

C20/D059

**SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO**

No. CV-2006 08192

**LLAVE CONSTRUCTION CO. INC.,
LLAVE DEVELOPMENT CO. INC.,
ROBERT KEERAN, CYNTHIA KEERAN,
and PETE DASKALOS,**

Appellants,

vs.

THE CITY OF ALBUQUERQUE,

Appellee.

ENDORSED
FILED IN MY OFFICE THIS

APR 09 2007

Quanita M. Duran
CLERK DISTRICT COURT

MELISSA CAVALIER

ORDER

This matter came before the Court on an appeal from the decision of the City Council of Albuquerque rendered on September 8, 2006, and filed with the City Clerk on September 12, 2006, which decision reversed the Development Review Board's approval of the Appellants' preliminary plat for a ten-lot subdivision, vacation of five feet of public right-of-way, and temporary deferral of construction of internal sidewalks (collectively referred to as the "the Preliminary Plat"). The Court considered the facts contained in the administrative record, the applicable statutes, ordinances, regulations, and resolutions, and the legal briefs and arguments of counsel, and based thereon the Court finds:

1. The decision of the City Council was arbitrary or capricious;

2. The decision of the City Council was not supported by substantial evidence;
3. The decision of the City Council was otherwise not in accordance with law.

It is, therefore,

ORDERED, ADJUDGED, AND DECREED that the decision of the City Council which reversed the Development Review Board's approval of the Appellants' preliminary plat be and is hereby REVERSED, and it is further

ORDERED, ADJUDGED, AND DECREED that the decision of the Development Review Board approving the Preliminary Plat be and hereby is REINSTATED, and it is further

ORDERED, ADJUDGED, AND DECREED that this matter be and hereby is remanded to the City Council for further action not inconsistent with this Order, ~~such action, if any, to be taken by the City Council within thirty-five (35) days of the date of this Order.~~ cc

CLAY CAMPBELL

The Honorable Clay Campbell

SUBMITTED BY:

FOSTER, RIEDER & JACKSON, P.C.

By: J. Douglas Foster
J. Douglas Foster
Attorneys for Appellant