

# CITY OF ALBUQUERQUE

PLANNING DEPARTMENT  
ADMINISTRATION  
600 2<sup>nd</sup> Street NW, 3<sup>rd</sup> Floor  
Albuquerque, NM 87102  
Tel: (505) 924-3339



## INTER-OFFICE MEMORANDUM

October 14, 2021

**TO:** Alan M. Varela, Interim Planning Director

**FROM:** James M. Aranda, Deputy Director and Zoning Enforcement Officer (ZEO)

**SUBJECT:** Declaratory Ruling regarding Required Driveway Lengths pursuant to the Integrated Development Ordinance (IDO) and Development Process Manual (DPM)

Kathleen T. Ahghar, Esq., attorney for Stillbrooke Homes, has made a request for a Declaratory Ruling concerning Integrated Development Ordinance (IDO) Section 14-16-5-3(C)(3)(b) regarding required driveway length for low-density residential development pursuant to the requirements and standards in IDO 14-16-5-3 and in the City of Albuquerque Development Process Manual (DPM).

### BACKGROUND

On June 14, 2021, Zoning Plan Examiner Concetta Trujillo issued a denial of Stillbrooke Homes' building permit submission for Lots 24, 25, and 26 of the Horizon Village development (Project # 2018-001842). The proposed 30-lot residential subdivision grants public and private easements. The denial was issued based on review of setbacks, driveways, and other zoning standards as part of building permit review for the three aforementioned lots.

The original Plot Plan for building permit for Lots 24, 25, and 26 of Horizon Village shows a driveway length of +/-15 feet as measured from the garage to the front property lines (the "original driveway lengths").

A subsequent Plot Plan shows a driveway length of +/-21 feet for Lots 24, 25, and 26 (the "subsequent driveway lengths"). However, the subsequent driveway lengths are shown as longer than the original driveway lengths because of a difference in measurement: the original driveway lengths were measured from garage to property line and the subsequent driveway lengths were measured from garage to curb, thereby extending them. The second plot plan would result in the driveway and sidewalk occupying the same space.

### DEFINITIONS

IDO Section 14-16-7-1, Definitions, Driveway: [a]n unobstructed area with a stabilized surface leading from the street to a garage or other allowed off-street parking area in low-density residential development.

Street: The portion of a public right-of-way or private way, from curb to curb (or from edge of paving to edge of paving if there is no curb, or from edge of visible travel way to edge of visible travel way, if there is no paving), that is primarily devoted to vehicular use.

Development Process Manual (DPM), Section 7-4(B)(1)1, Driveway: An area on private property where vehicles and bikes are operated or allowed to stand. The DPM definition for driveway clearly

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contemplates that a driveway is also considered to be an off-street parking area, therefore, DPM Section 7-4(K)(4) Standard and Small Car Parking is also applicable in this matter.

Drive Pad: The portion of a driveway in the right-of-way that connects a street to a commercial or residential driveway and that is typically at sidewalk grade.

### ANALYSIS

The standard under review for this Declaratory Ruling is IDO Section 14-16-5-3(C)(3)(b) requires that driveways accessed from the front or street side of the property for all low-density residential development shall be at least 20 feet long. The intent of the IDO requirement for a 20-foot driveway length is to ensure that a driveway can accommodate a parked vehicle so that it does not protrude or overhang onto the sidewalk (pedestrian realm), thus the emphasis that the driveway length applies to the “front or street side” of the lot.

According to the National Automobile Dealers Association (NADA), every class of car has a general length. Based upon the most recent NADA data, the average car length in the United States is approximately 14.7 feet. (<https://www.nadaguides.com>). IDO Section 14-16-5(3)(C)(3)(b) explicitly requires a minimum driveway length of 20 feet for all low-density residential development.

Pursuant to IDO 14-16--5-3(C)(3)(a), development shall comply with the driveway, drive aisle, and access standards in the DPM. Relevant terms include:

- 1) The pedestrian realm (sidewalk and landscaping). DPM 7-2(D)(1)
- 2) The travel way (curb to curb area for vehicles and bicycles). DPM 7-2(D)(2)
- 3) The private driveway (area on private property for vehicles/bicycles). DPM 7-4(B)(1)

The pedestrian realm (sidewalk) cannot include the driveway. The DPM specifically describes the pedestrian realm as elevated above the travel way so that separation between pedestrians (traveling at slow speeds) and vehicles (traveling at much higher speeds) will not conflict (DPM 7-2(D)(1)). The DPM further states: “All roads in the City right-of-way or roadway easements shall include distinct and accessible accommodations” (DPM 7-4(E)(1)(i)(1)).

The DPM explicitly prohibits vehicles from overhanging City right-of-way or access ramps (DPM Subsection 7-4(K)(4)(6)). However, the DPM regulations provide a limited allowance for vehicles to overhang walkways and landscape areas as long as the overhang does not negatively impact the proposed landscape or reduce the required pedestrian access route to less than 4 feet wide. The intent of the DPM requirements is avoid situations where a protruding vehicle forces the pedestrian to exit the elevated sidewalk and travel in the street (travel way). The travel way is not a safe or distinct corridor for pedestrian travel. This safety risk is greatly increased when a pedestrian has a disability and is less agile, (i.e. travels with a wheelchair). IDO Subsection 14-16-5-3(C)(1) requires that all places of public accommodation as defined in the Federal Americans with Disabilities Act “ADA” (42 USC 12101 et. seq.) shall comply with the requirements of that Act concerning on-site circulation and access. ADA requirements specify that a minimum 4 feet of sidewalk must be free of overhangs and encroachments.

Pedestrian access routes (sidewalks) depicted in the plot plan for Lots 24, 25, and 26 show the subsequent driveway length of +/- 21 feet. However, this driveway length is measured from the building façade to the

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curb edge and includes a 4-foot wide sidewalk and landscape strip (of undetermined width). Based on these measurements, once the sidewalk width is subtracted, the driveway lengths are actually +/- 17 feet in length – less than the minimum requirement of 20 feet. This configuration indicates that the proposed driveways are designed to function both as driveway and sidewalk without a clear delineation of the sidewalk. Generally, subdivision lots have the driveway terminate at the property line, a sidewalk next to the property line, and then a drive pad connecting to the street. The sidewalk, landscape buffer or drive pad are typically right-of-way.

The petitioner states *“because all of Horizon Village lots have a driveway of at least 20 feet in length, from garage to the curb of the street...the proposed building permits meets or exceeds the...driveway...requirements.”* This request is fundamentally asking that the driveway include a portion of the sidewalk. However, a sidewalk is typically part of the right-of-way and, therefore, is distinct from the private driveway (on private property). In the specific case cited by the petitioner, the subdivision has private streets and private access easements for the sidewalk area. The need and requirement to separate the driveway from the sidewalk, or pedestrian realm, remains the same as for private easements as for right-of-way. Following the petitioner’s request would require the City to consistently allow private driveways to encroach upon pedestrian access routes (sidewalk). A 15- foot driveway with a vehicle longer than 15 feet and/or parked a foot or more from the garage would protrude onto the sidewalk. The protrusion or overhang is in violation of DPM 7-2(D)(1)(ii) which requires that the ‘sidewalk’...’ must be free of obstacles’ and ‘protruding obstructions.’ Without this protection, pedestrians would be required to pass the vehicle in the travel way which is unsafe. Keeping pedestrians out of the travel way is particularly important in instances when the pedestrian is in a wheelchair and/or needs a 4-foot minimum passageway per ADA.

### CONCLUSION

When the requirements of IDO 14-16-5-3 and DPM 7-4 are considered, especially in conjunction with the average vehicle length in the United States, a driveway length shorter than 20 feet fails to meet the requirements of IDO 14-16-5-3(C) and DPM Subsection 7-4(K)(4)4 for the reasons elaborated above. The idea that a driveway and sidewalk can overlap one another conflicts with multiple DPM provisions. If a unique circumstance exists, a developer may request a Waiver of the Development Review Board. During that review, the specific context, block lengths, travel speeds etc. could be reviewed to determine any instance where the shorter driveway would be deemed to create a ‘safe’ realm for the pedestrian.

Respectfully,

James M. Aranda, MCRP  
Deputy Director and Zoning Enforcement Officer  
Albuquerque Planning Department