

**DRB Minutes, Agenda Items 4 & 5  
August 18, 2021**

CITY OF ALBUQUERQUE

DESIGN REVIEW BOARD

M I N U T E S

August 18, 2021

Agenda Item 4  
Project Number PR-2020-004595  
Applications:  
SD-2021-00111 - Preliminary Plat  
VA-2021-00216- Sidewalk Waiver

Agenda Item 5  
Project Number PR-2020-004595  
Applications:  
SD-2021-00122 - Vacation of Public Easement (7')  
SD-2021-00123 - Vacation of Private Easement (15')  
SD-2021-00124 - Vacation of Private Easement (20')

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Maggie Gould, Planning Manager  
Jay Rodenbeck, Senior Planner  
Shahab Biazar, City Engineer  
Nicole Sanchez, DRB Attorney  
Angela Gomez, Hearing Monitor

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**CHAIR WOLFLEY:** We're going to resume the August 18th meeting of the development review board. We are going to take Items 4 and 5 on the agenda together. They are for Project 2020-4595. The applications are SD-2020-111, preliminary plat; VA 2021-216, sidewalk waiver; 2021-122, vacation of public easement, 7 foot; SD-2021-123, vacation of private easement, 15 foot; and SD-2021-124, vacation of private easement, 20-foot waterline.

The applicant is 505 Solutions, LLC, the location is Walkerway Street, Northeast between Spain and Academy. And I just kind of want to remind our Zoom audience that what we'll do first is listen to the applicant team. And they'll be giving us an update on the project and all these applications.

At that point, then, I will go find out who is here that would like to you give public comments, and we will get you all recorded and ready to go. First up will be the applicant team, represented by JAG Planning & Zoning.

Ms. Garcia, good morning.

**MS. GARCIA:** Good morning, Madam Chair.

**CHAIR WOLFLEY:** Okay. Go ahead and give me your firm address, and I'll swear you in.

**MS. GARCIA:** Thank you. My name is Juanita Garcia and I'm with JAG Planning & Zoning. My address is P.O. Box 7857, Albuquerque, New Mexico, 87194.

**CHAIR WOLFLEY:** Thank you. Ms. Garcia, do you swear or affirm to tell the truth?

**MS. GARCIA:** I do.

**CHAIR WOLFLEY:** Okay. And is there anyone else from your team that I should bring into the record?

**MS. GARCIA:** Madam Chair, we have Robert Fierro with us today, who is the engineer on the project. However, he is not going to present anything. He is just going to be available in case there are any questions.

**CHAIR WOLFLEY:** Okay.

**MS. GARCIA:** Thank you.

**CHAIR WOLFLEY:** Okay. Let's go ahead with an update from you.

**MS. GARCIA:** Sure. Thank you.

So since we did not receive comments regarding the infrastructure list or notes on the plat, we believe our modifications to the application addressing these matters have been resolved.

We also resolved the matter regarding the mature stand of trees, and the applicant will consider preserving the southernmost tree at the entry to our subdivision during the grading of the site. However, you know, we do need to be mindful of the grade and the grading plan that was approved. But all of that will be taken into consideration during the grading phase of the project.

So really the only item left standing is the entry to the subdivision gate at Albuquerque Ranch Estates. And so the applicant is unable to make modifications to the gate, the entry area or the gate openings since the area is actually on a

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different piece of property and is not part of this plat.

So we did submit a supplementary packet last week that identified the pertinent sections of the DPM that relates to our response.

First is Part 5-1(F) of the DPM, which references the plat boundary lines. The plat --

**CHAIR WOLFLEY:** Okay. Ms. Garcia.

**MS. GARCIA:** Yes.

**CHAIR WOLFLEY:** If you could pause one second. I think Mr. Rodenbeck is trying to bring up your letter, and that would help me, so...

**MS. GARCIA:** Sounds great. So this would be towards the end of the packet, Mr. Rodenbeck. I believe it's like the last section, if you want to scroll.

**MR. RODENBECK:** This is Jay Rodenbeck. I'm at the end here.

**MS. GARCIA:** Okay. .

**MR. RODENBECK:** There's another -- maybe it's this supplemental here. There's two supplementals where you see -- I think this is just plats.

**MS. GARCIA:** Oh, yes. Well, Mr. Rodenbeck, there was a Part 1 and a Part 2. It was a pretty big --

**MR. RODENBECK:** Yes.

**MS. GARCIA:** So I believe it's in the last portion of part 2.

**MR. RODENBECK:** Oh, last portion of Part 2. Thank you.

**MS. GARCIA:** Mm-hmm.

**MR. RODENBECK:** Okay. This is Jay Rodenbeck. This looks like the DPM (inaudible).

**MS. GARCIA:** Yes. Thank you.

**MR. RODENBECK:** Am I going to a -- this is Jay Rodenbeck. Am I going to a letter or --

**MS. GARCIA:** No, Mr. Rodenbeck. It's just -- it's the next page, actually.

**MR. RODENBECK:** Sorry?

**MS. GARCIA:** I'm sorry. The previous page.

**MR. RODENBECK:** Previous page. Okay.

**MS. GARCIA:** Previous page. Sorry. Previous page. Okay. Thank you.

So, Madam Chair, Members of the Board, this is -- this is a section of the IDO -- sorry -- the DPM that identifies what the plat boundary lines are for a particular plat. And it was displayed a little bit ago in terms of what our boundary lines are.

And so our boundary does not go beyond what is owned, controlled

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by the applicant. And so -- so we just want to reference that.

The next -- the next section is the next page, Mr. Rodenbeck, which is Article 75 of the DPM, which is outside the process and requirements associated with traffic studies.

So when we submitted the preliminary plat application, we were required to submit a traffic scoping form. The DPM indicates that a traffic scoping form has two purposes. One is to allow the traffic engineer to identify reasonable modifications that can be made to support the function of the transportation system and ensure safe and efficient access to and from the site to the adjacent roadway.

The second is to determine if the site's impact will meet the threshold requiring a traffic study, impact study. So the completed traffic scoping form did not warrant a TIS, which typically triggers the need for any off-site improvements to mitigate any traffic concerns. Yet, the applicant is being asked to make off-site modifications to address possible concerns that were not substantiated by any study and for property that is outside of the plat boundary and not owned by the applicant.

Furthermore, most of the additional traffic we -- will have gate access and will not have to wait at the gate to enter Albuquerque Ranch Estates.

So the next part is -- I want to go to the section regarding plats, Mr. Rodenbeck. And I believe this is part -- I'm not sure if it's the beginning of this part, or at the end of Part 1. So if you can go to the beginning of this part at the very, very top of this section. Keep going all the way up to the top. If you can keep scrolling up to the very top?

**MR. RODENBECK:** This is Jay Rodenbeck. You wanted me to go to Page 1 of the submittal?

**MS. GARCIA:** No, no. This is -- this is exactly this section. So if you can -- so these are the plats that I kind of want to reference.

**MR. RODENBECK:** Oh, okay.

**MS. GARCIA:** So if you can -- going up to -- let me stop you where...

**MR. RODENBECK:** Yeah. I'm just keep going.

**MS. GARCIA:** Okay. It's right before this plat. So this is the plat that I'm -- first plat that I'm going to be referring to.

So the approved subdivision plats that were submitted in the supplemental packet identifies three plat approvals that relate to the applicant's position.

So this is the first subdivision approval, which is DRB 92342, which outlines all of Albuquerque Ranch Estates, including the area of where the existing subdivision gate is located.

Okay. So if you can scroll down some more, Mr. Rodenbeck, please. Keep going past this plat to this plat.

So this plat here is the second -- the second subdivision approval is DRB 94311, 311, which outlines four -- four lots, one of which includes the -- the lot that contains the entry gate. And one of the lots is also the lot that -- that the applicant

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currently owned.

And so the applicant provided a copy of the roadway as built, identified -- which identified a wall and a keyed entry into the subdivision with this particular plat. So our argument is that this particular plat included the area, included the tract that in -- that addresses the entryway. And -- and so we just wanted to highlight that.

So the next plat, if -- I believe it's the next plat, Mr. Rodenbeck. So this is -- this is the third subdivision plat that was approved, and this is under Project Number 1001094, which was approved to split one lot into two. And the second lot created within this particular plat includes the area of where the gate is located.

And so we mention these plats to highlight the opportunities of when the city could have required the property owners that were associated with the land that contains the gate to make any sort of modifications or improvements to mitigate any traffic concerns.

So our position is that since this plat here addresses the area of where the entry gate is, this would have been an opportunity to say something needs to be widened, something needs to be done to address this particular issue.

So we also submitted, Madam Chair, Members of the Board, aerial maps of the subdivision known as Albuquerque Ranch Estates. And I -- I do believe it's further down this packet. I can't remember if it's in packet one.

**MR. RODENBECK:** This is Jay -- yeah. This is Jay Rodenbeck. Just please confirm that. I believe it's on Packet 2. Here we go. This is Jay Rodenbeck. I got the aerials pulled up.

**MS. GARCIA:** Yes, thank you.

So just, Madam Chair, Members of the Board, the applicant was able to obtain -- purchase aerial maps, showing the area. I'm hoping we can maybe rotate this one clockwise. If you'll see, in 1982, Albuquerque Ranch Estates appeared to be a larger tract of land, something similar to what North Albuquerque Acres looks like, and it actually had access to Tramway over the years.

But after development of Tramway, development of the surrounding subdivision, the property owner, it appears, was -- you know, was -- access to Tramway was removed to the site.

So if you can move further back -- or further down to the next photo. This is just showing the other years. So next year would be 1992, which shows -- sorry, 1991, which shows the entry gate. It's not very clear. It's hard to see exactly, but it appears that the entryway is similar to -- similar to what -- the way it's designed or the way it looks now. And then moving down to the next year --

**CHAIR WOLFLEY:** Ms. Garcia, this is Chair Wolfley.

**MS. GARCIA:** Mm-hmm.

**CHAIR WOLFLEY:** Go back to 1991. Because I think what you're stating is that there's a gate on this photo. Are you able to identify what you're referring to?

**MS. GARCIA:** Well, Madam Chair, that is the thing. I've tried to

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look through it, with a magnifying glass.

**CHAIR WOLFLEY:** Okay.

**MS. GARCIA:** I could not see the gate, but it does appear as the gate is there. The entry to that area appears to be similar to what it's like now.

**CHAIR WOLFLEY:** Okay.

**MS. GARCIA:** Okay? Okay. Thank you.

And then just moving on, it just shows other years, again, similar design of the -- of that roadway, of that area. Again, it's hard to tell exactly if the gate is there. But the configuration of that whole entryway appears to be consistent with how it looks now.

Again, and this is 1996. There was a 2001 plat that could have addressed this issue if there was a concern regarding that entryway.

And then moving on I think to the last year, 2005. And so this is a more recent year, which, again, is -- is hard to tell whether or not the gate was actually there. But the configuration is very much the same in terms of how it's configured now.

So we just want to state that we appreciate all the hard work that was done on this application, including that of city staff, NMDOT staff, AMAFCA staff to help address all the concerns of the DRB members and members of the public.

However, specifically in regard to the subdivision gate for the Albuquerque Ranch Estates, the applicant cannot legally make modifications to a piece of property that is not owned and controlled by the applicant. And we respectfully ask that the DRB make a determination on these applications based on our comments. And we stand for any questions.

**CHAIR WOLFLEY:** Thank you very much, Ms. Garcia. That was helpful. And it looks like you've done a lot of work there.

Okay. At this point, it's time for public comment. And I want to get us organized well this morning. So if you would like to speak on this application at Walkerway Street between pain and Academy, if you could please raise your hand now. And as I mention you, if you can identify if you're speaking for yourself or if you're speaking -- if you have a role are neighborhood association or homeowners association, if you can identify what that role is. Sometimes people are authorized to speak for more than themselves.

So, Jay, can you stop sharing your screen for just a second so I can see what we have.

Okay. I see nine people wishing to speak. Would you unmute yourself, if you're speaking for a homeowners association or a neighborhood association. Okay. I don't see that anyone is.

All right. So right now, I have 12 people who have raised their hands. What I'm going to encourage you to do, especially if you've been here before, is realize testimony that's already been given, and try to focus your testimony on the items that are under discussion today and that maybe haven't been given previously. That would be very helpful.

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And I'm going to ask each of you to keep your comments to two minutes. There's 12 of you, and so that will take a bit of time. And we do still have quite a few items to discuss this morning.

So let's see, I'm going to go ahead and start with tie -- and so with each of you, I need you to give your name, your address, and then I will swear you in. And then you can begin your two minutes.

So tie, thank you go ahead and introduce yourself. And you'll need to unmute. If you can turn on your video at that moment, it's very helpful.

**MR. KATTENHORN:** Madam Chair, are you available?

**CHAIR WOLFLEY:** Yes, I am

**MR. KATTENHORN:** Okay. My name is Ty Kattenhorn, your Honor. I live at 12414 Walkerway Street, Northeast.

The reason -- the purpose for my --

**CHAIR WOLFLEY:** Mr. --

**MR. KATTENHORN:** -- call is simple.

**CHAIR WOLFLEY:** I'm sorry.

**MR. KATTENHORN:** I see that the --

**CHAIR WOLFLEY:** Do you swear or affirm to tell the truth?

**MR. KATTENHORN:** -- people on this call --

**CHAIR WOLFLEY:** I need you to --

**MR. KATTENHORN:** Yes, I do.

**CHAIR WOLFLEY:** Thank you, sir. So you swear to tell the truth. Go ahead with your comments.

**MR. KATTENHORN:** Yes. The gate -- the reason I'm calling, I see people on this call like Mrs. Estrada and Watkins and Hanks and the city and 505 solutions. I just want to bring up one simple fact that I am a private homeowner. That gate and the street where you enter into Albuquerque Ranch Estates is not a public road. It's not a private road. But that is private property that sets on my property.

And I don't -- I don't see why this is an issue at this point, because it's private property, not public, not a private road. But private property that sets on all my property.

And I don't know how anybody can make any changes on it without financially compensating me for it. And if -- if we need to do that, I'd be happy to discuss that issue at the time. But I just needed to point that out. Thank you very much.

**CHAIR WOLFLEY:** Okay. Thank you. And I just wanted to clarify, Mr. -- what was your last name again?

**MR. KATTENHORN:** Kattenhorn.

**CHAIR WOLFLEY:** Kattenhorn. Are you saying that you own the gate, that you own the street?

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MR. KATTENHORN: Yes.

CHAIR WOLFLEY: Okay. And how is that, sir?

MR. KATTENHORN: So I might -- so if you look at the plot of my -- well, actually, if you look at the land of my home, almost all that road is shared -- that entire road is shared between me and a portion of it to Mr. Oschwald on the other side. That is on our property.

And I would be happy to provide the -- the documents to our property ownership to show you where that line goes out to. But all that land sets upon my property and Mr. Oschwald's property.

CHAIR WOLFLEY: Okay. Can you identify your property on the plat, on the screen? Are you, like, about four --

MR. KATTENHORN: Yes. If you --

CHAIR WOLFLEY: Well.

MR. KATTENHORN: If you -- if you -- if -- if you look at the -- one of the very first plots that was kind of highlighted, as you enter the gate, you enter into my property.

CHAIR WOLFLEY: And are you on the left --

MR. KATTENHORN: And there's a long wall.

CHAIR WOLFLEY: -- or right? If I'm driving in through the gate --

MR. KATTENHORN: The left.

CHAIR WOLFLEY: -- are you on the left or right? You're on the left.

MR. KATTENHORN: On the left, west side of the road.

CHAIR WOLFLEY: Okay. So all right. I just -- okay.

MR. KATTENHORN: So you are driving on our -- our private property as you drive into that gate, and that is owned by the Kattenhorn family and the Oschwald family.

CHAIR WOLFLEY: Okay. Thank you. And is that street and gate under the control of a homeowners association?

MR. KATTENHORN: I -- I -- I don't know who -- I mean, obviously the homeowners association will -- we've done some maintenance on the road, but it is -- I don't know how to answer the question whose under control.

CHAIR WOLFLEY: Okay.

MR. KATTENHORN: But it is, it's my property -- my personal private property.

CHAIR WOLFLEY: Okay. Thank you. We're going to go ahead and go to our next speaker, Rachel Bevan. Okay.

MS. BEVAN: Morning. Rachel Bevan, 5719 Lost Dutchman Street, Albuquerque, New Mexico. And I swear to tell the truth.

CHAIR WOLFLEY: Okay.



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**MS. BEVAN:** I am one of the 505 owners, and I'm here in support. And if you have any questions, I'm here to answer them.

**CHAIR WOLFLEY:** Okay. All right. Thank you.

Let's go ahead and continue, Thomas Colbert.

**MR. COLBERT:** Yes, this is Thomas Colbert, 12415 Walkerway Street, Northeast.

**CHAIR WOLFLEY:** Do you swear or affirm to tell the truth?

**MR. COLBERT:** I do.

**CHAIR WOLFLEY:** Okay. Go ahead.

**MR. COLBERT:** So I am a property owner within Albuquerque Ranch Estates, and I own the portion of my road that extends to the median. It's not on the gate path, further down on Walkerway. And since it is my property, I do not -- I have no desire to allow full access to the public, because it's my property. It is not a private road, to the my private property, and I own my side of the road all the way to half of the median. And that's actually how the plot lines are done throughout the Albuquerque Ranch Estates. But we actually do own the road individually.

**CHAIR WOLFLEY:** Interesting. Okay. And are you -- like, as you enter the gate, are you the lot to the right of the gate? Is that what you're saying?

**MR. COLBERT:** No. I'm further down the road. But if we're using --

**CHAIR WOLFLEY:** Oh, okay.

**MR. COLBERT:** If we're using my property as turnaround or as access to public just to walk through, then that is something I do not desire. I -- I value the security of my home, and especially the safety of my little children, much more than I desire to leave that gate open.

**CHAIR WOLFLEY:** Okay. All right.

**MR. COLBERT:** Because I do feel it puts my family at risk. Because my kids are used to playing in these roads, and it's been a very safe community, and leaving that gate open will -- will put my kids at risk.

**CHAIR WOLFLEY:** Okay. So -- all right. Thank you, Mr. Colbert. Let's go to --

**MR. COLBERT:** Thank you, Madam Chair.

**CHAIR WOLFLEY:** Let's go to Pat Melloy.

**MR. MELLOY:** Hello. My name is Pat Melloy. I live 10910 San Francisco Road, Northeast.

**CHAIR WOLFLEY:** Do you swear or affirm to tell the truth?

**MR. MELLOY:** I do.

**CHAIR WOLFLEY:** Okay. Please go ahead.

**MR. MELLOY:** I'm a -- I'm a partner in 505 and I'm here to

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support the subdivision. Also I want to make it clear that we don't own the property where the gate is, so we cannot make any changes to it.

**CHAIR WOLFLEY:** Okay. Thank you, sir.

Let me go to Mark and Trina. If the one of you that wants to speak could identify yourself.

**MR. KNISKERN:** My name is Mark Kniskern. I live at 12400 Walkerway. And I swear to tell the truth.

**CHAIR WOLFLEY:** Okay. Thank you. I'm sorry. I'm a few notes. Go ahead with your comments.

**MR. KNISKERN:** Yes, so I also live in Albuquerque Ranch Estates, and I will not allow 505 Solutions to modify our gate, any of the hours of the gate or the function of the gate. If they do so, I will be significantly impacted as a homeowner inside of ARE by that change.

I paid to live in a gated community, I paid a premium to live in a gated community. My property value would be impacted by it. And as well as the cost of my insurance for public traffic on my private streets. Thank you.

**CHAIR WOLFLEY:** Thank you, sir.

Dixie Hanks.

**MS. HANKS:** Hi. My name is Dixie Hanks. I live at 5917 Royal Oak Street, Northeast, which is just outside the gate, on the southwest said side. I swear to tell the truth.

**CHAIR WOLFLEY:** Go ahead with your comments.

**MS. HANKS:** I would like to comment that as changes have been made and permitted inside of Albuquerque Ranch Estates, there's never been any notification to the residents outside. There have been some verbal notices when Mr. McKay was still living. But I've lived here since December 1997, and the entrance has always been there. The gate was not closed, if there was a gate. And I really can't remember if there was or was not a gate. But the gate was not closed.

And there was no access point for a closed gate because that had to come -- started out through my property and then had to be dug up through the street in front of my property.

And my concern is not what's going on inside the gate. It's what will happen right outside the gate and the impact of construction for the next several years ago when this property is being developed.

We're happy to see it developed. That's fine. We're just concerned about the traffic. And that's it.

**CHAIR WOLFLEY:** Okay. Thank you, Ms. Hanks.

Leslie Colbert.

**MS. COLBERT:** Yes, ma'am, this is Leslie Colbert at 12415 Walkerway Street, Northeast, and I swear to tell the truth.

**CHAIR WOLFLEY:** Go ahead.

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**MS. COLBERT:** I also want to speak -- my husband spoke earlier and he discussed, you know, the safety of the children, but also the liability is what I wanted to mention of -- because it's our private property, having, you know, access to that, to the public. And I stand with the other neighbors in not wishing that -- because 505 doesn't own that land, they don't have the ability to change the gate structure as it is. And so that's just what I wanted to state today.

**CHAIR WOLFLEY:** Okay. Thank you, Ms. Colbert.

**MS. COLBERT:** Thank you.

**CHAIR WOLFLEY:** Let's see. Bill.

**MR. NICHOLSON:** Good morning, Madam Chair. This is William Nicholson. I live at 12401 with my wife and two kids, and I swear to tell the truth.

**CHAIR WOLFLEY:** Please go ahead.

**MR. NICHOLSON:** I just want to echo everybody's else's sentiments, the Colberts the Kattenhorns, the Kniskerns, and everybody else that's come in after us.

We're excited for the 505 construction, but they do bring up excellent points on safety and the liability concerns within the community.

As a federal agent, I'm well aware of investigating similar matters. And the safety and security of this community was the reason why we chose this community and these people. And I have no doubt that all the neighborhood concerns will be addressed.

I don't foresee any issues. We've never had any issues with backing up in the streets or anything like that. All of the workers who are supposed to be given access to the area are given reasonable access. So I just wanted to state that.

Thank you, Madam Chair.

**CHAIR WOLFLEY:** Thank you.

Jim Oschwald.

**MR. OSCHWALD:** Thank you, Madam Chair. This is Jim Oschwald. I am a resident 12500 McKay Way, Northeast, and I do swear --

**CHAIR WOLFLEY:** Do you swear or affirm to tell the truth? Okay.

**MR. OSCHWALD:** -- swear and affirm to tell the truth, yes, ma'am.

**CHAIR WOLFLEY:** Please go ahead.

**MR. OSCHWALD:** I just wanted to add to all of the positive comments that have come from Albuquerque Ranch Estates, reaffirm that we are in way related to or tied to the 505 solutions nor are we responsible to them.

This is private property. I own the property on the right side of the gate, across from the Kattenhorns. That is indeed my property, the road. I own one-half of that. I effectively own one-half of the gate. I also own one-half of the street outside of the gate up and to the control box, which is -- if you go down to that red line, it runs east/west. Yep, that's approximately the property line that we own to.

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So effectively, we've created a queuing space for a car on our property to get into the gate. We have done extensive photo and camera monitoring of that area outside the gate and have found the backups of which have been discussed previously.

Further, we have discussed internally the importance of maintaining the gate and the life of the gate and the potential that construction crews will -- will cycle that gate more often than necessary. We have agreed internally that we will at times that we choose, keep that gate open during the day for construction crews coming and going.

But we will not be directed by the city, unless the city wants to take responsibility for the streets, and that includes the liability for those streets. We will control the access to that gate and to our private property.

Thank you, Madam Chair.

**CHAIR WOLFLEY:** Thank you, Mr. Oschwald.

Sue and Mike, can you give us your name and address.

**MR. CONNOR:** Yes. Michael and Susan Connor. We live at 12512 McKay Way, Northeast, next door to Mr. Oschwald, who just spoke.

We are private homeowners, private property owners within the Albuquerque Ranch Estates, and we do own half of McKay Way out in front of our house.

And we -- we're very happy with what the Solutions 505 are wanting to do, but I do not want them making modifications to my private property in here.

Also, I support the gate relative to the security it provides. At one time, when Mr. McKay was alive, they did leave the gate open during the day and we were broken into in another home, so we started closing the gate all the time at that time and haven't had a problem since then.

I, too, am concerned about the liability of the cars and people in vehicles walking through private property and liability associated with that. I support Mr. Oschwald and Ty's concern about the gate being on their property. And we basically -- they're very nice to work with us and to consult with us relative to that gate.

So thank you very much.

**CHAIR WOLFLEY:** Okay. Thank you.

Vicky Estrada-Bustillo.

**MS. ESTRADA-BUSTILLO:** Good afternoon, Madam Chair. Sorry. Let me get my screen on here. I'm at 5912 Royal Oak Street. And I swear to tell the truth.

**CHAIR WOLFLEY:** Go ahead.

**MS. ESTRADA-BUSTILLO:** It's a very sad day for me to hear about our neighbors sort of -- basically dismissing the safety concerns we have outside of the gated community.

A few things I would want to point out. One, the traffic flow study that was done by JAG was done on a Tuesday, Wednesday, Thursday, in the summertime when people are on vacation. We have

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multiple -- we see multiple teenagers racing out of the gated community on the weekends, and so if the traffic flow, if that's a reason to not consider things, I really would question the timing and how that was done.

Two, the reason to address this now is because we're having a lot more traffic coming in and out with these proposed 11 houses. And I can tell you I moved into this neighborhood in 2006. The gate was there but it was left open all the time, at least during the day, so we did not have this issue. And the stub length requirement for the street with the turnaround was not (inaudible) in violation. Once they started keeping it closed all the time, that's when we had the issue.

With all due respect to Mr. Oschwald and the camera view, our concern is not right where the code is put in and cars enter. It's that vehicles that are -- have workers going in and different repair, maintenance, et cetera, groups going in end up parking not right where the camera is, but right by our -- by our houses where there are trees that they get shade.

Now, I'm sorry they do not believe us. But we have seen many times, people, construction crews or other groups, that all the cars don't go in. They leave their cars parked, they all get in the vehicle and they go in. We all have had that experience. Chris talked to that last time around. So that's our reality.

And then I guess the fourth question I would have about this gate and street ownership, we did contact the city about getting proof of the permit for the gate and the gate that the Kattenhorns, I'm learning today, own. There was no such permit and that was not under their address or name as owning the gate.

So our concern still remains. There's no turnaround and our side of that gate, which is the requirement necessary when you have a stub length that is more than 150 feet. And so that is still in violation and not addressed.

Thank you.

**CHAIR WOLFLEY:** Okay. Thank you.

Andrea Lutes.

**MS. LUTES:** Yes, ma'am. My name is Andrea Lutes. I live at 12408 Walkerway Street, Northeast. And I swear to tell the truth.

**CHAIR WOLFLEY:** Thank you. Go ahead.

**MS. LUTES:** So I would just like to echo my neighbors in terms of the concern for general safety and liability. I have several small children. They play outside. And an increase in public traffic not only increases my liability but puts my children at risk. That would just be the point that I would wish to make to this committee.

**CHAIR WOLFLEY:** Okay. Thank you, Ms. Lutes.

Okay. Is there any other member of the public -- this is the public comment time, so if you want to make public comments, this is your time, and we're about to wrap it up. So please identify yourself now if you've not had a chance and would like to make public comment.

Okay. Ms. Gould or Mr. Rodenbeck, do you see anyone we've

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missed? I've been keeping track of the names, so I don't -- on my own, I don't think I've missed anyone, but --

MR. DIXON: Madam chairman.

**CHAIR WOLFLEY:** -- speak up if I've missed you. Go ahead, sir.

**MR. DIXON:** Yes. This is Todd Dixon. I live at 12416 Walkerway Street. And I swear to tell the truth.

**CHAIR WOLFLEY:** Thank you. Go ahead, Mr. Dixon.

**MR. DIXON:** I am in solidarity with the members of ARE. And when we moved into this community, it was very important that we had a gated, safe community. It has been that when the gate has been closed. When this gate is open, it's going to open it up to the public, and it has been my concern about the safety and break-in in the neighborhood. I'm in solidarity with ARE. Thank you.

**CHAIR WOLFLEY:** Okay. Thank you, sir. And what I'd like --

**MS. COLBERT:** Madam Chair.

**CHAIR WOLFLEY:** Go ahead, ma'am.

**MS. COLBERT:** Yes. This is Leslie Colbert, there's a lady on the phone (inaudible) --

**CHAIR WOLFLEY:** Have you spoken, Ms. Colbert?

**MS. COLBERT:** I have. She just -- can you give directions on how to unmute a phone. I don't know her -- someone is wanting to speak and it --

**CHAIR WOLFLEY:** Is it --

**MS. COLBERT:** Okay.

**CHAIR WOLFLEY:** Is it star 6? Have them try star 6, and please speak up, Jay or Maggie, if you -- I think I can hear someone.

**MS. SJOSTROM:** Hi there.

**CHAIR WOLFLEY:** Hi there.

**MS. SJOSTROM:** Can you hear me?

**CHAIR WOLFLEY:** Can you please give us your name and address?

**MS. SJOSTROM:** Yeah, my name is Robin Sjostrom. I live at 12405 Walkerway Street, and I swear to tell the truth.

**CHAIR WOLFLEY:** Thank you. Go ahead, ma'am.

**MS. SJOSTROM:** Hi. So I agree with the neighbors that have spoken within Albuquerque Ranch Estates. I also have four children. It's a safety concern and property value issue for us.

We are not open to any revision in the gate or to our private property that would leave us liable to public access.

Thank you.

**CHAIR WOLFLEY:** Okay. Thank you, ma'am.

Okay. Once again, last call for anyone who wants to give comment, public comment on this case, this application.

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All right. Now we're leaving public comment, and we will go to -- well, actually, we'll go to -- first I'm going to have an agent respond to the public comment, and that would be Ms. Garcia. And then we will go to board comments, and I will likely make an introductory comment on that.

So, Ms. Garcia, did you want to respond to any of the public comment that you heard?

**MS. GARCIA:** Yes, Madam Chair. I -- I guess I want to address -- and this is something I have not talked to the applicant about. But this is something that is part of the infrastructure list. The infrastructure list requires that we provide "No Parking" signs just north of the gate.

Given the fact that we are now talking about placing "No Parking" signs on the area just north of the gate, this would impact those property owners directly. And there, again, with the same arguments that we've had before, we do not believe.

**UNIDENTIFIED MALE:** Yeah.

**UNIDENTIFIED FEMALE:** Ae you still -- I didn't -- I didn't get on the meeting.

**UNIDENTIFIED MALE:** I'm on it still.

**CHAIR WOLFLEY:** Okay. Everyone needs --

**UNIDENTIFIED MALE:** I'm listening to JAG right now.

**CHAIR WOLFLEY:** You need -- okay. Please put yourself on mute. Sometimes you don't realize that you're not on mute, and so we're getting some interference. So I'll give you a second. Just everyone check and make sure you've got a mic with a red cross-out that shows you're on mute.

Okay. Go ahead, Ms. Garcia.

**MS. GARCIA:** Okay. Thank you, Madam Chair.

So I just hadn't thought about it until there was testimony from the owners, the property owners directly north of the gate. And so these "No Parking" signs that are identified on the infrastructure list will be on their property. Of course it will impact parking they may have. I don't know what sort of parking exists in that area from time to time. So I just want to address that issue and -- and state that, you know, the applicant has no problems putting in signage on public right-of-way. But the "No Parking" signs that are listed on the infrastructure list, you know, was just -- I just thought about the fact that this is -- this is on private property and I do not believe that we really have the authority to do that.

**CHAIR WOLFLEY:** Okay. Thank you, Ms. Garcia.

I'm going to ask everyone who has spoken, if you could possibly lower your hand and that will kind of help me know that I've already talked to you.

And, Mr. Rodenbeck, thank you. One thing I'd like to do as chair, before we get into DRB comments, is talk about what actions trigger other actions. And these are comments that we provided to the applicant. And I'm going to share them with everyone publicly now.

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I think I have the wrong -- let's see. Okay. So there is an existing condition in this area where many of the folks that have spoken on Walkerway are referring to where they have their homes and there is a gate. And the city is not asking that that existing condition be changed. That's not how this all began.

Instead, how this began is that the owner of these other lots, that Ms. Garcia is representing, the 505 Solutions, the owner of those lots has put in an application to the city to replat, and I'm sure you're all aware of this, but to replat and make the lots into 11.

So when you replat land within the City of Albuquerque, you are subdividing, you're creating a new subdivision, and that is a subdivision of land that requires compliance with the IDO, DPM, and other adopted city regulations.

And we have review criteria that we must follow when we're subdividing land in the city, and that review criteria is highlighted here in red, that all applicable provisions of this IDO and the DPM and other city regulations must be followed.

So here are some of those regulations. The IDO requires that streets be designed to the standards of the DPM, which is the Design Process Manual. It's a more specific technical manual on street design. The IDO, once again, is our integrated development ordinance, or our zoning ordinance.

And one other provision from the IDO that I want to highlight is that where allowed, where a stub street is allowed, it's limited to 150 feet in length. And this is all related to being able to successfully move through these areas safely.

And then the Design Process Manual requires -- in this section, it refers to entrance and gate requirements for private ways and streets. So all gated communities must include a turnaround for visitors at the gate so that the vehicle does not stand or back into the city right-of-way. Where a single gate is provided, the minimum width shall be 20 feet. Additional entrance and gate requirements maybe required by the fire marshal.

So these are the requirements that the DRB must follow when someone comes in with a request to subdivide land, which is what is currently before us. And so we don't have the ability to not follow those requirements. We're required to follow those requirements. And so what is tricky in this situation is that the gate is affecting both -- those of you who already have land in a subdivision that's not being subdivided, and then it's we have a request for further subdivide land on the east side of this Albuquerque Estates. Also affected are the people who live to the south who are affected when there is no turnaround.

And so I just want to emphasize that as you're talking about wanting to maintain the existing conditions, those can be maintained. But if someone is requesting to subdivide the property, then all of the requirements related to subdivision of land must be met.

And so it's the applicant's obligation if there's a disagreement about the gate or something like that, who wants the gate, who wants a gate open, that's going to be part of their burden as a subdivider to resolve those issues. And unfortunately, we don't have a good resolution. As many of you are saying you want the gate to stay exactly the way it is. And it's incumbent upon the applicant to determine how to make the IDO requirements met and also make something that's agreeable to the property owners that



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are affected.

With that, I'd like to go to the water authority for comment.

**MR. CARTER:** Thank you, Madam Chair. This is Blaine Carter for the water authority.

Our previous comments have been resolved and we have no further comments in this case. Thank you.

**CHAIR WOLFLEY:** Thank you.

Code enforcement.

**MR. MONTANO:** Hello. Vince Montano, code enforcement. Code enforcement has no comments or objections to either case.

**CHAIR WOLFLEY:** Thank you.

Parks and recreation.

**MS. SOMERFELDT:** Cheryl Somerfeldt with parks and recreation department.

The planning department made a determination on the previous issue with the trees and it will not be required that the trees be retained, although it is preferable. Thank you.

**CHAIR WOLFLEY:** Okay. Thank you. And I know Ms. Garcia said they would try to retain the apricot tree, any it is, on the southernmost -- the southwestern corner of the parcel. And we would appreciate that effort.

Hydrology.

**MS. BRISETTE:** Renee Brisette, hydrology.

Hydrology has an approved grading and drainage plan with an engineer stamp date of July 8th, 2021. We have no objection.

**CHAIR WOLFLEY:** Transportation.

**MS. WOLFENBARGER:** Good morning. This is Jeanne Wolfenbarger with transportation.

As you can imagine, my only comment left was regarding the gate issue. All of my other comments have been addressed. We've had quite a few internal discussions. And I'm reiterating the chair's previous comment that we are looking for some solutions from the applicant to -- to provide to us on how to resolve the gate issue and then meet the DPM requirements for the turnaround. That would be the expectation as part of the new subdivision action.

And I also did want to note, as well, that I think in the past, when the gate was put in, it -- again, we can't find a permit, but I do realize it's shown as part of the plat and DRC plans. At that point in time, with the DPM, although there were turnaround requirements within the DPM, no specific mention was made as far as gates. So I believe they looked at it differently way back then.

And that's all I'd like to say. Thank you.

**CHAIR WOLFLEY:** Okay. And this is Chair Wolfley. And just to reiterate, Ms. Wolfenbarger, that we've -- when someone is

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attempting --

**UNIDENTIFIED MALE:** I'll (inaudible). But hold me back, because I'm going to be there and (inaudible) right now. All right?

**CHAIR WOLFLEY:** Please remember to mute yourself.

**UNIDENTIFIED MALE:** Do you want me to ask him -- to tell them?

**CHAIR WOLFLEY:** Sir, I don't know who you are, but you're not muted and you're disrupting.

So just to emphasize, again, the act of subdividing triggers that the current requirements of the IDO and DPM be abided by. And that's what Ms. Wolfenbarger is pointing out.

And planning.

**MS. GOULD:** I'm sorry. This is Maggie Gould. I do not believe that we have any -- any further comments. Hold on just one moment.

Okay. So we -- we have discussed their letter with the gate and the DPM references. We have discussed turnaround requirements. The chair just went over the definitions of subdivide and the entrance requirements for private lands. We have resolved the mature trees. And we still feel that the vacations have been justified.

**CHAIR WOLFLEY:** Okay. And then just to note for Ms. Garcia, on a final plat, we would like to note that the sidewalk waiver has been approved. I think that was in our comments, as well.

Okay. Let me now go -- Ms. Garcia, do you have any comments?

**MS. GARCIA:** Yes, Madam Chair.

And, Mr. Rodenbeck, if you can kind of zoom in on this particular plat here that you have that outlines the actual plat area.

So -- and we understand completely what you're saying, Madam Chair, in regard to the requirements that are outlined in the IDO in terms of what we are required to comply with as outlined in the IDO and the DPM.

But as I mentioned previously, this -- this right here is the boundary of our plat. We believe that we've submitted all the documentation that we needed to demonstrate that we've complied with this portion of the plat, dealing with roadways, dealing with utilities, dealing with the lot size requirements, the paths. So we believe that we've met all of those requirements, and that's based on the comments that have been provided by staff indicating that they have -- that we resolved all the comments. So now what's lacking, what's of issue, is outside of this boundary, outside of this plat.

We are not proposing a stub street which would require a redesign of a public comment road outside of our area. We are not proposing an entry gate or an entryway that requires us to meet the -- the section regarding entrance and gate requirements for private ways (inaudible). We are not proposing that. That's not part of our plat. That was dealt with in previous plats.

Yet we are being held responsible for what was not held responsible of previous property owners by the city. And so I just want to close with that. Thank you.

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**CHAIR WOLFLEY:** Okay. Thank you, Ms. Garcia. And are you subdividing this area into more lots than exist today?

**MS. GARCIA:** Yes.

**CHAIR WOLFLEY:** And will those additional lots have access through the private gate that you're referring to?

**MS. GARCIA:** Madam Chair, our private lot will have access through Royal Oak Street, which is immediately to the south of our -- of our subdivision, and yes, it will have access to the gate, because the gate is further down Royal Oak Street. But the adjacent road is private, is Royal Oak Street, which is a private road immediately to the south. That's our only exit from this area.

**CHAIR WOLFLEY:** Okay. Thank you, Ms. Garcia.

Mr. Biazar, are you --

**MR. BIAZAR:** Yes, Madam Chair. This is Shahab Biazar.

**CHAIR WOLFLEY:** I'd like to get any comments you would have as city engineer.

**MR. BIAZAR:** No, Madam Chair. I believe you brought up all the issues regarding the gate and all the subdivision requirements per the IDO and DPM. I have no further comments.

**CHAIR WOLFLEY:** May I ask you a question, Mr. Biazar?

**MR. BIAZAR:** Yes.

**CHAIR WOLFLEY:** If someone has their access and it would be their primary and only access, through a private gate that is not exactly on their parcel, but that is the access to their parcel, would these subdivision requirements apply that would say you need to comply with all of the applicable provisions of the IDO, DPM and other adopted city regulations?

**MR. BIAZAR:** Madam Chair, this is Shahab Biazar. As far as I know, yes.

**CHAIR WOLFLEY:** So if their access is through a gate that is lacking a turnaround, they can be required to deal with the problem of the turnaround not being available?

**MR. BIAZAR:** Yeah, this is Shahab Biazar. As far as I know, yes.

**CHAIR WOLFLEY:** Okay.

Ms. Sanchez, do you have any comments on that?

**MS. SANCHEZ:** This is Nicole Sanchez. No, I do not. I defer to the city engineer.

**CHAIR WOLFLEY:** Okay. Thank you, Ms. Sanchez.

All right. At this point, any member of the public who has previously spoken would have a right to ask questions, questions only. And I need you to be very considerate of the DRB and our agenda. But just ask questions about the testimony you've heard. This isn't to add additional comments. It is only to ask questions. And so if you would raise your hand now.

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And let me first -- Cecilia Chavez, I don't have you as having identified that you wanted to speak during the public comment period. How did we miss you?

**MS. CHAVEZ:** I had to chime in late. I'm sorry. I had another appointment today.

**CHAIR WOLFLEY:** Okay. Can you give us your name, address, and I'll swear you in

**MS. CHAVEZ:** My name is Cecilia Chavez. And I live at 5909 Royal Oak Street.

**CHAIR WOLFLEY:** I'm going to give you a quick chance to give your comments and if you had a question, you can follow it up with that immediately,

**MS. CHAVEZ:** Okay. Well, my comment was that I know the development in that neighborhood is of question for the people outside the gate, and I live outside the gate.

So I don't think -- I guess my one comment would be I have heard from some of the neighbors about putting up maybe "No Parking" signs or the discussion about removing the gate. Just as a neighbor who lives outside that gate, I don't think either of those things would be necessary. And the question that I only had was related to if this is a development inside that community and the gate is already existing, does it make sense for the neighbors outside the gate to make comment on that? It doesn't seem to apply. I haven't had an experience where I feel like the street is blocked in any way. And I live just a few doors down from the gate.

**CHAIR WOLFLEY:** Okay. Thank you, ma'am.

Let's then, go -- Vicky Estrada-Bustillo. And this is for questions only. It's not to give comment. But if you have questions about any testimony you've heard, then you can ask a question of the person you want to understand that testimony better.

**MS. ESTRADA-BUSTILLO:** Okay. Thank you very much, Madam Chair. Do I need to be sworn in again or anything, or I'm just good to go? Okay.

**CHAIR WOLFLEY:** You're good to go, ma'am.

**MS. ESTRADA-BUSTILLO:** I just wanted to ask of Ms. Garcia, I think when we had -- we raised these issues initially about the safety and the turnaround at the EPC and were told, "That's later. That's with the site plan, that's down the road." So I guess my question is, I thought -- the indicator is, what I heard her say is, well, there were many other times to bring this in. And what we were told directly -- I guess when would have been the appropriate time given what we were told? And then we, ourselves --

**CHAIR WOLFLEY:** (Inaudible) --

**MS. ESTRADA-BUSTILLO:** -- asked about the road alternative. That has been our primary interest --

**CHAIR WOLFLEY:** Ms. Estrada-Bustillo.

**MS. ESTRADA-BUSTILLO:** Yes.

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**CHAIR WOLFLEY:** This is just for questions. If I understand your question, you want Ms. Garcia to answer regarding the EPC directive that this would -- the turnaround would be resolved now?

**MS. ESTRADA-BUSTILLO:** Correct.

**CHAIR WOLFLEY:** Is that your question?

**MS. ESTRADA-BUSTILLO:** Yes.

**CHAIR WOLFLEY:** Okay. Let's let Ms. Garcia answer that.

**MS. GARCIA:** Madam Chair, so what I recall mentioning was that the subdivision process, the dividing of the lots would be addressed at a later date, and that any issues related to traffic or roadways would be dealt with at the subdivision level, which obviously we're dealing with now.

But upon coming across the fact that this area is owned by private property owners, that -- I was not aware of that at the time that I spoke with -- with the residents there. So -- but I -- what I did say was that the subdivision process would occur at a different hearing. But not that this issue would get resolved at the public hearing, just that it would be addressed at the public hearing.

**CHAIR WOLFLEY:** Okay. Thank you.

Do you have any other questions, Ms. Estrada Bustillo?

**MS. ESTRADA-BUSTILLO:** I just -- it sounded like the city had maybe another proposal or JAG to address. And I'm just wondering if there's a chance that we could hear that at this time, because I'm not clear on what that is?

**CHAIR WOLFLEY:** Ms. Garcia, is there any other configuration you're entertaining for the gate or gates or other access issues?

**MS. GARCIA:** Sure. So, Madam Chair, we do not have any other options. I do know that there was a -- a design that was sent to our client, and that was submitted as part of our supplemental packet. Let me try to find out where it's at, to show you. So it's in the first part, so Part -- Part 1.

**CHAIR WOLFLEY:** Ms. Garcia.

**MS. GARCIA:** Yes.

**CHAIR WOLFLEY:** We can show that real quick. But this is not kind of exactly where we're at. Are you -- if we're showing something, is this something you're willing to do?

**MS. GARCIA:** No. We -- we cannot.

**CHAIR WOLFLEY:** Okay. Then I'm not sure it's worth kind of going through if it's something the applicant's not willing to do.

**MS. GARCIA:** Well, we just feel we cannot, because it's on other people's property.

**CHAIR WOLFLEY:** Okay.

**MS. GARCIA:** Private property.

**CHAIR WOLFLEY:** All right. And, Mr. Rodenbeck, if you want to

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show that just briefly, if that's available. I just -- I'm not sure the merits of going through it in any detail if the applicant's not willing to do it. Or sometimes an applicant has to work with adjacent property owners in order to come up with a solution in a situation this way.

**MR. RODENBECK:** This is Jay Rodenbeck. Ms. Garcia, if you would, please help me find this. This may be it right here.

**MS. GARCIA:** This is it right here.

**MR. RODENBECK:** I think this is it right here. So --

**CHAIR WOLFLEY:** Okay. Ms. Bustillo Estrada -- I'm sorry, Estrada-Bustillo, I think that kind of probably wraps it up for you. We have other hands. So --

**MS. ESTRADA-BUSTILLO:** Perfect. Thank you very much, Madam Chair.

**CHAIR WOLFLEY:** Thank you.

Mr. Oschwald. And once again, the DRB still has cases on our agenda, and I would appreciate your consideration in trying to keep your questions to new material and germane, things that you didn't understand or you're not sure are true. Mr. Oschwald.

**MR. OSCHWALD:** Yes, thank you. I'm -- I'm not sure that I understand Mr. Biazar's comment that he -- as far as he knows, this has not happened before, or as far as he knows the city has some jurisdiction over private property and what can happen on private property. This image that I believe was provided by --

**CHAIR WOLFLEY:** Okay. Mr. Oschwald, this is not a time -- unfortunately, this is not a time to give testimony. But if you have a question of Mr. Biazar, if you want him to clarify a statement.

**MR. OSCHWALD:** Yes. I'd like to have clarification of what authority the city has to make these changes, especially what he's presented here in sketch form. I don't know -- that would -- that would deeply impact several properties in here, to put a gate in front of my house and leave the whole side of my house open.

**CHAIR WOLFLEY:** Okay. Once again, you're giving testimony, comment. And this is for -- like, it's called cross-examination. It's just for questions about testimony that's already been given.

Mr. Biazar.

**MR. BIAZAR:** Madam Chair, this is Shahab Biazar. Again, as Madam Chair indicated, we're not making anybody do anything. This was just merely a suggestion where, how the gate configuration can be changed, but that's up to the applicant to work with all the property owners to make that happen, make everybody happy.

**CHAIR WOLFLEY:** Okay. Mr. Rodenbeck, why don't you go ahead and stop sharing.

All right. Let's go to Bill Nicholson. And once again, this is just for questions, not to give further comments. But if there was something that you need to clarify that has already been given as testimony, you can do that now.

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Are you there Mr. Nicholson?

**MR. NICHOLSON:** Oh, yep. I apologize, Madam Chair.

Yeah, the question is, kind of piggybacking on Jim Oschwald's, is, can one of the -- I think I heard two lawyers who were on the line. Can one of them weigh in on the legality of the chief engineer's comments?

**CHAIR WOLFLEY:** Mr. Nicholson, the attorney to the DRB is Nicole Sanchez, and she said that she deferred to the city engineer. And you've just heard from the city engineer twice.

**MR. NICHOLSON:** I heard that another -- another lawyer on the line, the -- the head one that was pinch hitting. Does he have a -- can he weigh in on that, please?

**CHAIR WOLFLEY:** This isn't a time for people to weigh in. I don't know who you're referring to. But we hear from the applicant's agent, and if they had an attorney, they could have presented themselves.

Ms. Garcia, do you have an attorney as part of your application team?

**MS. GARCIA:** Madam Chair, the property owner is working with an attorney. However, I do not believe the attorney is here today.

**CHAIR WOLFLEY:** Okay.

**MS. GARCIA:** But I do believe with -- the gentleman he is referring to is the interim planning director.

**CHAIR WOLFLEY:** Okay. No. The interim planning director is not available to speak on this. Nor would they at this point in time.

Okay. Any -- any other question, Mr. Nicholson?

**MR. NICHOLSON:** No, ma'am. Thank you, Madam Chair

**CHAIR WOLFLEY:** Okay. Nicole McCleskey. Let's see, did you speak previously?

**MS. MCCLESKEY:** I did not. No, I did not.

**CHAIR WOLFLEY:** Okay. Can you tell me why you did not? You want to comment now, but you did not come forward --

**MS. MCCLESKEY:** I had to --

**CHAIR WOLFLEY:** -- when I called --

**MS. MCCLESKEY:** I actually --

**CHAIR WOLFLEY:** -- for public comment? I'm sorry?

**MS. MCCLESKEY:** Because I didn't have any -- I'm sorry. I live at 12404 Walkerway Street, Northeast. I did not have --

**CHAIR WOLFLEY:** Can you answer my --

**MS. MCCLESKEY:** -- anything additional to add beyond what my -- because I didn't -- the answer to your question is, I did not have anything additional to add beyond what my neighbors had

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already expressed and I did not want to take up the committee's time with additional comment. But I do have questions.

For clarification, it's in your transportation.

**CHAIR WOLFLEY:** Okay. Can you --

**MS. MCCLESKEY:** Yes.

**CHAIR WOLFLEY:** Can you hold for one second?

Ms. Sanchez, would you advice me to continue with Ms. McCleskey or not?

**MS. SANCHEZ:** No. Typically, cross-examination is by people who have already provided testimony.

**CHAIR WOLFLEY:** Okay. I apologize, Ms. McCleskey.

Let me go on to Andrea Lutes.

**MS. LUTES:** Yes, ma'am, thank you. I just have (inaudible) clarification. I believe someone had mentioned that because the plat is going to be further subdivided from what is existing today that it would be subject to new coding. So is that saying that if we were to proceed with development as it is platted today that it would be approved without any issues with the gate?

**CHAIR WOLFLEY:** Ms. Wolfenbarger or Mr. Biazar, I'm going to have you answer that.

**MS. WOLFENBARGER:** Would you please restate the question.

**MS. LUTES:** Yes, ma'am. I think someone had said earlier that because the platting would be changed to further subdivide the land, that it would be subject to new code. So is that saying that if it was to proceed as it is platted today, that there would be no issues?

**MS. WOLFENBARGER:** This is Jeanne Wolfenbarger with transportation.

So the -- so with the application before us, with the new subdivision, we're required to look at new code and bring the current road conditions up to current code. That is our -- that is our requirement before we can sign off on the plans

**MS. LUTES:** Okay. So it's any development would be subject?

**MS. WOLFENBARGER:** Correct.

**MS. LUTES:** Thank you.

**CHAIR WOLFLEY:** Rachel Bevan.

**MS. BEVAN:** Hi. So I just wanted to get clarification. I know that you guys had stated that the DPM [sic] that we -- somewhere in there, it obviously states that we -- owners of this property can make changes to private property. Can you just direct me in the DMP where it says that we can make improvements to private property?

Because I just want to make sure that we're not going to be getting into any legal trouble by requesting or, you know, doing that kind of stuff with the people inside the gates. So can you just direct me to that?



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**CHAIR WOLFLEY:** Okay. Ms. Bevan, so the document is the Design Process Manual, so the DPM.

**MS. BEVAN:** Okay.

**CHAIR WOLFLEY:** And, Ms. Wolfenbarger or Mr. Biazar, do you want to field that question? What are -- are there other instances where someone might have to do work to satisfy the DPM that may not be exactly on their property?

**MS. BEVAN:** Well, and I think, too, Madam Chair, it's specific to on private property. I understand that --

**CHAIR WOLFLEY:** Okay. Specific to private property.

**MS. BEVAN:** Yeah.

**CHAIR WOLFLEY:** Okay.

**MS. WOLFENBARGER:** This is Jeanne with transportation. I wanted to ask Shahab Biazar if you knew of anything. I don't know of anything within the DPM, frankly.

**MR. BIAZAR:** Madam Chair, this is Shahab Biazar.

So like I said, going back to right now the gate is in question. If you -- if you make any changes within that subdivision. So currently, as it stands, we are assuming that -- like I said, you don't have any permits or anything, but you're assuming that it was built according to -- I mean, with permits and all that stuff. Right now, no changes is being made to that gate or no changes is required by the city. But if anything changes or like you are doing -- like, you know what's happening, what JAG is proposing, any changes, then that gate needs to be brought up to code or, like, the turnaround must be provided.

**MS. BEVAN:** And I -- I -- I understand all of that. I'm just trying to look -- I have the DPM --

**CHAIR WOLFLEY:** Ms. Bevan, this is for questions only.

**MS. BEVAN:** I know. I'm just trying to get clarification. I have the DPM pulled up on my computer. So I'm just trying to find the section of where we have the authority to make changes to private property so that we understand that when we're pursuing this application -- you know, this development, that we're doing it in the correct manner. So that's all I'm asking, is where in the DPM does it state that we can make changes to private property.

**CHAIR WOLFLEY:** Okay. This is Chair Wolfley and the premise of your question is that you're going to change -- you're going to make a solution on someone else's property. There are ways that you could look at your own property and make the changes with regard to the plat that you're providing. So there are, therefore, different areas to look. You can cooperate with other property owners and get their permission to make some changes that would help you comply with the DPM requirements, or you can look, once again, at how you're subdividing your property and providing access, and see if you can make a solution there. I think those are choices that you have.

**MS. BEVAN:** Thank you. Can I ask one more clarifying question?

**CHAIR WOLFLEY:** Yes, ma'am.

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**MS. BEVAN:** So I have talked to those property owners, so if the current homeowners inside of the gates are not willing to move the gates or leave them open, what other options do we have as applicants to resolve this gate issue?

**CHAIR WOLFLEY:** This is Chair Wolfley. I think that your options become more limited if the people that you are combined with behind this gate do not want anything changed, they do not want the status quo changed in any way. So you have rights to go forward with your property as its divided now. You can look at reconfigurations that coordinate with the other people who own property there and try to work together on a solution. But there -- when people are sharing this land behind the gate, there has to be some kind of working together. And there could be a couple property owners that might determine with you that they're no longer wanting to be behind the gate and a gate can be moved to a different location, but it is complicated. And it's -- it is complicated.

Okay. Let's go to Pat Melloy.

**MR. MELLOY:** I'm sorry, Madam Chair. My question was just asked and answered.

**CHAIR WOLFLEY:** Same thing?

**MR. MELLOY:** Yes.

**CHAIR WOLFLEY:** Okay.

And then, let's see, I think we have Mike -- is it Mike Conaway that's behind Sue and Mike? Okay. Thank you.

**MR. CONNOR:** It's Connor. C-o-n-n-o-r.

**CHAIR WOLFLEY:** Okay. Thank you.

**MR. CONNOR:** My question basically deals with Royal Oak Street from the original development of Royal Oak outside what is the gate. Has that not always been a dead-end street at that property there? There's been a sign out there that says "Dead-End Street" since we've lived here, but going back historically has it not always been a dead-end street? And if so, why didn't the city, in the original plat, plan for a turnaround?

**CHAIR WOLFLEY:** Okay. Who was your question directed to?

**MR. CONNOR:** I don't know who should answer that. I mean, it's -- I mean, I'm getting the issue from the board that it's an issue for the gate to come through here in traffic, but it's always been a dead-end street, is my understanding.

**CHAIR WOLFLEY:** Mr. Connor, I think -- this is Chair Wolfley, I think the answer to your question is that there can, at times, be existing conditions that maybe have a dead-end street. And at the point at which people develop their property, and in this case, a subdivision action is requested for the transference of a different configuration of lots. That triggers the current development requirements in the IDO and DPM be applied to the parcel in question and the access to the parcel in question.

**MR. CONNOR:** Well, so --

**CHAIR WOLFLEY:** So that's kind of the answer that's applicable to

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our discussion this morning.

**MR. CONNOR:** One other question. There's a "Dead End" sign right at Royal Oak avenue. Was that not intended to be the point where cars were to read the "Dead End" sign and exit via Royal Oak versus continuing?

**CHAIR WOLFLEY:** Ms. Wolfenbarger, do you have any answer to that question?

**MS. WOLFENBARGER:** I don't have any more feedback. This is Jeanne with transportation. The signage is a separate issue, other than the turnaround requirements. I would like to restate that although turnaround requirements were in the original DPM, there was no mention of it as it relates to gates. That's what I had mentioned earlier.

**CHAIR WOLFLEY:** Okay. Thank you.

Okay. Thank you. I think I've given everyone that wanted to a chance for follow-up questions or cross-examination. Please let me know very quickly if I've missed you.

Okay. Mr. Biazar or Ms. Wolfenbarger, is there anything that you've heard this morning that changes your recommendation with regard to this request for a preliminary plat?

**MS. WOLFENBARGER:** This is Jeanne with transportation. I have nothing else to add.

The only thing I'd like to mention, though, is that any discussions regarding property I think the -- the attorneys need to discuss that. Thank you.

**MR. BIAZAR:** Madam Chair, this is Shahab Biazar. I have no further comments.

**CHAIR WOLFLEY:** Mr. Biazar, do you recommend that we -- we proceed on this? Do you think there's any additional research that needs to be done?

**MR. BIAZAR:** Madam Chair, at this point, I don't believe we need any more research. If the applicant is ready, I think the board might -- I would recommend that the board would vote on this, if the applicant is ready for a vote.

**CHAIR WOLFLEY:** Okay. Ms. Garcia, your comments? And let us know if you're ready for a vote.

**MS. GARCIA:** Madam Chair, Members of the Board, we would just hope that all the information that we provided today would move this application in a positive direction, with the acknowledgment that the gate is not part of our property and that we do not have control of somebody's private property.

We -- we just stand by what we've presented today and we would -- you know, we're ready for a decision. Thank you.

**CHAIR WOLFLEY:** Do you have any interest in -- oh, you are ready for a decision. Do you have any interest in working on this further, trying to find some resolution to your access issues and making them compliant with the DPM?

**MS. GARCIA:** Madam Chair, I think we've done everything we possibly could to try to get this resolved. It's obvious that the property owners who are at the junction of the -- of the gate

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in the turnaround are not in support of us making changes to their gate, to their property. And so we -- we do not believe that there's anything else we can do to try to resolve this matter.

**CHAIR WOLFLEY:** Okay. Ms. Garcia, have you looked at any alternative -- alternate platting configurations that would allow you to place a turnaround on your own property that you control?

**MS. GARCIA:** Madam Chair, Members of the Board, our property in the area, that we control, is probably about a good 50, 60 feet away from the gate, itself. There's not any sort of changes that we can make on our property that could modify or that would modify the gate entry area, the turnaround of the area. There's nothing that we can do on our property, the area that we control, to modify the gate or the entry.

**CHAIR WOLFLEY:** Okay. And have you talked to individual property owners that might be near the gate about any ideas of moving the gate or having additional gates to try to resolve the situation and provide a turnaround?

**MS. GARCIA:** Yes. We -- we have. The applicants have spoken to the adjacent property owners. Again, they -- you know, we -- we received the feedback that you received today from them, indicating that they would not support having the gate open on a permanent basis.

They did indicate that they would be in support of allowing the gate to be opened during the construction phase of it. But to have it completely opened every day, from 6:00 a.m. to 7:00 p.m. was not something that the property owners are willing to agree to.

And so we are in a situation similar to the city, in that we could not require them to do it and we also could not require the area to be expanded, because that would take away existing property, gates, walls, fences that are privately owned.

**CHAIR WOLFLEY:** Okay. Thank you, Ms. Garcia.

All right. We have two -- we have two items and five applications before us. We're going to vote on them separately. And starting first with Item Number 1 -- or Item Number 4, which is the application for the preliminary plat SD-2021-111, and sidewalk waiver VA-2021-216. Those applications are together.

I will ask each board member to vote to approve or deny the application. And there -- and the associated infrastructure list, can you show that, Mr. Row.

So the infrastructure list would need to be approved alongside this plat as it is being shown on the screen today. And then, if you are accepting delegation, please summarize that delegation (inaudible). So if you'll just scroll through that infrastructure list, Mr. Rodenbeck.

Okay. And let's go to water authority, and we are voting for the preliminary plat and the sidewalk waiver combined application.

**MR. CARTER:** This is Blaine Carter for the water authority. We can vote an approval of the preliminary plat and sidewalk waiver.

**MR. MONTANO:** Vince Montano, code enforcement. I approve Item Number 4, both requests.

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**MS. SOMERFELDT:** This is Cheryl Somerfeldt with parks and recreation. I approve Item 4.

**MR. ARMIJO:** Ernest Armijo, hydrology. I approve Item 4.

**MS. WOLFENBARGER:** Jeanne Wolfenbarger with transportation. I vote to approve the sidewalk waiver based on testimony today and what's (inaudible) from the city (inaudible) Nicole Sanchez. And in support of my comments, I'm denying the application for the plat.

**CHAIR WOLFLEY:** Okay. Do you mind restating that? There was just a lot of noise right then. And I want to make sure it's clear.

**MS. WOLFENBARGER:** I apologize. I'll do it again.

This is Jeanne Wolfenbarger with transportation. I am voting to approve to sidewalk waiver. However, based on the testimony today with internal staff, I am denying the plat.

**CHAIR WOLFLEY:** Okay. And this is Jolene Wolfley, DRB chair. And I vote to deny both publications because the sidewalk waiver is part of the platting action.

So there is not a consensus, and therefore, Item Number 4, PR-2020-4595, preliminary plat application SD-2020-111, sidewalk waiver VA-2021-216 are denied because they do not meet the applicable requirements of IDO and DPM.

Okay. Now we're on to Item Number 5. Let's see. Ms. Gould, I'm concerned about -- in terms of me, about approving vacations that would not be part of a plat. Would you share that concern?

**MS. GOULD:** So, Madam Chair, I think the -- the vacations would then have to be shown on a future plat. And so if -- you know, the applicant would have -- vacations are generally good for one year. If the DRB approved those vacations, then finishing the vacation would be contingent upon the applicant coming back in to replat. And so I think it is -- it is kind of at the pleasure of the board.

And I don't know if you want to have the applicant weigh in on this. But the applicant could return to us with a different plat. That could, you know, come back with a bulk land plat to consolidate, although -- never mind. They couldn't do a bulk land plat.

They could consolidate that into, you know -- or they could fill -- they could have the -- they'd still have to replat. I guess what I'm trying to figure out is, I don't see a way that the vacations get around future replatting.

**CHAIR WOLFLEY:** Okay. Let me turn to Ms. Garcia.

Would you like the board to take action on Item Number 5 today?

**MS. GARCIA:** Madam Chair, since -- since the items are associated with the plat that we are proposing, we -- we -- just so you know, we do intend on appealing this decision, so if -- if -- if items on Agenda Item Number 5 are approved and we are successful in our appeal, then we would hope that the items that we are -- that were approved in Item Number 5 would be -- would still be applicable. If we are -- if we appeal and we get remanded back to the DRB to get this issue resolved again, you know, that those items would have already been addressed with the -- with the

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approval.

So I don't know. It's a difficult situation.

**MS. GOULD:** Okay. --

**MS. GARCIA:** But --

**MS. GOULD:** Oh, I'm sorry, Ms. Garcia. Go ahead. Are you finished?

**MS. GARCIA:** But I guess I don't want it to be denied and then we have to appeal those, as well, since they're really associated with the plat.

**CHAIR WOLFLEY:** Mr. Biazar, do you have any comments?

**MR. BIAZAR:** Madam Chair, we could possibly defer the approval --

**CHAIR WOLFLEY:** Yes.

**MR. BIAZAR:** -- of those vacation actions.

**CHAIR WOLFLEY:** Okay. Yes.

**MR. BIAZAR:** That's --

**MS. GOULD:** I --

**CHAIR WOLFLEY:** Ms. Gould.

**MS. GOULD:** Yes. I was going to say exactly what -- what Mr. Biazar just said, which is if we were to defer the vacations for a several-month period to allow the applicant time to go through the appeal process, we would not be taking an action, and then, therefore, the -- that would not be appealable.

But as the applicant said, if they were successful in their appeal, they could return with the plat. If not, they could withdraw the cases.

**CHAIR WOLFLEY:** Okay. Ms. Garcia, are you amenable to a deferral?

**MS. GARCIA:** Yes, Madam Chair. I think that makes sense.

**CHAIR WOLFLEY:** Okay. The appeal process is kind of a lengthy one. Would you like to look at something like November 3rd?

**MS. GARCIA:** Yes. That would give us, for sure, a two-month period. We should have an idea as to where we're at with the appeals at that point in time, yes.

**CHAIR WOLFLEY:** Okay. And then we could just adjust as November 3rd approaches and see where we're at, if we need to go out more.

**MS. GARCIA:** Yes.

**CHAIR WOLFLEY:** So okay. Is there a motion to defer Item Number 5 to November 3rd?

**MR. CARTER:** Blaine Carter, water authority. So moved.

**MR. MONTANO:** Vincent Montano, code enforcement. Second.

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**CHAIR WOLFLEY:** Please vote.

**MR. CARTER:** Blaine Carter, water authority. I approve.

**MR. MONTANO:** Vincent Montano, code enforcement. I approve.

**MS. SOMERFELDT:** Cheryl Somerfeldt, parks and rec. I approve.

**MR. ARMIJO:** Ernest Armijo, hydrology. I approve.

**MS. WOLFENBARGER:** Jeanne Wolfenbarger with transportation. I approve.

**CHAIR WOLFLEY:** And Jolene Wolfley, DRB chair, approves.

There's a consensus vote of the DRB -- excuse me -- to defer Item Number 5, PR-2020-4595, applications for vacations 2021-122, 2021-133 and 2021-124 until November 3rd meeting of the DRB.

(Conclusion of partial transcript  
of proceedings.)

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RE: CITY OF ALBUQUERQUE DRB MEETING MINUTES OF  
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I HEREBY STATE AND AFFIRM that the foregoing is a correct transcript of an audio recording provided to me and that the transcription contains only the material audible to me from the recording was transcribed by me to the best of my ability.

IT IS ALSO STATED AND AFFIRMED that I am neither employed by nor related to any of the parties involved in this matter other than being compensated to transcribe said recording and that I have no personal interest in the final disposition of this matter.

IT IS ALSO STATED AND AFFIRMED that my electronic signature hereto does not constitute a certification of this transcript but simply an acknowledgement that I am the person who transcribed said recording.

DATED this 21st day of September 2021.

/S/

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Kelli A. Gallegos