DXD EMPIRE / 1802 CERRILLOS ROAD

DEVELOPMENT PLAN APPEAL

City of Santa Fe · Governing Body · November 18, 2026

Appellants: Thomas Trust Holdings, LLC · TP-SFSS, LLC · Thomas Properties-NM, LLC

Presented by Forrest R. Thomas, Manager

Appeal timing: guidance changed

FORREST THOMAS / REQUESTS

JUN 15, 10:53 a.m. | Forrest Thomas
"…let me know the deadline for the appeal and the specific appeal process."

JUN 16, 10:32 a.m. | Forrest Thomas
"The deadlines are tight and unforgiving, so please provide the information as soon as possible."

AUG 7, 2:22 p.m. | Forrest Thomas
Requested a meeting to deliver the finalized appeals and discuss the SUP deadline.

SEP 28, 11:08 a.m. | Forrest Thomas
"For clarity, I am not withdrawing the SUP appeal, and I do not agree that it was untimely."

CITY / RESPONSES

JUN 16, 11:53 a.m. | A. George Terry
"I am confirming the precise case-specific appeal deadline and filing path before providing a final deadline calculation."

AUG 7, 3:41 p.m. | Heather Lamboy
"the 30-day deadline will apply to both cases."

SEP 15 | Heather Lamboy, voicemail transcript
"the city attorney's office ultimately determined that the special use was not timely."

The record shows deadline requests, conflicting guidance, and continued disagreement with the later determination.

Source: Filed DP Evidence Packet pp. 25–27, 32–34, 37. Sept. 15 is an automated voicemail transcription.

Required notice: repeated requests for the recipient list

FORREST THOMAS / REQUESTS

AUG 27 | Forrest Thomas
"…provide me a copy of the property-owner/address mailing list, neighborhood-association notice list, and proof/certificate of mailing…"

SEP 28 | Forrest Thomas
"I still need confirmation of what will be supplied—mailing labels, a recipient list, an editable address file, and any separate neighborhood-association list—and when."

OCT 6 | Forrest Thomas
"At a minimum, the Casa Alegre Neighborhood Association was not included."

OCT 13 | Forrest Thomas
"Please confirm that the final appeal-notice list will include all required recipients, including applicable neighborhood associations…"

OCT 23 | Forrest Thomas
"I am not in a position to determine which neighborhood associations are sufficiently close to the property to require notice."

CITY / RESPONSES

AUG 31 | Acknowledgment recounted Sep. 28
"acknowledged by Mr. Terry on August 31" — Forrest Thomas's Sep. 28 follow-up.

OCT 1 | Natalie Cauley
"I will respond in the email chain with Mr. Pacheco so we can address your other questions about notice, as appropriate."

OCT 9 | Natalie Cauley
"I will respond to your question about the neighborhood association next week."

OCT 21 | Natalie Cauley
"These neighborhood associations can be found through the City's online mapping tool."

OCT 27 | Natalie Cauley
"That is correct, the two addresses sent below and Mr. Pacheco's list for neighboring properties comprises the entire official mailing list."

AUGUST 27 → OCTOBER 27 61 days between the documented request and final-list confirmation.

Sources: Aug. 27 email supplied by appellant; Filed DP Evidence Packet pp. 39–41, 43–45, 47, 49; Oct. 27 Cauley email supplied by appellant.

Information needed to prepare the appeal

FORREST THOMAS / REQUEST

OCT 13 — **Forrest Thomas**

"...the Chapter 14 provisions applicable to the substantive review of each application and the application-completeness dates used to make that determination."

OCT 13 — **Forrest Thomas**

"When will the complete written Planning Commission record be available to the parties..."

OCT 20 — **Forrest Thomas · Corrections 39–44**

"Were these corrections considered satisfied, deferred for completion at a later stage, or still outstanding when the Planning Commission approved the project?"

OCT 29 — **Forrest Thomas**

"Please advise when the final written decision will be issued..." (SUP ruling).

CITY RESPONSE / STATUS

OCT 21 — **NO DEEMED-COMPLETE DATE PROVIDED IN REPLY**

OCT 21 — **Natalie Cauley**

Summary: Explained permitted prehearing submissions and how to cite documents; did not directly specify when the complete Planning Commission record would be available to the parties.

OCT 21 — **Natalie Cauley**

"None of the information you seek has any bearing on the three permitted bases for appeal. As a result, City Staff will not respond to these inquiries.."

OCT 21 — **Natalie Cauley · Packet availability**

The October 21 response also stated the compiled Governing Body packet would likely be available November 13—after the November 9 evidence deadline.

OCT 29 — **Natalie Cauley**

"There will not be a written decision issued by the Governing Body..."

Sources: DP Evidence Packet pp. 45–48, 52–53; Oct. 13 and Oct. 20 emails supplied by appellant.

Late guidance compressed preparation

CITY COMMUNICATIONS

SEP 28 · Natalie Cauley | SUP conformity

“The conformity review will be provided to both parties with ample time to prepare for the October 28th hearing.”

OCT 21 · Natalie Cauley

“the 2011 Resolution does not provide for an additional brief to be submitted by the Appellant.”
“There is no procedure for you to respond in writing to the Governing Body packet in advance of the hearing…”

OCT 26 · Natalie Cauley

Corrected October 21 direction: the appeal form could no longer be amended.

NOV 5 · Natalie Cauley

"any presentation that a party plans to present must be provided to me via emailed PDF by 5pm on Thursday November 12."

EFFECT ON APPEAL PREPARATION

SEP 28 · EFFECT ON PREPARATION

Assurance of adequate preparation time despite travel Oct. 16–20 already disclosed.

OCT 21 · SUBMISSION INSTRUCTIONS

Change in instruction, requiring rework of the submission.

OCT 26 · EFFECT ON PREPARATION

Earlier amendment guidance was rescinded after the appeal filing deadline.

NOV 12 · PRESENTATION DEADLINE

Changing instructions reduced time to prepare and respond, forcing me to work during previously identified travel or miss the submission deadline.

Successive and late instructions curtailed the appellant’s available preparation and response time.

Sources: Filed DP Evidence Packet pp. 38, 47, 50; Nov. 5, 2026 email from Natalie Cauley supplied by appellant.

CODE APPLICABILITY

Which Chapter 14 governed the Development Plan?

DEC 19, 2025
Application received
Documented

→

JAN 1, 2026
New Chapter 14 effective
Transition date

→

FEB 9, 2026
DRT intake
Documented

AUG 10, 2026 — **Development Plan appeal filed — incorrect application of Chapter 14 was already a stated ground.**

OCT 13, 2026 — Forrest Thomas again requested the application-completeness date, referring to prior unanswered requests.

OCT 21, 2026 · NATALIE CAULEY

DEEMED-COMPLETE DATE: UNANSWERED

Source: Aug. 10 DP petition (Code-application ground); DP Evidence Packet pp. 6, 30, 45–48.

Why the Code determination matters

01

APPLICABLE EDITION

Identify the substantive Chapter 14 legally governing the application.

02

REQUIRED STANDARDS

The governing edition determines the applicable approval standards.

03

SUPPORTED FINDINGS

Did the Commission even apply the correct version of the Code?

Correct Code selection is foundational to the Development Plan approval.

The applicability issue concerns substantive review—not the separate appeal procedure.

Source: DP Evidence Packet p. 6; August 10 verified appeal; City email at packet p. 30.

APPEAL FRAMEWORK

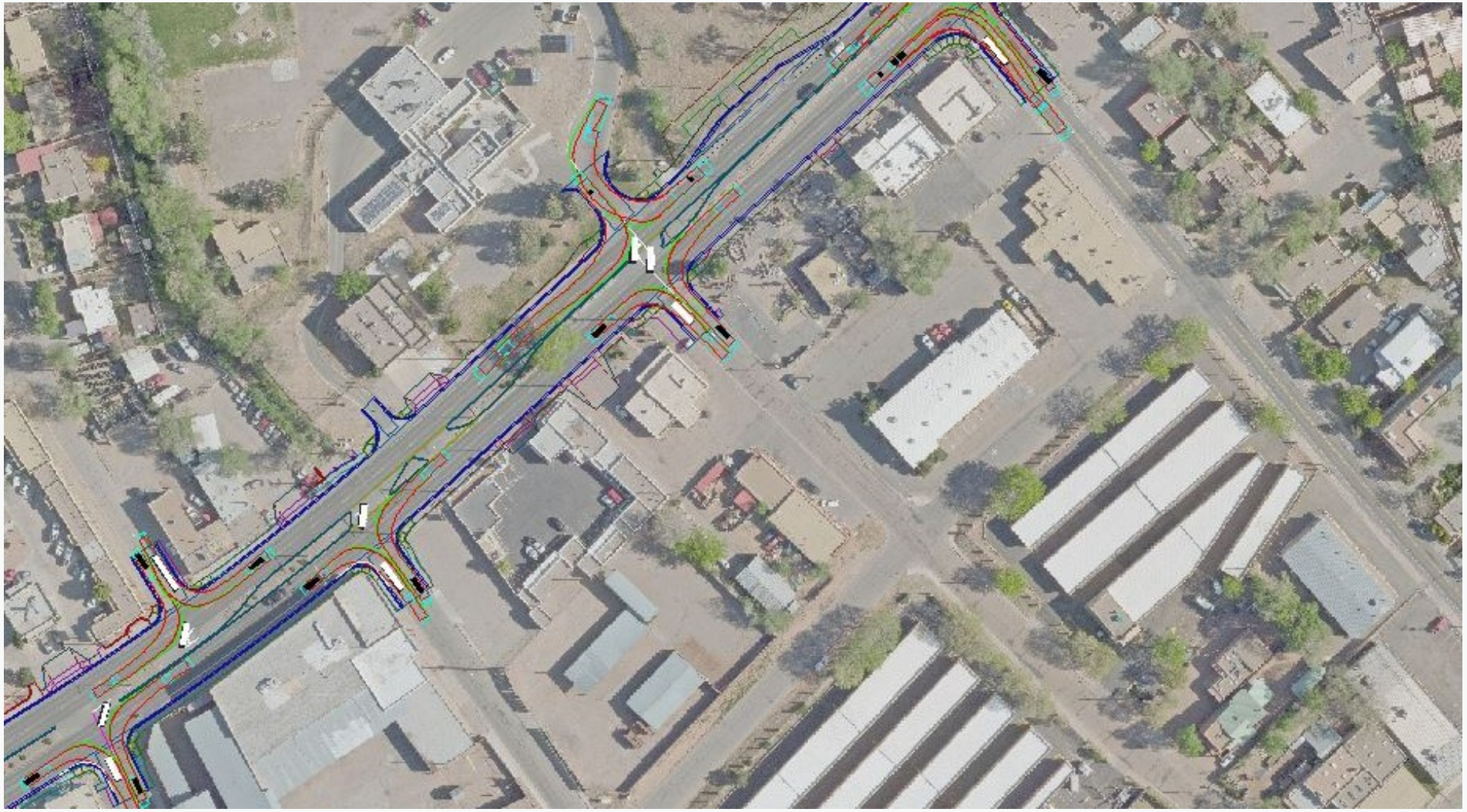
The required Development Plan findings

PUBLIC INTEREST	Vehicle types, turning movements and pedestrian crossings create safety concerns on surrounding neighborhood streets, Cerrillos Road and with Fire Station 3.
COMPATIBILITY	A 29′6″, predominantly windowless building has a scale and character that do not fit the surrounding neighborhood.
ADAPTABILITY	The building footprint, site arrangement and parking supply constrain meaningful conversion to other commercial uses.

The Commission needed sufficient evidence for each finding when it approved this specific plan.

Source: DP Evidence Packet pp. 3–8, 10, 16–20; original DP petition and operative Commission findings.

Area streets: traffic circulation



Source: DP Evidence Packet p. 15 (NMDOT aerial overlay); pp. 3–4.

Vehicle types and overall lengths

FOUR VEHICLE PROFILES · COMMON HORIZONTAL SCALE

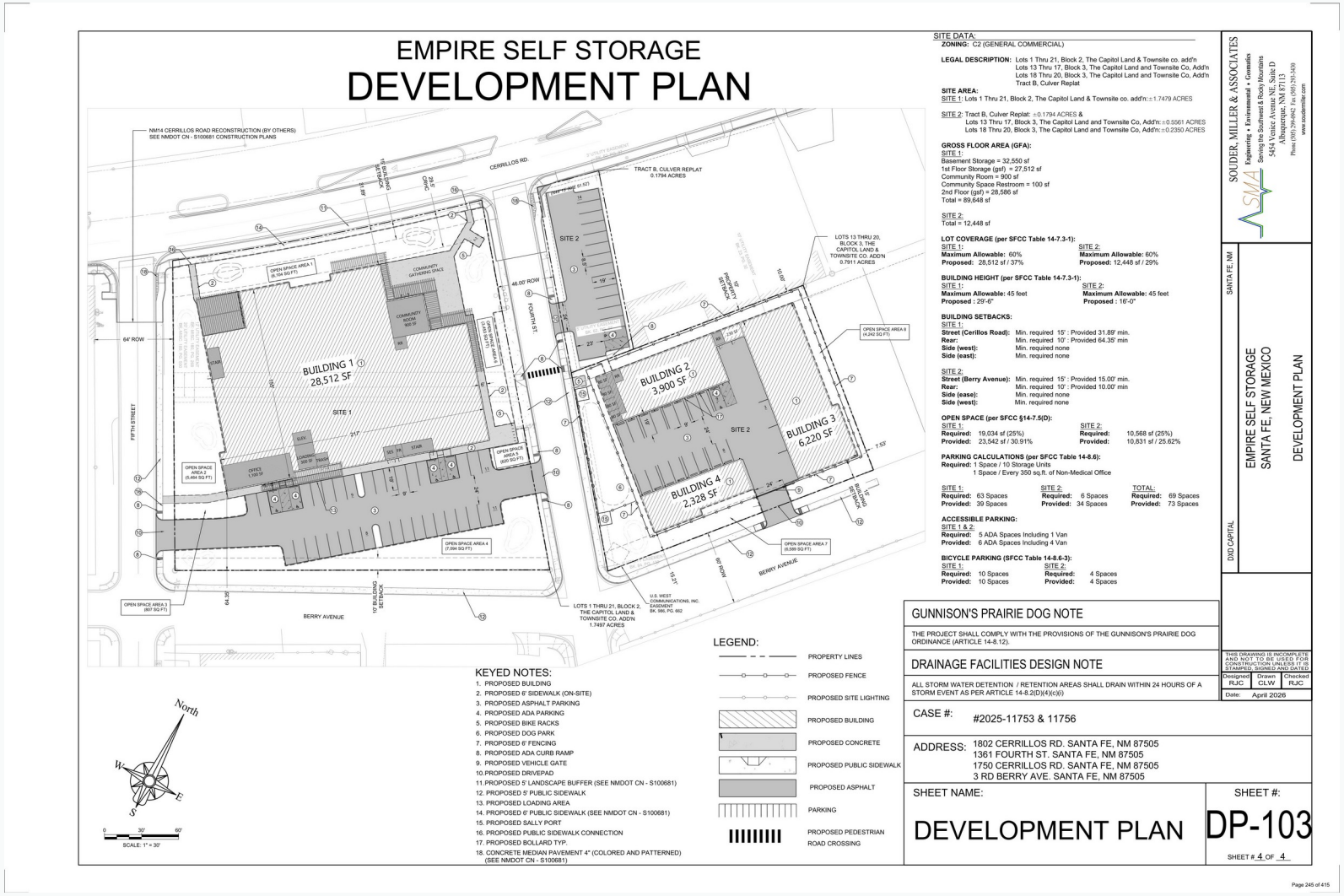
0 10 20 30 40 50 60 70 FEET

SU-40 / single-unit truck		39.5 ft
Crew cab + 16-ft trailer		≈40–41 ft
22-ft moving box truck		≈30 ft
WB-67 tractor-semitrailer		73.5 ft

Overall length and articulation—not trip counts alone—govern real access and turning conflicts.

Source: design-vehicle standards and representative manufacturer dimensions; photorealistic illustrative vehicles.

Two sites, four entrances, a Fourth Street crossing



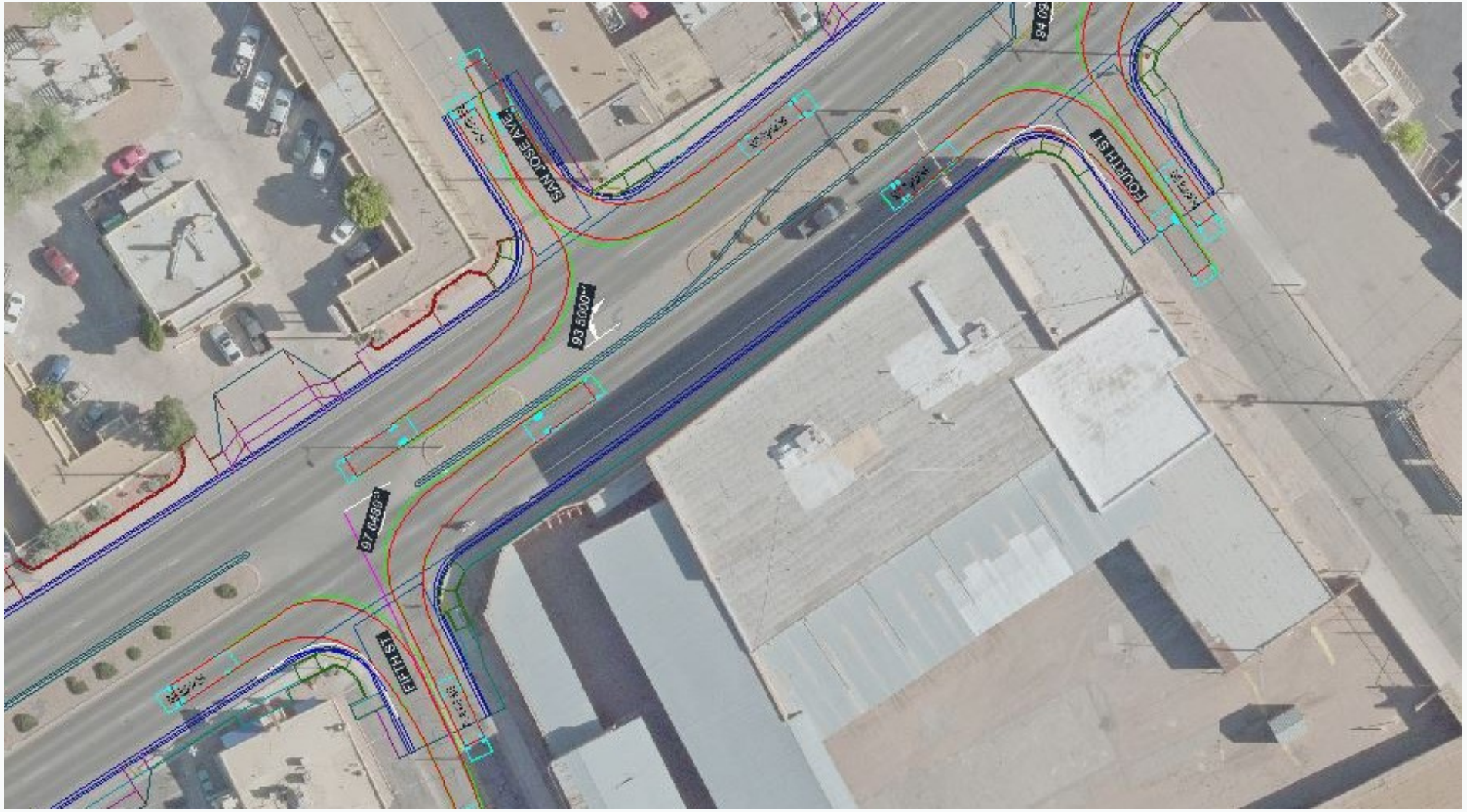
Source: filed DP Evidence Packet p. 10, Exhibit 1 — original DP-103 drawing (exact embedded source image).

Fifth Street: Turn Pocket Capacity Concern



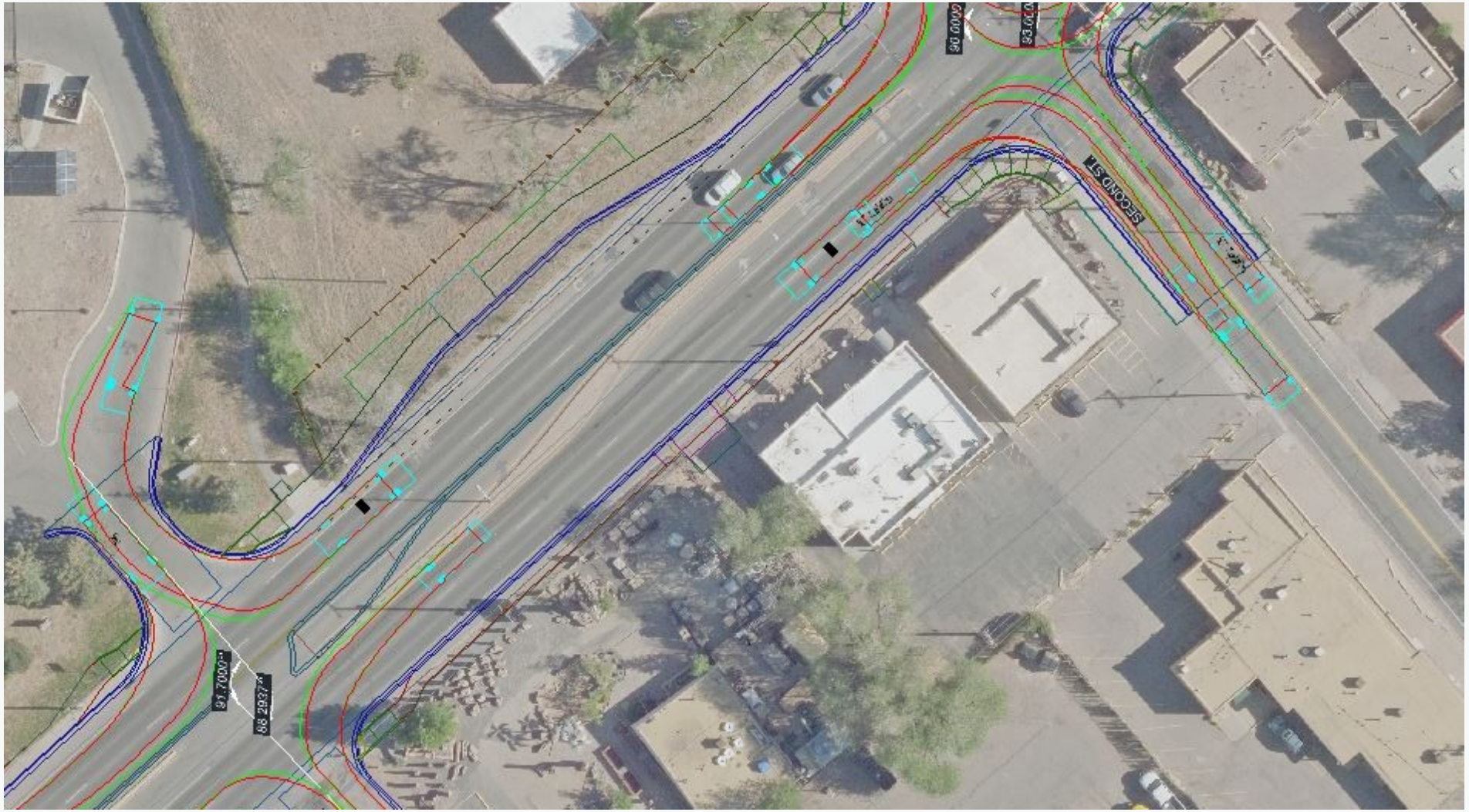
Source: DP Evidence Packet pp. 4, 14–15; SFCC §24-2.6 truck restrictions cited in packet.

Fourth and Fifth: access consequences



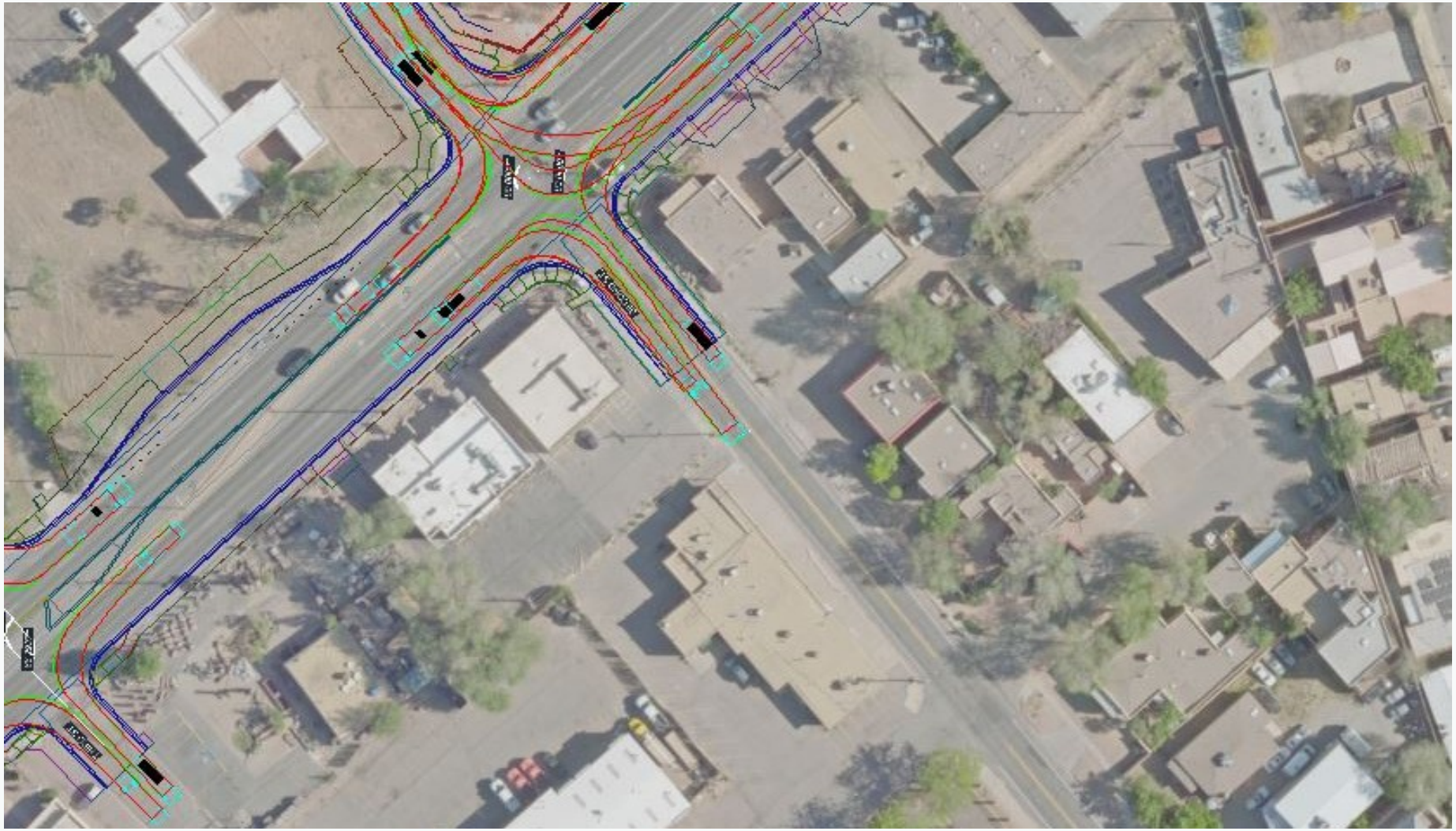
Source: DP Evidence Packet pp. 3, 13, 15; NMDOT proposed linework.

Third Street: where can outbound traffic go?



Source: DP Evidence Packet pp. 3, 11, 15; NMDOT proposed linework.

Second Street: signalized crossing and Berry Avenue



Source: DP Evidence Packet pp. 3–4, 12, 15; NMDOT proposed linework.

Neighborhood compatibility: views from Fourth Street



Fourth & Berry

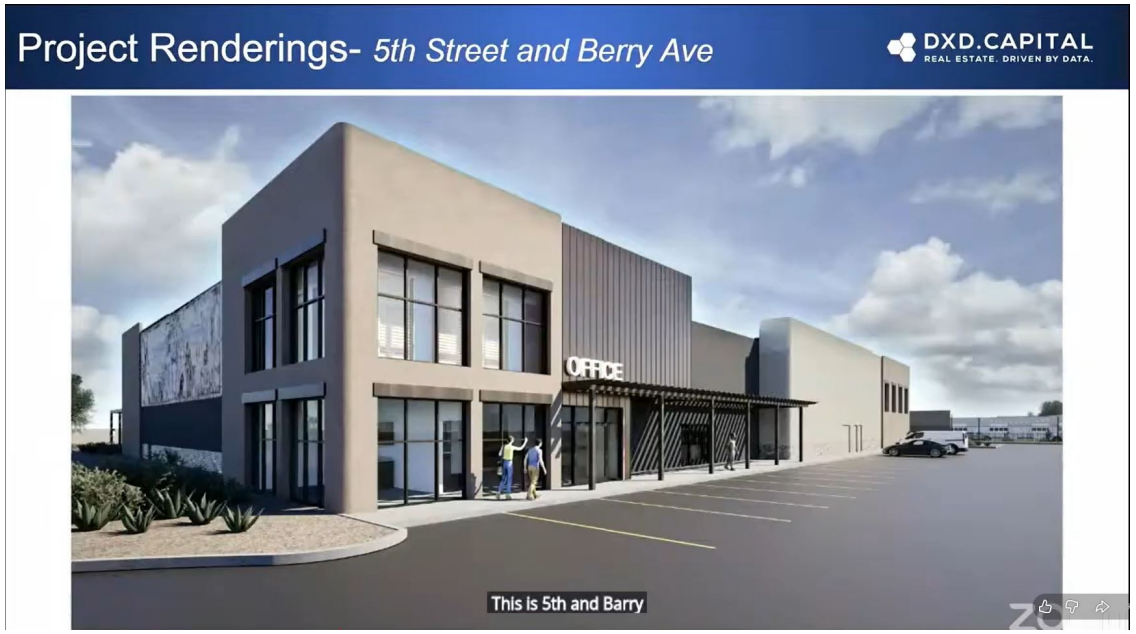


Fourth & Cerrillos

Substantial height differential, largely windowless façades, and an incongruous design incompatible with the surrounding neighborhood.

Source: DP Evidence Packet p. 16; June 4 applicant meeting renderings.

Neighborhood compatibility: views from Fifth Street



Fifth & Berry



Fifth & Cerrillos

Murals and a few architectural elements do not resolve the mass and design, which remains incompatible with the surrounding neighborhood.

Source: DP Evidence Packet pp. 17, 21–24; applicant meeting renderings and owner statements.

Code compliance issues at the time of approval

TC 39–44

DRAINAGE

TC39–44 identified outstanding drainage analysis and required revisions. Material site-design impacts remained to be resolved.

TC 37

LIGHTING

TC37 identified 74 photometric points exceeding the permitted maximum. Lighting compliance was not established.

TC 24 / 27–28

LANDSCAPING

TC24 / 27–28 required parking-island area, landscaping and screening corrections affecting the site design.

APPROVAL STANDARD **Violations which may change the project footprint, parking or landscaping should have been resolved before approval.**

Source: DP Evidence Packet pp. 5, 8, 19–20; City June 4 packet pp. 93–94, 259–260.

Community amenities: limited access and operational concerns

DOG PARK

Access hours

Applicant testimony indicated the dog-park access would have to be limited to staffing hours if the gate is to be secured overnight. No dedicated dog-park water source was identified; sanitation and waste disposal remain concerns.

COMMUNITY ROOM

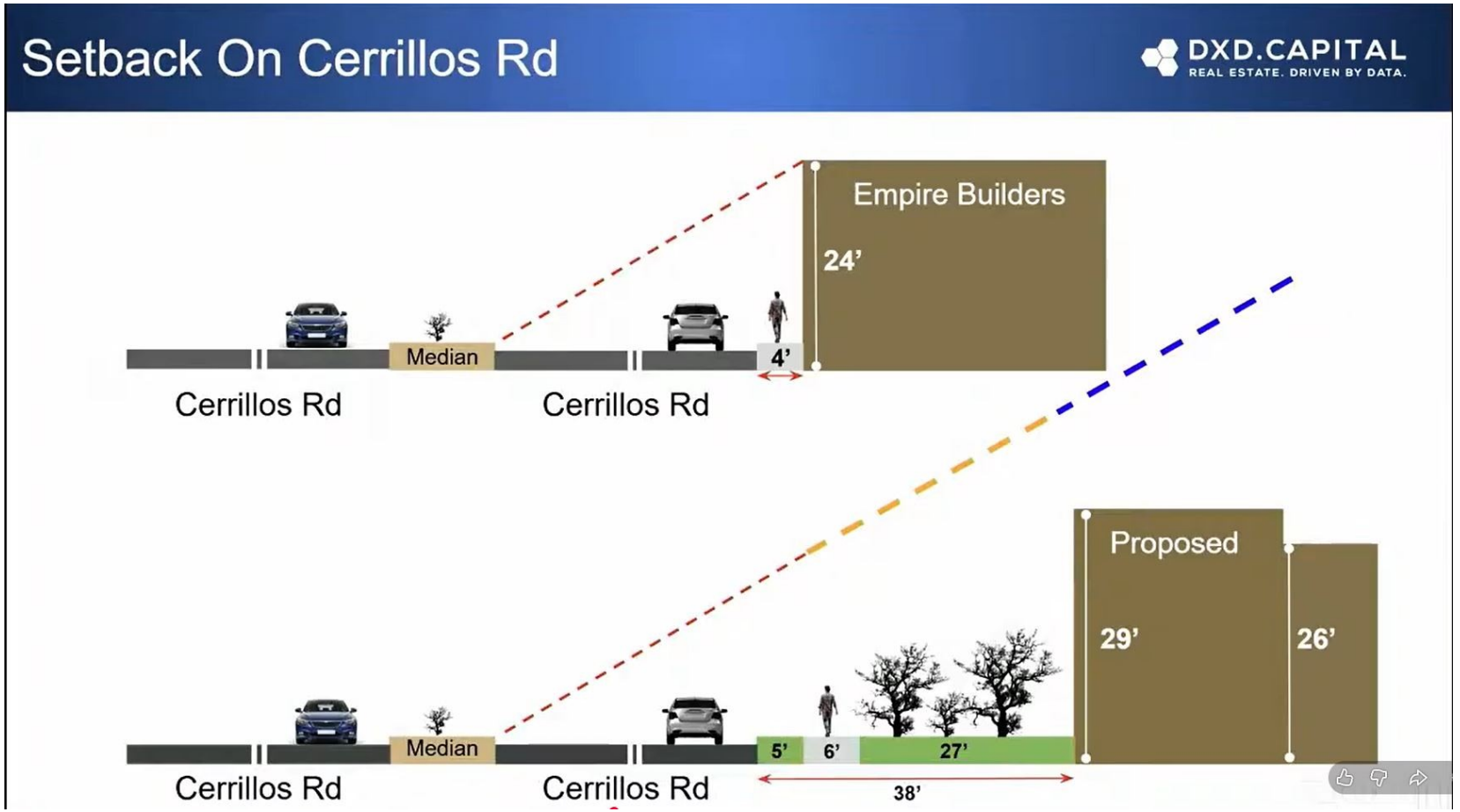
Access hours

Community-room availability likewise appears tied to staffing or operating hours, limiting the public benefit represented in the application.

The represented public amenities are constrained by access and practical operating arrangements.

Source: DP Evidence Packet pp. 4–7; original City Planning Commission packet pp. 75–80, 245.

Height, scale and Cerrillos frontage



29′ 6″

Height shown on Development Plan DP-103

SITE AND STREET RELATIONSHIP

The building’s scale and largely blank frontage heighten its impact on the Cerrillos streetscape.

Source: DP Evidence Packet pp. 8, 18; original DP-103; applicant height illustration.

Adaptability: current parking versus possible reuse

BUILDING 1 — APPROVED DEVELOPMENT PLAN

89,648 sq. ft. gross floor area

Illustrative floor area supported by all 73 existing parking spaces

POTENTIAL FUTURE USE	AREA AT FORMER CODE PARKING RATIO
Certain retail sales/service uses	14,600 sq. ft. net leasable
Nonmedical offices	25,550 sq. ft. net leasable
Neighborhood grocery / laundromat	29,200 sq. ft. net leasable
Flea market	36,500 sq. ft. vendor area

Current proposal: 73 parking spaces provided / 69 spaces required

Source: DP Evidence Packet pp. 4–5, 8, 10; former SFCC parking ratios. Alternative-use comparisons are illustrative.

REQUESTED DECISION

Reverse the Development Plan approval

Alternatively: vacate and remand for review under the correct Code, with findings supported by the record.

01

Correct Chapter 14 edition

02

Traffic and safety undermine public interest

03

Incompatible and not adaptable

Redevelopment is welcome. This project is not compatible with the neighborhood or adaptable to alternative uses. Traffic and safety concerns do not support the required public-interest finding.