

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

OFFICIAL NOTIFICATION OF DECISION

Leppke Investments, Las Ventanas Homes
510 Camino Espanol NW,
Albuquerque, NM, 87107

Project# PR-2023-008085
Application#
SD-2023-00187 PRELIMINARY PLAT
SD-2023-00188
VACATION OF PUBLIC EASEMENT
VA-2023-00310 WAIVER TO DPM

LEGAL DESCRIPTION:

For all or a portion of:

TRACT A-1, SPANISH WALK zoned **PD**
located between **4TH ST** and **CAMINO**
ESPANOL containing approximately **2.4401**
acre(s). (**E-14**)

On December 6, 2023, the Development Hearing Officer (DHO) held a public hearing concerning the above referenced application and approved the request, based on the following Findings:

1. The Environmental Planning Commission (EPC) approved a site plan for this subdivision on February 16, 2023 per PR-2023-008085 / SI-2023-00065. The Site Plan EPC request was to create a 2.5-acre subdivision of 17 lots. The subject site was formerly zoned SU-1 for PRD (planned Residential Development). The PD zoning required the EPC to approve a Site Plan for the subdivision prior to platting. The DFT staff signed off on the EPC site plan for subdivision.
2. The request is a subdivision of an existing lot (Tract A-1, Spanish Walk) into 17-lots and 5 HOA tracts for a proposed residential subdivision.
3. A Waiver and Vacation of Easements have been approved with the Plat as indicated below.

Vacation of Public Easement (SD-2023-00188)

1. The Applicant requested to vacate a public utility easement and replace it with new easements.
2. The Applicant justified the vacation request for the easement pursuant to 14-16-6-6-(M)(3) of the IDO. Per 6-6(M)(3) of the IDO, an application for a Vacation of Easement, Private Way, or Public Right-of-way shall be approved if it meets any of the following criteria:

6-6(M)(3)(a) The public welfare does not require that the easement, private way, or public right-of-way be retained.

The public welfare does not require this easement to be retained.

6-6(M)(3)(b) There is a net benefit to the public welfare because the development made possible by the Vacation is clearly more beneficial to the public welfare than the minor detriment resulting from the Vacation, and there is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right.

The vacation of this easement will not abridge any property rights against the will of the property owners or the public. New Utility Easements are proposed to replace the easement being vacated and, therefore, there is a net benefit to the public welfare.

Waiver to DPM (VA-2023-00310)

1. The Applicant requested a waiver for both sidewalks on both sides of the internal private street. The Waiver is also to construct 26 foot b-b mountable estate curb and a 34 foot wide road in lieu of a 27-foot f-f mountable curb and 46 foot wide road. The Applicant also requested to construct a 5-foot crusher fine path along the frontage of Camino Espanol in lieu of a concrete sidewalk.
2. An Per 6-6(P)(3)(a), An application for a Waiver – DHO shall be approved if it complies with **all of the following criteria**:
 1. ***Any of the following criteria applies.***
 - a. ***There are pre-existing obstructions that cannot be easily or economically relocated or should not be altered, such as grades, fills, water courses, natural topographic features, man-made obstructions, or utility lines.***
 - b. ***The area or site has been recognized as having historical, archeological, and/or architectural significance by the City, State, or federal government, and a Waiver is needed and appropriate to maintain such historical, archeological, and/or architectural significance.***

- c. *The established neighborhood character or landscaping on the site would be damaged to a degree that outweighs the public interest in the City's normal technical standards in that location.*
 - d. *Varying from the normal requirements and standards will encourage flexibility, economy, effective use of open space, or ingenuity in design of a subdivision, in accordance with accepted principles of site planning.*
 2. *The Waiver will not be materially contrary to the public safety, health, or welfare.*
 3. *The Waiver does not cause significant material adverse impacts on surrounding properties.*
 4. *The Waiver will not hinder future planning, public right-of-way acquisition, or the financing or building of public infrastructure improvements.*
 5. *The Waiver will not conflict significantly with the goals and provisions of any City, County, or AMAFCA adopted plan or policy, this IDO, or any other City code or ordinance.*
 6. *The Waiver will not allow, encourage, or make possible undesired development in the 100-year Floodplain.*
 7. *The Waiver will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone.*
 8. *The Waiver does not allow a lot or type of development that does not meet the applicable Development Standards for the zone district where the lot is located, unless a deviation to such standards is within the thresholds established by Subsection 14-16-6-4(P) (Deviations) and is granted by the DHO as part of this approval.*
 9. *The Waiver approved is the minimum necessary to provide redress without being inconsistent with the provisions of this Subsection 14-16-6-6(P).*
 10. *If the request is for a Waiver to IDO sidewalk requirements, the area is of low-intensity land use to an extent that the normal installation of sidewalks will not contribute to the public welfare, and the absence of a sidewalk will not create a gap in an existing sidewalk system extended to 1 or more sides of the subject property.*
-
- a) The waiver requests comply with the decision and review criteria mentioned above. This request is consistent with the established neighborhood character per 6-6(P)(3)(a)(1)(c) and will not be contrary to the public safety, health, or welfare.
 - b) The EPC previously approved the changes in sidewalk conditions based on the neighborhood character. Per neighborhood discussions at EPC, a 5-foot wide crusher fine path will be added along Camino Espanol. **It will be the responsibility of the property owners to maintain the compacted crusher fine trail to keep it suitable for ADA accessibility.**

- c) There are no curb or sidewalks along Camino Espanol or in the neighborhoods to the west. The existing development in the vicinity of the subject property features low-density development.
- d) The existing development in the vicinity of the subject property also features low traffic counts, and the width of street is per the IFC and has been approved by the Fire Marshal.

Preliminary Plat (SD-2023-00187)

1. Per Table 6-1-1 of the IDO, the Applicant satisfied the public notice requirements for a Major Subdivision-Preliminary Plat.
2. The property is zoned PD. Future development must be consistent with the underlying zone district, IDO/DPM requirements, and the governing Site Plan.
3. Members of the public spoke at the hearing, and expressed their opposition to the project. Major concerns expressed by the public at the hearing included the vacation of the public easement as proposed as well as the loss of access to properties abutting the southern boundary of the subject property (by the proposed subdivision).
4. Per 6-6(L)(2)(c) of the IDO, the Waiver-DHO request has been reviewed and decided upon per the relevant IDO criteria, shown on the Preliminary plat, and considered simultaneously with the review and approval of the Preliminary Plat. In addition, required commenting agencies have reviewed and approved the submittal.
5. Per 6-6(L)(3)(a) of the IDO, this Preliminary Plat has been approved because it complies with all applicable provisions of this IDO, the DPM, other adopted City regulations, and any conditions specifically applied to development of the property in a prior permit or approval affecting the property.

Conditions of Approval

Albuquerque Bernalillo County Water Utility Authority Conditions of Approval

1. Update Easement Note #10 to state 'public' water and 'public' sanitary sewer
2. Add the following note to the cover sheet (in italics). Note needs to be on the cover sheet. (If the need to provide a non-exclusive easement is necessary, please discuss with Utility Development on how to manage the language below).

'ABCWUA Public Water & Sanitary Sewer Easements

Albuquerque Bernalillo County Water Utility Authority (ABCWUA) is granted perpetual, exclusive easement(s) in gross in the dimensions noted on this plat for the construction, installation, maintenance, repair, modification, replacement and operation of public water and sanitary lines, equipment and facilities reasonably necessary to provide service together with free access on and over the easement and the right to remove trees, shrubs, undergrowth and any other obstacles, modifications, or structures which interfere with use of the easement.'

3. Update the Infrastructure List per the following directive: the limits of the extensions are not correct, please review and update accordingly such that each lot has access to both water and sanitary sewer.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the DHO's decision or by **DECEMBER 22ND, 2023**. The date of the DHO's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-6-4(V) of the Integrated Development Ordinance (IDO). Appeals should be submitted via email to PLNDRS@CABQ.GOV (if files are less than 9MB in size). For files larger than 9 MB in size, please send an email to PLNDRS@cabq.gov and request that staff send you a link via Smartfile to upload the files to. A Non-Refundable filing fee will be calculated and you will receive instructions about paying the fee online.

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Applicants submitting for building permit prior to the completion of the appeal period do so at their own risk. Successful applicants are reminded that there may be other City regulations of the IDO that must be complied with, even after approval of the referenced application(s).

Sincerely,

Ronald R. Bohannon, P.E.

Ronald R. Bohannon, P.E. (Dec 12, 2023 06:10 MST)

Ronald R. Bohannon, P.E.

Development Hearing Officer

RRB/ha/jr

Isaacson & Arfman, Inc. 128 Monroe St NE, Albuquerque, NM, 87108







PR-2023-008085_December_6_2023- Notice of Decision

Final Audit Report

2023-12-12

Created:	2023-12-11
By:	Jay Rodenbeck (jrodenbeck@cabq.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA3qJJhsWqZ2GiyZO-VEeYWYIVq6dQD57K

"PR-2023-008085_December_6_2023- Notice of Decision" History

-  Document created by Jay Rodenbeck (jrodenbeck@cabq.gov)
2023-12-11 - 11:53:41 PM GMT- IP address: 143.120.132.76
-  Document emailed to 7868rrb@gmail.com for signature
2023-12-11 - 11:54:20 PM GMT
-  Email viewed by 7868rrb@gmail.com
2023-12-12 - 1:10:04 PM GMT- IP address: 50.193.232.49
-  Signer 7868rrb@gmail.com entered name at signing as Ronald R. Bohannon, P.E.
2023-12-12 - 1:10:41 PM GMT- IP address: 50.193.232.49
-  Document e-signed by Ronald R. Bohannon, P.E. (7868rrb@gmail.com)
Signature Date: 2023-12-12 - 1:10:43 PM GMT - Time Source: server- IP address: 50.193.232.49
-  Agreement completed.
2023-12-12 - 1:10:43 PM GMT