Development Hearing Officer
Planning - Case Comments

***Meeting Date**: 11/8/23 -- **DHO AGENDA ITEM** #8*

***Project Number**: PR-2020-003484*

***Application Number**: SD-2032-00048*

***Project Name**: 6341 Mojave St NW*

Request:
Preliminary Plat for 19 residential lots.

**These are preliminary Planning comments. Additional reviews and/or revised comments may be needed for any modifications and/or supplemental submittals.*
Items in orange need to be addressed or be a condition of approval.
Items in green have been addressed.

COMMENTS:

1. Items that Need to be Completed or Corrected:

- **Updated 11.7.23:** Add a condition of approval: "Applicant team must meet with Planning, Open Space, and National Park Service to create 'Sensitive Lands Preservation Plan' to show type of construction protection fencing and where it will be placed to maintain non-disturbance of that MPOS. No grading may occur prior to creation of the Sensitive Lands Preservation Plan, and the Plan must be submitted with the Final Plat." (Note: this requirement has been applied to a recent project with NR-PO-B land.)

- **Updated 11.07.23** The Infrastructure list 'Notes/Drainage' needs to be revised from 'Standard Section' to 'City Standard Specification.'

- Updated 11.7.23 Applicant submitted a plan view and trench cross sections from two planes to indicate the potential disturbance.

- **Updated 11.7.23** 5-2 (J)(2)(a) Lot 5 is abutting the Boca Negra arroyo. **Applicant has identified the Open Space buffer within Tract A with a note on the plat indicating that the 45 feet buffer abutting the Petroglyph National Monument must have plantings approved by the Open Space Superintendent.**

Updated 10.25.23 Applicant submitted a plan view of the sewer connection to the existing

**(See additional comments on next pages)*

manhole. A cross section of the connection from both the north-south and east-west planes is likely necessary to clearly understand the potential disturbance. No written description was provided. It does not appear that the applicant met the National Park Service request for information nor other items in this Planning Comment memo. Planning comments remain unaddressed.

Updated 10.11.23 Applicant has not submitted any new information. Staff is not aware of any engagement in any approval process with the National Park Service or City Open Space. A deferral is recommended.

- Construction fencing needs to be placed on the infrastructure list. (See note below about a Sensitive Land Preservation Sheet that needs to be prepared.)

Updated 8.22.23 Planning recommends deferral of this application as no progress has occurred related to needed approval processes. This request needs to first be processed as an 'extraordinary facility' per the IDO and the Facility Plan for Open Space. The applicant appears to have taken no action with regard to these requirments pointed out in the Planning Comment Memo of 6.28.23.

The IDO definition of MPOS zoned NR-PO-B is not dependent on ownership (see below). Property that is owned or managed qualifies if it caries the NR-PO-B zoning. It should be noted that the zoning of this property as MPOS-B has been in place for some years and was not subject to any appeal.

Major Public Open Space
City-owned or managed property that is zoned NR-PO-B or City-managed property that is zoned NR-PO-C, including the Rio Grande State Park (i.e. the Bosque), Petroglyph National Monument, and Sandia foothills. These are typically greater than 5 acres and may include natural and cultural resources, preserves, low-impact recreational facilities, dedicated lands, arroyos, or trail corridors. The Rank 2 Major Public Open Space Facility Plan guides the management of these areas. For the purposes of this IDO, Major Public Open Space located outside the city municipal boundary that is mapped as Open Space in the ABC Comp Plan still triggers Major Public Open Space Edge requirements for properties within the city adjacent to or within the specified distance of Major Public Open Space.

The IDO states that the most specific rules for review apply (see below), which are contained in the Facility Plan for Open Space, Those rules state that the extension of infrastructure is an 'extradinary facility' when occurring on open space land. That, then, requires approval of the Open Space Advisory Board and the Environmental Planning Commission.

1-8(D) If any regulation in this IDO conflicts with other applicable laws or regulations of the City, or conflicts with applicable State or federal law, the more restrictive provision shall prevail, unless the provisions of State or federal law, as interpreted by the courts, prevent that result.

Updated 11.7.23 The applicant has shown by a trench cross section the ability to connect to the existing manhole with minimal disturbance.

Updated 10.23.25 This processing of the sewer connection as an extraordinary facility is dependent upon the applicant's ability to connect the sewer line to the existing manhole with minimal disturbance. This has not been adequately demonstrated to date.

Updated 10.11.23 The remainder of these comments carry forward as no resubmittal was received.

- **Updated 6.28.23:** Planning staff, Open Space Staff, NPS Staff, the agent and the applicant did a field visit on 6.15.23. It was clarified in the field visit that the connection to the sewer line could be a small disturbance if a 6-8 feet wide trench extending 6-8 feet into PNM. The only visible part would be a manhole and there are two similar manholes in the corridor. The other change reviewed was if the drainage pond were to overflow into the PNM land, then it would be a sheet of water rather than an outflow. This seemed to be more acceptable to NPS and City Open Space.

- Updated 11.7.23 The Parks and Recreation Department has indicated that by connecting to the existing manhole with minimal, if any disturbance, at the surface that the sewer connection does not have to be processed as an extraordinary facility.

  Processes required for approval by the National Park Service and City Open Space remain undefined.

  A new issue was raised when Parks and Recreation identified that the Facility Plan for Major Public Open Space defines infrastructure, even if not visible on the ground, as an 'Extraordinary Facility' (see excerpt below) Under this interpretation, the subdivision technically must wait for approval by the Open Space Advisory Board and the Environmental Planning Commission.

Underscored Material - New
[Bracketed Material] - Deletion

ORDINANCE

AMENDING ARTICLE 7-15 R.O. 1974, THE ENVIRONMENTAL PLANNING COMMISSION ORDINANCE, SPECIFYING THE PROCEDURE TO APPROVE UNUSUAL FACILITIES PROPOSED FOR PARKS AND OPEN SPACE LAND.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. Section 7-15-2.A R.O. 1974 (EPC Duties, Responsibilities, and Powers) is amended by inserting a new paragraph after Paragraph 4 and renumbering the following paragraph accordingly:

"5. Approval of Extraordinary Facilities in City Parks and Open Space: If extraordinary facilities are proposed for City controlled parks or open space, EPC approval of a site development plan is required before installation or construction. Before considering approval of such facilities, the EPC shall seek the recommendation of the Metropolitan Parks Advisory Board and/or the Open Space Advisory Board, according to their jurisdiction over the area. The decision of the EPC may be appealed to the City Council if appeal is filed with the Planning Director within 15 days of the decision. For the purpose of this paragraph:

a. Extraordinary facilities in parks are those which are not primarily for facilitating recreation, relaxation, and enjoyment of the outdoors; they do not include incidental parking and access roads, nor do they include infrastructure not visible on the surface;

APPENDIX E

b. Extraordinary facilities in open space are those other than trails, fencing, signs, incidental parking lots, and access roads."

The IDO outlines the process for approving an extraordinary facility (see below):

2-5(F)(3)(b) **Sub-zone B: Major Public Open Space**

1. Uses and development standards specified in a Resource Management Plan or Master Plan approved or amended by the Open Space Division of the City Parks and Recreation Department for each facility or in the Rank 2 Major Public Open Space Facility Plan prevail over IDO standards and may be reflected in Site Plans approved pursuant to this IDO.
2. For facilities without a Resource Management Plan or Master Plan, allowable uses other than those specified in Table 4-2-1 or the Major Public Open Space Facility Plan may be approved pursuant to Subsection 14-16-6-6(J) (Site Plan – EPC).
3. Any facility that is not an Extraordinary Facility pursuant to the Rank 2 Major Public Open Space Facility Plan or renovations of a facility previously approved as an Extraordinary Facility shall be reviewed and decided pursuant to Subsection 14-16-6-5(G)(1)(f)13 (Site Plan – Administrative).
4. Otherwise, any Extraordinary Facility shall be reviewed and decided pursuant to Subsection 14-16-6-6(J) (Site Plan – EPC).

- Updated 6.14.23: ~~Planning recommends a deferral of the application to June 28th pending an on-site meeting requested by the National Park Service (NPS) and City Open Space to determine future construction impacts resulting from this subdivision. Based on information gleaned in this meeting, the NPS will determine the federal approval process they sense is warranted.~~ The applicant has provided a new plat that moves the scour wall 6 feet into the private parcel. This should allow scour wall construction that does not affect the National Monument. However, the issue of connecting the subdivision sewer line to the sewer line in the Boca Negra Arroyo has not been discussed and there is a lack of the agreement between the applicant and NPS/City Open Space. The NPS had asked for general construction documents to show details of trenching, etc. and the applicant did not provide that information. The NPS has requested an on-site meeting to give clarity to the construction needs and to determine the federal approval process that would be warranted.

  As of 5.9.23: The applicant and staff of the NPS, City Open Space, City Planning and the City Engineer met circa 4.21.23. Both the NPS and COA Open Space clearly explained a private party would need to ask permission for a scour wall, a sewer connection, and/or an outflow from a drainage pond to the Boca Negra Arroyo drainage area.

In the resubmittal, the applicant reworked the scour wall so that is on the private property side of the property line with the Arroyo. The applicant has not provided any documentation of having requested permission from the NPS or COA Open Space regarding the location of that scour wall, the connection to the sewer, and the outflow from the drainage pond to the Arroyo. Planning staff cannot recommend proceeding with the review and approval of this subdivision because of the IDO indicates that outside agencies have review rights and federal law must be followed. **See the following IDO provisions:**

1-8(D) If any regulation in this IDO conflicts with other applicable laws or regulations of the City, or conflicts with applicable State or federal law, the more restrictive provision shall prevail, unless the provisions of State or federal law, as interpreted by the courts, prevent that result.

6-4(J) REFERRALS TO COMMENTING AGENCIES

Following a determination that the application is complete, the Planning Director, ZEO, or any City staff designated to review applications in Table 6-1-1 shall refer applications for comment to the following departments or agencies, as noted below. Any comments received within 15 calendar days after such a referral shall be considered with the application materials in any further review and decision-making procedures.

6-4(J)(1) General

City departments or agencies or other governmental or quasi-governmental agencies whose services, properties, facilities, interests, or operations may be affected.

6-4(J)(6) Development within 660 feet of the Petroglyph National Monument

6-4(J)(6)(a) National Park Service.

6-4(J)(6)(b) Open Space Division of the City Parks and Recreation Department.

- Updated 11.07.23 The Infrastructure list 'Notes/Drainage' needs to be revised from 'Standard Section' to 'City Standard Specification.' Multiple requests have been made for this revision.
- Updated 5.9.23: Landscaping is to follow Standard Specification 1013 and is noted on the Infrastructure List.
  ~~Tract A: Is there a landscaping Plan for Tract A? Any Landscape Plans must be sealed and signed by a Landscape Architect licensed in the State of New Mexico.~~
  Updated 6.23.23 Change the maintenance note of Tract A (pond) to be the Homeowner's Association, not just 'owner'; city maintenance is not provided for Tract A. The landscape buffer in the northwest corner of the subdivision should be in a separate tract with a note as shown on the next page.

- The meeting with the NPS and City Open Space indicated that they feel strongly that pre and post construction inspections need to be held to ensure that the environmental integrity of the Open Space is not compromised during construction. Following a meeting with National Park Servcie, City Open Space and Planning, a Sensitive Lands Preservation sheet needs to be added to the Plat set before the Final Plat is approve. The Sensitive Lands Preservation sheet should indicated:

    a. Protective measures shall be implemented during the actual construction phase of the project to ensure protection of MPOS property.
    b. Notifications
        i. Proposed construction report shall be provided to the MPOS Owner by e-mail or mail. (CoA Open Space Tricia Keefer and Petroglyph National Monument, Nancy Hendricks)
        ii. Include the following information in the notification:
            1. The name of the project
            2. Dates of construction
            3. Contact information for the construction manager responsible for mitigation
            4. Construction plan showing buffer and placement of **protection fencing**
    c. Pre- construction meeting with MPOS representatives
        Contractor and MPOS representatives will perform pre- and post-construction site meetings to discuss and agree to:
            i. Access gate locations
            ii. Work hours
            iii. Debris management protocols
            iv. Noise, light and vibration impacts
            v. Project timelines
            vi. Fire prevention
    d. The following actions are prohibited within MPOS and buffer zone:
            i. Vehicular traffic or parking.
            ii. Storage of construction materials, debris, or excavated material.
            iii. Dumping of refuse or chemicals, or liquids.
            iv. Puddling or continuous running water.

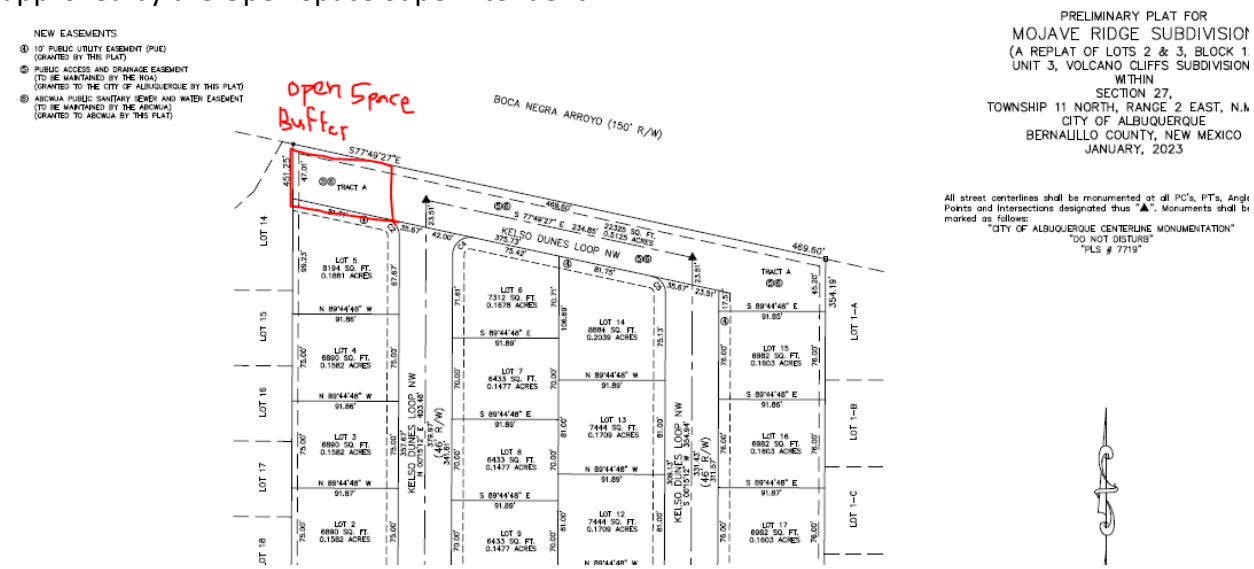
            v. Diesel or gasoline equipment running adjacent to protection zone.
            vi. Foot traffic.
            vii. Erection of sheds or structures.
            vii. Mixing or washing of concrete or any other cementitious

products.

2. Final Clean Up and Inspection
   a. Before final acceptance, the area along the MPOS and buffer zone shall be cleaned of all rubbish, excess materials, temporary structures, and equipment; and all parts of the work shall be left in an acceptable condition.
   b. A post-construction inspection and/or meeting shall be held with MPOS and City representatives to verify the buffer zone, sensitive land feature, or MPOS has been adequately protected during construction.

   c. Any damaged areas noted shall be restored per contractor expense. Revegetation shall be restored to match the original cover and species and will be assessed 1 year from project completion. Temporary irrigation and maintenance may be needed to reach pre-construction vegetative coverage and shall be done at the expense of the CONTRACTOR.

- **<u>Updated 11.7.23</u>** 5-2 (J)(2)(a) Lot 5 is abutting the Boca Negra arroyo. Applicant has identified the Open Space buffer within Tract A with a note on the plat indicating that the 45 feet buffer abutting the Petroglyph National Monument must have plantings approved by the Open Space Superintendent.



<u>Future Required Final Plat:</u>

- The project and application numbers need to be added to the Final Plat.

- Utility and AMAFCA signatures will be required for the Final Plat, and must be obtained and included with the Final Plat application submittal prior to acceptance of the Final

Plat and placement on a DHO agenda.

- For the Final Plat, the DXF file must be approved by AGIS, and the approval email from AGIS must be submitted prior to final sign-off of the Final Plat from Planning should the Plat be approved by the DHO.

- For the Final Plat, Hydrology, Transportation, and Water Authority staff must all sign Form S and ensure that any application submittals required in association with the Final Plat application are approved prior to their signatures on Form S. Form S must be signed by Hydrology, Transportation, and Water Authority staff prior to the acceptance of the Final Plat application and placement on a DHO agenda.

- The Final Plat is required to be submitted within one year of Preliminary Plat approval.

- A recorded IIA based on the Infrastructure List included with the Preliminary Plat submittal will be required with the Final Plat, and must be obtained and included with the Final Plat application submittal prior to the acceptance of the Final Plat and placement on a DHO agenda.

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2. Standard Subdivision Comments and Items in Compliance:

5-2(C) Site Design to Avoid Sensitive Lands.

Updated 4/10/23:

- Applicant completed a Sensitive Lands Analysis and no sensitive land features were identified. Please note that site slopes are 8% or less and the property is no longer in the 100 year flood plain.

- The drainage note for compliance with Section 1013 is added to the infrastructure list.

Updated 6/12/23:

- ✓ The applicant has shown height measurements from finished grade and natural grade and established maximu building heights that do not exceed 15 feet.

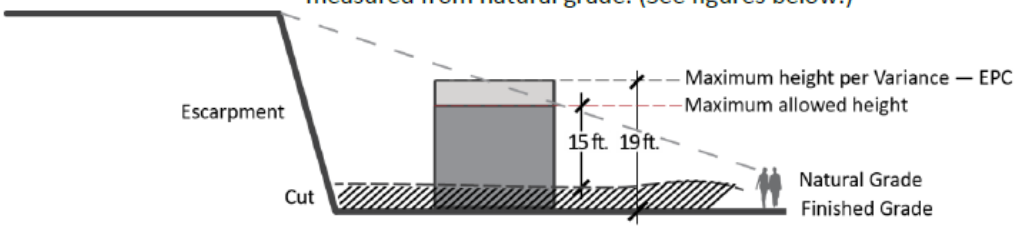
IDO 3-6(E) The parcels are in the VPO-2 Height Restricted Sub Area. Identify the allowable structure height vis a vis grading plan. 'Building and/or structure height shall not exceed 15 feet, as measured from natural grade.'

~~***Show height measurements from finished grade and natural grade. *Clarify if standards are being met.**~~

3-6(E)(3) Building and Structure Height

The following standards apply in the Height Restrictions Sub-area shown in the map above.

3-6(E)(3)(a) Building and/or structure height shall not exceed 15 feet, as measured from natural grade. (See figures below.)



<u>Updated 1/20/23:</u>

- **Staff determined after much discussion that this applicant can proceed with the lot sizes presented on the Sketch Plat for the Preliminary Plat.** They do meet the contextual standards of the IDO. While an argument could be made that the new subdivision is its own block and R1-D lot sizes are required, there is also an argument for contextual standards applying and that is the advice that was given in prior sketch plats.

- **Applicant met the public notice requirements Section 6-1, table 6-1-1 for public notice requirements** (6-6-L Subdivision of Land-Major). The application was sent to the Superintendent of Petroglyph National Monument for comment and PNM agreed with the Open Space Division comments. (IDO 5-2-(J)(2)(c) 1 for comment by external agencies.)

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3. Future Development Guidance

- Please reference the following development standards from the IDO. Subject to change pending formal submittal and/or proposed development types/uses.

  - 3-6(E) Northwest Mesa Escarpment – VPO-2 and *Height Restricted Sub-area. **<u>Updated 4/10/23:</u>** Please note that building height shall not exceed 15 feet, as measured from the natural grade. See IDO 3-6(E) for details, and dealing with undulating terrain.

    See also restrictions on Colors, Reflectivity, and roof-mounted equipment. Use yellow ochers, browns, dull reds, and greens with Light reflective value ranging from 20 to 50 percent.
    Fully screen roof-mounted HVAC from public street and escarpment.

- 4-2 Allowed Uses, table 4-2-1. ***Reference Use Specific Standards 4-3-B-1 Single Family Detached Dwelling.** Explain and demonstrate how all standards are being met.

- 5-1 Dimension Standards for R-1D and Area of Consistency. Calculations per Code Enforcement. 5-1-G Exceptions and Encroachments.
  *Included setback measurements, and elevations with height measurements from finished grade and natural grade. *Clarify if standards are being met.

- **5-2-K** Property is abutting Major Public Open Space to the North and within MPOS Edges. Also abutting the Boca Negra Canyon Arroyo-Drainage Easement. Standards exist for each. Up to and including 5-2-K.

- **5-3 Access & Connectivity requirements**.
  *5-3(C)(3) Driveways, Drive Aisles, and Access 5-3(C)(3)(a) Development shall comply with the driveway, drive aisle, and access standards in the DPM.
  5-3(C)(3)(b) For all low-density residential development, driveways accessed from the front or street side of the property shall be at least 20 feet long, exclusive of the sidewalk or drive pad.

- 5-5 Parking & Loading requirements, Table 5-5-1.
  Dwelling, single-family detached 1 space / DU up to 2 BR, 2 spaces / DU with 3 or more BR.

- 5-6 Landscaping, Buffering, and Screening standards and requirements.

<u>Updated 4/10/23:</u>

- 5-7 Walls/Fences. (E)(4) . *View fencing is required adjacent to Mayor Arroyos or Major Public Open Space. *Development requires separate permitting.

  5-2(J)(2)(a). *Special wall provisions adjacent to MPOS.

  10. Locate and design all walls, fences, retaining walls, and combinations of those site features facing the Major Public Open Space in compliance with all applicable standards in Section 14-16-5-7(E)(4) (Walls Adjacent to Major Arroyos or Major Public Open Space).

- 5-11 Building and façade design requirements. 5-11-C for Low-Density Residential. *Demonstrate and explain how standards and requirements are being met.

- 7-1 Development, dwelling, and use definitions.
  *Reference definitions for Low-Density Residential and Single Family Detached.

<u>Disclaimer</u>: The comments provided are based upon the information received from the applicant/agent. If new or revised information is submitted, additional comments may be provided by Planning.

FROM: Jolene Wolfley DATE: 11/7/23
Planning Department