

CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Planning Department

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

April 22, 2019

TO: David Campbell, Planning Director

FROM: Jacobo Martinez, Code Compliance Manager *h*

Subject: Consensus Planning Declaratory Ruling Request

This is a request for a declaratory ruling made by Consensus Planning concerning the application of Integrated Development Ordinance "IDO" Section 14-16-4-3(B)(2)(b) and its applicability to a proposed residential development of the Overlook at Oxbow project. More specifically, this is a request of a declaratory ruling of what constitutes a project site and a site plan for the proposed cluster projects and how should set backs pursuant to 14-16-4-3(B)(2)(b) be applied.

Background

The proposed site plan has been reviewed by the EPC through the Site Plan-EPC process (Project #2018-001402, SI 2018-00171). The site plan proposes two cluster development projects (Cluster A and Cluster B). EPC has approved the Site Plan with conditions specific to set backs. Condition #5 pursuant to the approved site plan states:

5. Setbacks at the perimeter of each cluster are required to be per the underlying R-A Zone District as follows:

- Front, minimum 20-feet
- Side, minimum 10-feet
- Rear, minimum 25-feet – this affects all rear lots facing Namaste Road NW, Tres Gracias Road NW, La Bienvenida Place NW,

If this results in a Major change to the Site Plan, it will be required to be reviewed and approved again by the EPC. The common open space must retain a minimum length and width of 35 feet if lots are adjusted for setbacks per 14-16-4-3(B)(2)(d)1.

Dwelling, Cluster Development

- Pursuant to the IDO Definitions
 - Dwelling, Cluster Development: A development type that concentrates single-family or two-family dwellings on smaller lots than would otherwise be allowed in the zone district in return for the preservation of common open space within the same site, on a separate lot, or in an easement.

- Dwelling, Cluster Development is permitted in the R-1, R-C, R-T, R-ML, ad MX-T zoning categories.
- Dwelling, Cluster Developments are governed by the Use Specific Standard 4-3(B)(2).
- Pursuant to 4-3(B)(2)(a):
 - Minimum **project size** for this use is 1 acre.
- Pursuant to 4-3(B)(2)(b):
 - Zone district lot and setback requirements, including contextual standards in Subsection 14-16-5-1(C)(2), shall apply to the **project site** as a whole, but not to individual dwellings.
- Pursuant to 4-3(B)(2)(d):
 - The cluster development **project site** shall include a common open space set aside for agriculture, landscaping, on-site ponding, outdoor recreation, or any combination thereof allowed in the zone district, and for the use and enjoyment of the residents.
- Pursuant to the IDO Definitions:
 - Project Site: A lot or collection of lots shown on a Subdivision – Minor or Major or on a Site Plan. This term refers to the largest geography specified in the earliest request for decision on the first application related to a particular development. For example, if a large parcel is subdivided and submitted for development in phases, any regulation referring to the project site would apply to the entirety of the land in the original parcel included in the Subdivision application.
- Pursuant to the IDO Definitions:
 - Site Plan: An accurate plan that includes all information required for that type of application, structure, or development.

Conclusion

Pursuant to the IDO, a Dwelling, Cluster Development is a project site. The proposed site plan that has been reviewed and approved by the EPC shows two Dwelling, Cluster Development project sites. A single site plan may show multiple project sites to be reviewed for approval. Each project site must meet the Use Specific Standards as defined by the IDO. Therefore, each proposed Dwelling, Cluster Development shall meet the requirements established by 4-3(B)(2)(b) Zone district lot and setback requirements.



Jacobo Martinez, Manager
Code Compliance Division
Planning Department



CONSENSUS

Landscape Architecture
Urban Design
Planning Services

302 Eighth St. NW
Albuquerque, NM 87102

(505) 764-9801
Fax 842-5495
cp@consensusplanning.com
www.consensusplanning.com

April 3, 2019

Mr. Jacobo Martinez
Code Enforcement Officer
City of Albuquerque
600 2nd Street, NW
Albuquerque, NM 87102

Re: Declaratory Ruling Request

Dear Mr. Martinez:

The purpose of this letter is to request a written declaratory ruling on behalf of Gamma Development, LLC regarding the application of IDO Section 14-16-4-3(B)(2)(b) and its applicability to the proposed residential development of the Overlook at Oxbow project, zoned RA.

The use, as proposed and as approved by the Site Plan – EPC, Project #2018-001402, SI-2018-00171, is a cluster development containing two areas of clustered homes. Cluster Development is a permissive use in the RA zone. The specific concern is related to how this regulation is applied to the property. Section 14-16-4-3(B)(2)(b), which states:

*Zone district lot and setback requirements, including contextual standards in Section 14-16-5-1(C)(2), shall apply to the **project site** as a whole, but not to individual dwellings (emphasis added).*

Project Site is a defined term in the IDO as follows:

*A lot or collection of lots shown on a subdivision – Minor or Major **or on a Site Plan**. This term refers to **the largest geography specified in the earliest request for decision on the first application related to a particular development**. For example, if a large parcel is subdivided and submitted for development in phases, any regulation referring to the project site would apply to the entirety of the land in the original parcel included in the Subdivision application (emphasis added).*

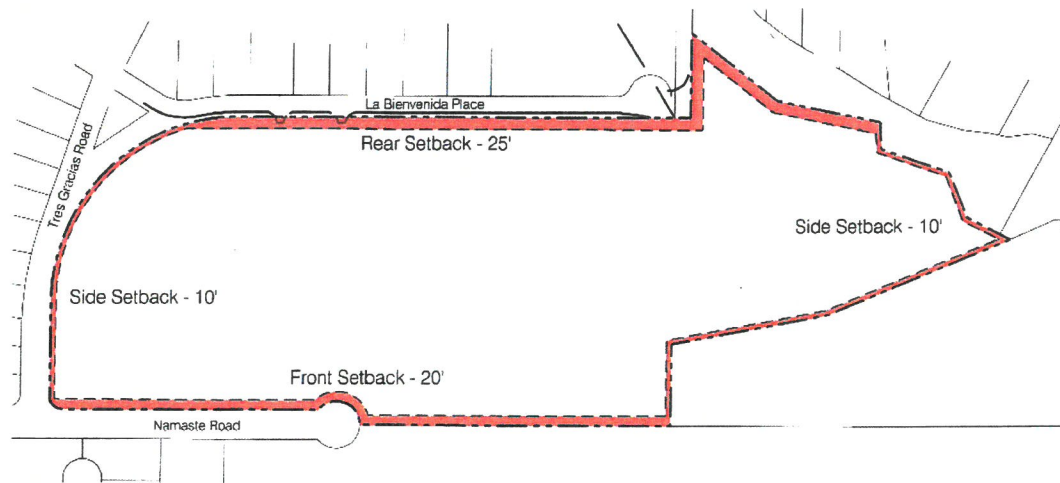
PRINCIPALS

James K. Strozier, AICP
Christopher J. Green, PLA,
ASLA, LEED AP
Jacqueline Fishman, AICP

The Site Plan – EPC covered the entire 22.75-acre site. Gamma Development has not submitted an application for a smaller development site. In fact, the first submittal made to the City under the IDO was for a sketch plat, that also considered the entire 22.75-acre property. The EPC considered the Site Plan application with the understanding that that the two clustered areas each constituted a separate “project site” for the purpose of Section 14-16-4-3(B)(2)(b). This interpretation does not appear to be consistent with the plain

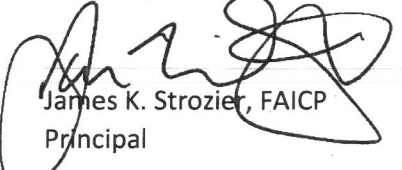


language of the IDO and its definition of project site. Therefore, we are requesting a declaratory ruling about what constitutes a project site for purpose of this 22.75 acre Site Plan and the application of Section 14-16-4-3(B)(2)(b) setbacks to this development. If the 22.75 acres comprises one project site, does that also give us the flexibility to define, what the front, side and rear of the property is for the purposes of this regulation? Our preference would be that the southern property line be considered the front of the project site as a whole with the east and west property lines being the sides, and the northern property line being the rear. The following diagram shows how this would be applied to the project site as a whole:



Based on the above information, we respectfully request a written declaratory ruling as to how the cluster setback regulations will be applied to this property. Please do not hesitate to contact me if you have any questions or require any additional information.

Sincerely,


James K. Strozier, FAICP
Principal