

**BEFORE THE PLANNING AND ZONING COMMISSION
OF THE INCORPORATED COUNTY OF LOS ALAMOS, NEW MEXICO**

Case No. SUB-2024-0017, a request for approval of a Final Subdivision Plat resulting in the splitting of one (1) 29,345 square foot lot into four (4) residential lots located at NC1 271, North Community 1, Lot 271, addressed as 2488 45th Street, Los Alamos, New Mexico

ORDER ON APPLICATION SUB-2024-0017

NOW COMES, the Planning and Zoning Commission (“Commission”) of the Incorporated County of Los Alamos (“County”), that hereby finds as follows:

I. FINDINGS OF THE COMMISSION

The Commission finds as follows:

1. On March 27, 2024, McCloy Land Surveying, LLC, on behalf of property owner Holmann V. Brand, (“Applicant”), submitted an application (“Application”) for approval of a Final Subdivision Plat, splitting one (1) 29,345 sq. ft. lot into four (4) residential lots at 2488 45th Street, Los Alamos, New Mexico (“Property”). *See* PLANNING & ZONING COMMISSION STAFF REPORT by Desirae J. Lujan, Senior Planner (hereafter “CDD Staff Report”), Attachment D, Page 1.
2. The Application was assigned case number SUB-2024-0017. *Id.*
3. A quorum of the Commission was present at the public hearing held on May 8, 2024. The public hearing was open to the receipt of evidence and testimony given under oath, which was subject to cross-examination, in accordance with Section 16-72(f)(5) of the County Development Code.
4. Present for the Applicant was Scott McCloy with McCloy Land Surveying, LLC, on behalf of Holmann V. Brand, Property owner.

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5. Present for CDD was CDD Staff Desirae Lujan, Senior Planner for the Los Alamos County Community Development Department (“CDD Staff Lujan”).

6. There was no one present in opposition to the Application.

7. Evidence received by the Commission at the public hearing includes: 1) Application Packet; 2) IDRC Minutes; 3) Public Notices; 4) CDD Staff Report; and 5) public hearing presentation from Applicant and CDD Staff Lujan.

8. The Property’s legal description is NC1 271, North Community 1, Lot 271 and is located in a Residential Mixed (RM-2) zoning district pursuant to the County’s adopted Zoning Map. *See* CDD Staff Report, Attachment D, Page 1.

9. As provided in the evidence and testimony of CDD Staff Lujan, the final subdivision plat proposes four (4) lots, each taking access on 45th Street. Each proposed lot meets the minimum lot size of 6,500 sq. ft. for RM-2 dimensional standards. Future zero-lot line development may be configured with the lots as proposed, which allows for duplexes or townhomes to be placed on the property line between two lots. *See* CDD Staff Report, Attachment D, page 2; *see also* Testimony of CDD Staff Lujan starting at 00:14:10¹. The Property is comprised of a vacant residential lot, which has been vacant since 2000 when the Cerro Grande fire destroyed the structure that was on the lot. The Property is located west of the County-owned, passive open space (OS-PO) and to the south of Firefighter Park at the corner of Alabama and 45th Street, zoned Open Space-Parks (OS-PP). *See* CDD Staff Report, Attachment D, page 2; *see also* Testimony of Applicant at 00:08:37, and Testimony of CDD Staff Lujan at 00:14:39.

¹ The Video for this hearing is available at [May 8, 2024 Planning and Zoning Commission Meeting \(granicus.com\)](https://www.granicus.com/ViewVideo.aspx?id=111111). All citations to testimony are from this video and is in Hour:Minute:Second format.

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10. As provided in CDD Staff Lujan’s testimony and the CDD Staff Report, notice of the public hearing was published in accordance with Section 16-72(c) of the County Development Code. Notice was published in the *Los Alamos Daily Post* on April 18, 2024; notice of the proposed action and public hearing was mailed via U.S. Mail to the owners of real property within three hundred (300) feet of the Property on April 17, 2024; and the notice was posted at the Property on April 19, 2024. *See CDD Staff Report, Attachment D, Page 5; see also Testimony of CDD Staff Lujan at 00:16:03.*

11. Based on the CDD Staff Report and testimony of CDD Staff Lujan, the Application was presented to the Interdepartmental Review Committee (“IDRC”) on April 11, 2024. *See CDD Staff Report, Attachment D, Page 5.* The Department of Public Utilities (“DPU”) confirmed that the Property is within the portion of the community served by public utilities, not requiring off-site extensions; however, Stephen Mares, Deputy Utilities Manager for Electrical Distribution, communicated that an easement on Lot 271A is needed to access the transformer for maintenance. The Fire Marshall and Chief Building Officer noted no concerns upon review of proposed plans. The County Engineer communicated that there is no requirement for any studies for the final plat and that any reviews for driveways and drainage will be reviewed at the time each lot is developed. Assigned addresses will need to be added to the plat prior to endorsement and recordation. *Id.* On April 11, 2024, the IRDC approved the Application to forward to the Commission. *See IDRC Meeting Minutes, Attachment B, Page 1.*

12. As the Application is a request for the approval of a final subdivision plat, as required pursuant to Section 16-69(b) of the County Development Code, the Commission finds the applicable review criteria for the Commission, in determining whether to approve, approve with

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conditions, or to deny the Application per the review criteria found in Section 16-74(a)(3) of the County Code.

13. The Commission, having received testimony and evidence of the Applicant and CDD Staff Lujan, finds that the Applicant has met its burden and has demonstrated that the Application meets the requirements of Section 16-74(a)(3) of the County Development Code. The Commission, in support of this finding, provides the following:

a) As to criterion (a) of Section 16-74(a)(3) of the County Development Code, the Commission finds that it was demonstrated by the testimony and evidence provided by the Applicant and CDD Staff Lujan that the proposed subdivision of the Property substantially conforms to the intent and policies of the Comprehensive Plan (“Plan”) and other adopted County policies and plans by advancing multiple Plan core themes and associated goals. The proposed subdivision will expand the number of available lots in the neighborhood on an underutilized lot. The Plan’s Housing, Neighborhoods and Growth element goals include planning for modest growth, providing more housing choices, and protecting the character of existing residential neighborhoods. The proposed lot sizes will provide flexibility in housing choice by offering lot sizes that could be developed as a single-family home, a duplex, or a townhome. CDD Staff Lujan testified that she agreed that this criterion had been met because the proposed subdivision conforms to the Plan’s Goals and Policies by supporting the first core theme of Housing, Neighborhoods and Growth. One of the housing goals is to provide a variety of housing types, sizes, and densities, while another is to protect the character of existing residential neighborhoods. The proposed subdivision will divide one of the three large lots on the east side of 45th Street into four smaller lots. This action promotes the development of a now vacant land to construct 4-single-family dwellings, the same number of units provided prior to the Cerro Grande Fire. Homes directly

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across the property consist of single-family detached and attached dwellings. Therefore, the construction of single-family dwellings keeps with the character and scale of the residential neighborhood. The Plan acknowledges the low inventory on vacant lots and encourages that available infill lots construct new houses to make the best and most efficient use of existing infrastructure and utilities. The proposed subdivision would make use of an infill lot and existing infrastructure. The Plan's Goals and Policies for growth within the County would be supported by the proposed subdivision by increasing the County's housing supply at an infill site. *See* CDD Staff Report, Attachment D, Page 6; *see also* Testimony of CDD Staff Lujan at 00:15:45.

b. As to criterion (b) of Section 16-74(a)(3) of the County Development Code, the Commission finds that the proposed subdivision is not materially detrimental to public health, safety, and welfare. As provided through the evidence and testimony of the Applicant and CDD Staff Lujan, the proposed subdivision is comprised of a 0.68-acre vacant residential lot. The proposed subdivision fits with the development pattern of the neighborhood with Lot 248 across the street being divided into three (3) residential lots and Lot 247 also across the street being divided into two (2) residential lots and a three (3)-unit condo. CDD Staff Lujan testified that she agreed that this criterion had been met because the proposed subdivision meets the requirements for single-family development in the RM-2 zoning district, including lot widths that ensure safe driveway spacing, per Section 16-25(b) of the County Development Code. The proposed subdivision meets the requirement for which driveways on residential corner lots are to not be located closer than 20 feet to the radius return. *See* CDD Staff Report, Attachment D, Pages 6-7; *see also* Testimony of CDD Staff Lujan at 00:15:45.

c. As to criterion (c) of Section 16-74(a)(3) of the County Development Code, the Commission finds the proposed subdivision is in conformance with all applicable provisions of

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the County Development Code and other adopted County regulations. As provided through the evidence and testimony of the Applicant and CDD Staff Lujan, Applicant and CDD Staff Lujan confirm that the zoning for this property is RM-2. All proposed lots meet the minimum allowable size for the future development of single-family, duplex, or townhome construction. Allowances are made to allow building setbacks to meet the minimum setback requirements, reasonable lot coverages, and will comply with all other dimensional standards for RM-2, including lot widths and driveway spacing. CDD Staff Lujan testified that she agreed that this criterion had been met because the proposed subdivision meets the requirement because the lots sizes proposed in this subdivision meet the dimensional standards of the RM-2 zone district for developing single-family residences. All lots, including the corner lot meet the County Development Code requirements for residential driveways to be designed and constructed per the County's Public Works Design and Construction Standards. All development standards and requirements of the underlying zone district will be reviewed during building permit application process *See* CDD Staff Report, Page 6, Attachment D; *see also* Testimony of Applicant at 00:11:32, and Testimony of CDD Staff Lujan at 00:15:22, and 00:15:45.

d. As to criterion (d) of Section 16-74(a)(3) of the County Development Code, the Commission finds the proposed subdivision can be served or be capable of being served by all public utilities. As provided through the evidence and testimony of the Applicant and CDD Staff Lujan, public services and water/sewer facilities required to serve the proposed subdivision have adequate capacity and the final plat conforms to the requirements of the County's standards. Pre-application meetings with relevant County departments occurred on August 29, 2023, for the preliminary plat, and on March 19, 2024, for the final plat. Revisions were made during preliminary platting, as requested, to provide Lot 271A with sewer access via a fifteen (15')-foot

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sewer easement on Lot 271B for the benefit of Lot 271A. No revisions were requested for the final plat. CDD Staff Lujan testified that she agreed that this criterion had been met because all public utilities needed to serve each of the proposed subdivision lots exist in the area and have been communicated by DPU to be adequate. *See* CDD Staff Report, Attachment D, Page 7; *see also* Testimony of Applicant at 00:11:53, and Testimony of CDD Staff Lujan starting at 00:15:02, and 00:15:45.

e. As to criterion (e) of Section 16-74(a)(3) of the County Development Code, the Commission finds the County's public infrastructure and services required to serve the proposed subdivision including but not limited to water, sanitary sewer, electricity, gas, storm sewer, streets, etc. have adequate capacity to serve the proposed subdivision. As provided through the evidence and testimony of the Applicant and CDD Staff Lujan, DPU indicated that the County's existing infrastructure could service the proposed subdivision. County Engineering and Waste Collection divisions approved the subdivision to go forward without any revision. CDD Staff Lujan testified that she agreed that this criterion had been met because that public services and water/sewer facilities required to serve the proposed subdivision have adequate capacity. A discussion of all public infrastructure that could be required for service, as well as any features that exist on the lot such as electric boxes and bus stops were discussed during the IDRC meeting with satisfaction. Regarding a bus stop in front of Lot 271C, the County Engineer commented that safety evaluation of that stop and discussion for relocation options will be considered at the time Lot 271C is developed. *See* CDD Staff Report, Attachment D, Page 8; *see also* IDRC Minutes; *see also* Testimony of Applicant at 00:11:52, and Testimony of CDD Staff Lujan at 00:15:56.

f. As to criterion (f) of Section 16-74(a)(3) of the County Development Code, the Commission finds that existing County infrastructure is within existing easements and no new

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public easements are anticipated to be necessary. A private sewer easement within Lot 271B will be granted for the benefit of Lot 271A, so that Lot 271A can construct a sewer service that crosses Lot 271B and enters the existing public sewer manhole. CDD Staff Lujan testified that she agreed that this criterion had been met because easements were addressed, approved, and included on the plat during the preliminary plat phase. At IDRC, an easement to access a transformer on Lot 271A was requested. The Applicant responded with an amended Final Subdivision Plat, which DPU has approved. *See* CDD Staff Report, Attachment D, Page 8; *see also* Testimony of CDD Staff Lujan starting at 00:15:45.

g. As to criterion (g) of Section 16-74(a)(3) of the County Development Code, the Commission finds that the plat retains no natural features such as watercourses, natural vegetation, terrain, historic and archaeological sites and structures, and other community assets, which if preserved, will contribute to the overall appearance and quality of life in the county to the maximum extent feasible. As provided through the evidence and testimony of Applicant and CDD Staff Lujan, the proposed subdivision was burned by the Cerro Grande fire and is currently a vacant lot. There are no community assets visible on the lot. CDD Staff Lujan testified that she agreed that this criterion had been met because the lot currently has no significant features that should be preserved or cataloged. Vegetation consists of turf grass maintained by mowing. Behind the lot to the east is a natural drainageway, zoned passive open space (OS-PO), but no watercourses exist on site. The previous structure was lost in the Cerro Grande fire, and no historic and archaeological sites are known to be on the property. None of these natural features would be disturbed by this final plat proposal. *See* CDD Staff Report, Attachment D, Page 8; *see also* Testimony of Applicant at 00:09:16, and Testimony of CDD Staff Lujan starting at 00:15:45.

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h. As to criterion (h) of Section 16-74(a)(3) of the County Development Code, the Commission finds the proposed subdivision does not create a nonconformity or increase the extent or degree of an existing nonconformity with the provisions of this Code. As provided through the evidence and testimony of the Applicant and CDD Staff Lujan, the proposed subdivision does not create a nonconformity and no variances are required. CDD Staff Lujan testified that she agreed that this criterion had been met because all RM-2 dimensional standards have been met for each proposed lot. Each lot created exceeds the minimum area of 6,500 sq. ft. and exceeds the lot widths of forty (40') feet. All requirements for safe corner lot widths have been met. Easements have been provided where required by IDRC. These plat elements do not require a variance, and to the extent possible, prevent nonconformity from occurring in the future at the building permit stage. *See* CDD Staff Report, Attachment D, Pages 8-9; Testimony of Applicant at 00:11:18; *see also* testimony of CDD Staff Lujan at 00:15:20.

i. As to criterion (i) of Section 16-74(a)(3) of the County Development Code, the Commission finds the proposed subdivision complies with all applicable provisions of this Code, any other adopted County regulations, and any conditions specifically applied to development of the Property in a prior permit or approval affecting the property. As provided through the evidence and testimony of the Applicant and CDD Staff Lujan, each lot created meets the minimum area of 6,500 sq. ft. required by the RM-2 zone district. The following lot areas are proposed: 271A = 6,515 sq. ft.; 271B = 6,550 sq. ft.; 271C = 7,352 sq. ft.; 271D = 8,927 sq. ft. Each lot created meets the minimum width of forty (40')-ft. required by the RM-2 zone district. The following lot widths are proposed: 271A = 52.9 ft.; 271B = 45.6 ft.; 271C = 45.6 ft.; 271D = 45.6 ft. The preliminary plat was approved by the Commission without conditions. CDD Staff Lujan testified that she agreed that this criterion had been met because the RM-2 dimensional standards have been met

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with this final plat proposal and the preliminary subdivision plat application was approved on February 14, 2024. *See* CDD Staff Report, Attachment D, Page 9; Testimony of Applicant at 00:11:18; *see also* testimony of CDD Staff Lujan at 00:15:19.

j. As to criterion (j) of Section 16-74(a)(3) of the County Development Code, the Commission finds this criterion was met because additional requirements requested during the final plat review, if any, will be addressed at that stage. As provided through the evidence and testimony of the Applicant and CDD Staff Lujan, the preliminary plat was approved by the Commission without conditions. CDD Staff Lujan testified that she agreed that this criterion had been met because the preliminary plat was approved by the Commission on February 14, 2024, without changes, conditions, or requirements. *See* CDD Staff Report, Attachment D, Page 12; *see also* testimony of CDD Staff Lujan at 00:15:02.

II. ORDER

The Commission, pursuant to Section 16-72(f)(5)(c)(3) of the County Development Code, by majority vote, hereby finds that the Applicant has sufficiently demonstrated that the request for a Final Subdivision Plat meets all requirements, and after full hearing and consideration, **hereby Approves Application SUB-2024-0017.**

APPROVED on this date: 5/31/2024



Rachel Adler, Chair of the Planning & Zoning
Commission for the Incorporated County of Los
Alamos