

**PLANNING DEPARTMENT  
DEVELOPMENT SERVICES DIVISION  
600 2nd Street NW, Ground Floor, 87102  
P.O. Box 1293, Albuquerque, NM 87103  
Office (505) 924-3946**

## **REQUEST FOR REHEARING**

Ron Bohannon  
Development Hearing Officer

**Project# PR-2023-006568**  
**Application#**  
**SD-2023-00147 – PRELIMINARY PLAT**

AND

Design Development Group  
8504 Waterford Pl., NE  
Albuquerque, NM 87122

### **LEGAL DESCRIPTION:**

For all or a portion of:

**LOTS 4 AND 5, BLOCK 16 TRACT 3, NORTH  
ALBUQUERQUE ACRES zoned R-1C located at  
9200 WILSHIRE AVE NE between VENTURA  
and HOLBROOK containing approximately  
1.99 acre(s).**

On October 25, 2023, the Development Hearing Officer (DHO) held a public hearing concerning the above-referenced application. After careful consideration of the evidence provided in the applications and at the hearing, the Development Facilitation Team (DFT) requests that the Development Hearing Officer reconsider the application and any supplemental submissions to clarify the proposal and any requests for exceptions to be approved by the City Engineer. The case could be called for rescheduling at the January 10, 2024 DHO hearing. A future date to rehear the case could be set at that hearing.

The DFT recommends this action based on the following:

1. Hydrology conditionally approved the grading and drainage plan “for action by the DHO.” The grading and drainage plan does not require the DHO to approve the proposed subdivision layout.

2. Per IDO 6-6(L)(3)(a), the DHO has authority to approve a Preliminary Plat “if it complies with all applicable provisions of this IDO, the DPM, other adopted City Regulations...”
3. Per IDO 6-4(E)(3), “The applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence.”
4. Per IDO 6-4(E)(4), “The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary.”
5. Per IDO 6-4(G), “A complete application is one that contains all information and application materials required by this IDO, the DPM, and any administrative checklist for that type of development, in sufficient detail and readability to evaluate the application for compliance with the applicable review standards in this IDO.”
6. The application submittal included diagrams without specific wall heights and instead contained a range of speculative wall heights for retaining walls and privacy walls. The wall height along various perimeters was not clear on the application submittal and ranged from 0 to 6 feet. The IDO limits all wall heights to 3 feet in the front and side yards, and Code Enforcement staff testified in the hearing that, based on the applicant submittals provided, Code Enforcement could not confirm whether or not the walls would require a variance. Upon further review by DFT, some of the walls along Wilshire would exceed the IDO limit of 3 feet and would require some type of variance or special approval. The applicant made no request for retaining or privacy walls to vary from the IDO required limit of 3 feet for the front and side yards and has not submitted any approvals for a variance from this requirement.
7. Per the DHO Rules of Procedure, #3, “Conditions of Approval. The DHO may accept conditions of approval for a plat if it would not result in any material redesign of the project.” The DHO approval of the application stated, “All wall heights and necessary setbacks will be in compliance with the grading plan and the DPM per the IDO. In the event that a variance is needed, then the Preliminary Plat will need to be reapplied for.” The application needs a variance for wall heights shown for front and side yards on Wilshire and a material redesign may be necessary for the subdivision.
8. Per the DHO Rules of Procedure, #7, “If an application fails to comply with the requirements in the IDO and DPM, the DHO shall deny the application. Other grounds for denial include incomplete submissions or providing inaccurate, false or misleading information.”
9. The applicant’s evidence and testimony regarding wall heights did not meet the applicant’s burden of showing compliance with required IDO standards.
10. Although the IDO would appear to direct a denial due to the aforementioned issues, the DFT

Official Notice of Decision

Project # PR-2023-006568 Applications# SD-2023-00147

Page 3 of 3

recommends that a rehearing affords the applicant an opportunity to reconsider the subdivision as a whole and clearly demonstrate compliance with all IDO standards.

Sincerely,



Jolene Wolfley

Associate Planning Director

THE Group/Ron Hensley, 300 Branding Iron Rd., SE Rio Rancho, NM 87124

Alan Varela, Planning Director

Shahab Biazar, City Engineer

Matthew Montoya, Legal Counsel to the DHO

Jay Rodenbeck, Development Review Services Manager