



S. R. Marmon Neighborhood Association
P. O. Box 7434
Albuquerque, New Mexico 87194

www.srmna.org

Robert Lucero, Development Hearing Officer
Plaza del Sol Building
600 Second NW
Albuquerque, New Mexico 87102

Re: PR-2023-008674 (Playa del Sur/Miami)

Dear Mr. Lucero:

Problematic issues have emerged regarding the proposed townhome subdivision, Playa del Sur, planned for 5720 Miami Road NW. Before listing these issues, please note that the SRMNA understands that townhouses are a permissive use in the MX-T zone that applies to the lots being considered. Concerns can broadly be divided into those pertaining to the proposed site plan or preliminary plat and due process. Please note that AMREP or AMREP SW is used in place of Butterfly Holdings, L. L. C., property owner of record. Butterfly Holdings is a subsidiary of AMREP.

Site Plan/Preliminary Plat

1. AMREP and Tierra West presented information to the neighbourhood in September and October 2023 that indicated a 45-unit subdivision of two-story townhouses. The site map submitted to the DHO is for 55 units. This represents a sizeable increase in expected traffic into and out of Playa del Sur, further negatively affecting residents on Maiden Grass Road. **An action item from the facilitated meeting on April 30 is for Sergio Lozoya to research and share the threshold number of “trips” that automatically trigger a TIS requirement for residential areas. It does not appear that this was provided to all attendees of the facilitated meeting.**
2. We seek confirmation of a 45' set-back from west side of townhouses to the rear wall of properties on Camino Contento. **Loss of view and privacy are sufficient for parties on the east side of Camino Contento to have standing as aggrieved persons under New Mexico case law (*Village of Mesilla v. City of Las Cruces* 120 N.M. 69 (1995), *Ramírez v. City of Santa Fe*, 115 N.M. 417 (¿1993?).** We want it clarified and confirmed that the physical distance from the rear wall of established residences on Camino Contento to the western-most wall on the new townhouses on Marlin will be at least 45' and will not be decreased and will be increased if possible. When considering staff comments regarding noise mitigation, we support an option of eliminating the units shown on the plat as facing Miami Road and increasing the distance between the western property boundary and townhouses on Marlin. We are dubious of remedies requiring a waiver or variance. Ms. Plant, of AMREP SW, assured me during a phone conversation in September or October of 2023 that no variance or waiver would be sought. **Reducing the number of units in the subdivision could preserve this assurance and address noise mitigation, excessive block length, and view and privacy preservation for residents on Camino Contento.**
3. **A missing action item from the facilitated meeting report is green space within the subdivision--either a pocket park or landscaping.** Mr. Liker agreed to look at this during the

facilitated meeting in addition to the presented exterior colour scheme (**use of earth-tone colours rather than stark white and black**). We would like open space or green space to appear on the plat. *City of Rio Rancho v. Amrep Southwest Inc.*, 150 N.M. 428 (2011) alleged that AMREP SW did not properly preserve open space as agreed.

4. A major concern was site drainage and flood risk which were largely addressed by Mr. Niski of Tierra West. Concerns remain, however, as Mr. Niski appears to be the person who submitted incorrect information to the DHO regarding the site. On page 17 of the resubmittal packet in the letter regarding a Sensitive Lands Analysis, **Mr. Niski wrote that the site was previously developed as a paved parking lot and warehouse that were subsequently demolished. This is false.** If basic information about the site is incorrect, what else is incorrect? **We would like explained the statement by ABCWUA, in agency comments, that an 8-inch sanitary sewer infrastructure is not required along Miami Rd.** Two homes in the surrounding extant subdivisions suffered damage from a sewer line collapse that occurred in July 2022. *Budagher v. Amrep Corp.*, 97 N.M. 116 (1981) showed AMREP's failed attempt to avoid liability for harms caused to neighbours by deflecting liability onto an independent contractor that performed the drainage work prescribed by AMREP.

Due Process

1. Notification Failures. There are two main aspects to the failure of proper notification regarding this case. I will address the debacle with notification of neighbourhood associations and coalitions first. In September 2023, the Office of Neighborhood Co-ordination (ONC) provided to Ms. Plant of AMREP SW, the list of entities given below to contact regarding this project . **Ms. Plant engaged in discussion with SRMNA and WSCONA regarding the project prior to AMREP SW and Tierra West representatives attending a meeting of the SRMNA in October 2023.** See Attachment One for the e-mail containing the listing.

**SR Marmon NA
Westside Coalition of Neighborhood Associations
Laurelwood NA
Parkway NA**

In **February 2024**, the following list of entities, as shown in the submittal packet, was provided from the ONC to Tierra West for notification of a request for Major Subdivision Pre-liminary Plat (DHO) and meeting request:

**Los Volcanes NA
South West Alliance of Neighborhoods
West Mesa NA**

There is no commonality in the two lists. Errors in ONC notification have become mind boggling and need to be addressed. These persistent errors cause problems for neighbourhoods, agents, and developers. SRMNA alerted AMREP and Tierra West about the failure to notify WSCONA after learning of the posted signs on March 26th or 27th at the site for a DHO hearing scheduled for April 10, 2024. It should be noted that **information posted on the signs regarding the venue of the hearing was incorrect and misleading.** SRMNA alerted the Office of the DHO to this and received word on April 9, 2024 that Tierra West had requested a deferral. Tierra West waited until April 15 to notify WSCONA of the submittal but failed to make a meeting request as was done for the Los Volcanes and West Mesa NAs and SWAN.

Further, it appears the published number to make a facilitated meeting request is incorrect. WSCONA informed ONC of a request for a facilitated meeting on April 16. On April 19, WSCONA informed the Office of the DHO about a request for a facilitated meeting for which follow-up was still lacking. **Tierra West also delayed in correcting the venue information posted on the signs at the site, failed to change the date of the hearing on the sign after deferral, and missed one of the posted signs leading to different information presented depending on which sign was read.**

2. Appearance of Bias. **On April 23, Ms. Torres contacted WSCONA and offered a series of dates, May 7-9, for a facilitated meeting.** Please see Attachment Two for the 25-entry e-mail thread hashing out the day of the facilitated meeting. WSCONA and SRMNA preferred one of the originally offered dates; **Tierra West wanted April 30 or May 1, which Ms. Torres offered as alternate dates. Ms. Torres made April 30 the preferred date over the legitimate objections of WSCONA and SRMNA but cancelled the meeting the evening of April 29.** The morning of April 30, Mr. Crump announced that the meeting would be conducted as previously scheduled but with a changed videoconference platform. This was arranged by Mr. Tyson Hummel and left very little time to alert neighbours that the meeting was on again and to distribute the new meeting information. **The action by Mr. Hummel to reinstate the cancelled meeting simply reinforces the appearance of bias in favour of Tierra West and may constitute actual bias in the eyes of a disinterested observer.**

Please note that Tierra West's request for a deferral at the April 10 DHO hearing was inadequate to allow for completion of a facilitated meeting and production of a report from the meeting, thus necessitating a second deferral from the April 24 hearing--it is possible a second deferral might have been avoided if Tierra West had acted in a timely manner regarding notification to WSCONA.

The report for the facilitated meeting appeared to be delayed (>48 hrs?) and was distributed by Mr. Hummel rather than Mr. Crump. It also contained several omissions and errors. It appears to have been included in the resubmittal packet without the corrections. See Attachment Three for errors and omissions.

Other item of interest: **the Warranty Deed on page 21 of the resubmittal packet indicates the the property is in Sandoval County.**



Ms. Ward