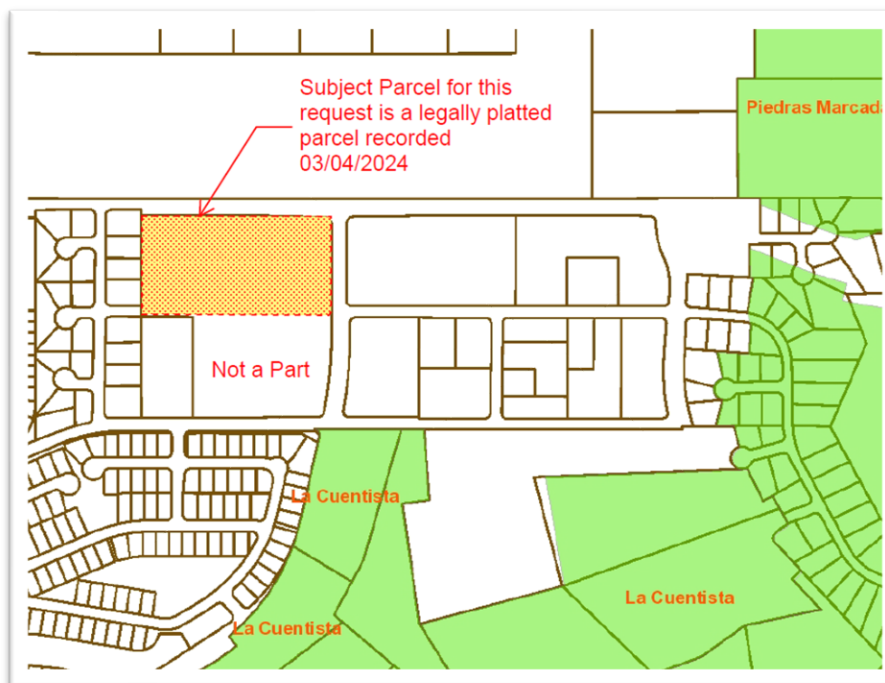


Figure 3 – Excerpt from the State of New Mexico Second Judicial Court

While those particular standards do not apply to our site, we want to reassure you of our commitment to maintaining high-quality development that aligns with the broader goals and vision of our community. Our project will adhere to all applicable city regulations and guidelines, ensuring safety, sustainability, and aesthetic harmony.

Substantial evidence in the record supports the finding that the subject site and the major public open space are not “adjacent.” Under the IDO, “adjacent” means “abutting or separated only by a street.” IDO § 7-1. A map in the record shows that Kimmick Drive is to the east of the subject site and Rosa Parks Road is to the south of the subject site. [RP 39.] The nearby major public open space is to the southeast of the subject site and is described as “diagonally opposite” from the subject site. [RP 432–33, 700.] The map is substantial evidence supporting the finding

It should be noted that the entire parcel in question is subject to the height restriction sub zone of the VPO-2 overlay zone, which limits buildings to 19 feet (with variance), and that all subdivided parcels created from the current parcel must comply with 5-4(C)(6) which states that “Subsequent platting must conform to the approved plans” and those plans, which must be approved prior to subdivision, must incorporate any and all restrictions applicable to the entire parcel.

If the purpose of the subdivision is to circumvent height restrictions or other standards applicable to the entire parcel, this would be both an inappropriate use of the subdivision process, the purpose of which is to ensure that development sites are consistent with the land use planning objectives of the adopted ABC Comp Plan (See 14-16-5-4(A)(1)).

It should be noted that the city’s GIS system, as of this email, does not accurately reflect the extent of the La Cuentista MPOS, the boundaries of which were enlarged almost two years ago.

2. My main questions are thus:

1.) What is the purpose of the subdivision?

Applicant Response: Please refer to the first question asked by Mrs. Rene Horvath with our response documented.

2.) Does the Applicant intend to first request a Site Plan—EPC in accordance with the IDO?

Applicant Response: No, as stated above, the subject site is not adjacent to Major Public Open Space and therefor does not require an EPC – Site Plan approval.

3.) Are all of the buildings that are planned for each of the anticipated subdivided parcels in compliance with the height restrictions of VPO-2, namely no more than 19 feet in height (with variance)?

Applicant Response: There are no buildings designed at this time and no structures are being proposed at this time.

As we progress with our project, we invite you to continue sharing your feedback and insights. We believe that collaboration and mutual understanding are key to successful community development.

We look forward to working together to ensure the best outcomes for our neighborhoods and the City of Albuquerque.

Sincerely,

A handwritten signature in black ink that reads "Angela M. Piarowski". The signature is written in a cursive, flowing style.

Angela M. Piarowski, CEO/Partner

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