

STAFF INFORMATION

### ***Findings, Zoning Map Amendment (Zone Change)***

***Project #: 2019-002570, RZ: 2019-00037***

1. This is a request for a Zone Map Amendment (Zone Change) for two tracts: all or a portion of Tract A, Plat of Lands of Charles B. Gonzales, and all or a portion of Tract B, Plat of Tracts A and B, Lands of Thomas Duran located at 1100 and 1106 Bellamah Avenue NW, between 11<sup>th</sup> Street NW and 12<sup>th</sup> Street NW, near the southeast corner of 12<sup>th</sup> Street NW and Bellamah Avenue NW, and containing approximately 0.7 acres.
2. The request is to change the zone of Tract A from RM-H, Residential Multi-Family High Density, to MX-T; Mixed-Use Transition, and to change the zone of Tract B from R-1A, Residential Single Family, to MX-T, Mixed-Use Transition.
3. A zone change is needed to allow the existing Hotel/Motel use on Tract A, and to allow for an expansion of the existing use onto the adjacent lot to the west, Tract B, which was recently acquired by the applicant.
4. In January 1996, the Sawmill Wells Park Sector Development Plan (Enactment No. 20-1996) was adopted and established S-R (Sawmill Residential) zoning for the subject site.
5. In 2014, the applicant purchased Tract A, renovated the existing buildings, and currently operates a lodging facility.
6. In December of 2016, EPC approved a Zone Change from S-R to “SU-2/SU-1 for Boarding or Lodging to include the Sale of Beer and Wine for On-Premise Consumption” with an EPC approved Site Plan.
7. In May of 2018, the IDO converted the prior zone based on the classification of the liquor license for Bed and Breakfast and because R-MH is the first zone where Bed and Breakfast is first permitted as a primary use. The prior zone was converted to the existing R-MH with an existing EPC Site Plan.
8. In 2018, the applicant purchased Tract B, adjacent to the west of Tract A for future expansion.
9. The subject site is within the Sawmill/Wells Park Character Protection Overlay Zone–CPO-11 boundaries and within the Sawmill/Wells Park Community Metropolitan Redevelopment Area (MRA) Plan boundaries; and the request furthers the MRA Plan goals.
10. The subject site is within an Area of Consistency as designated by the Comprehensive Plan and the following policies apply:
  - a) The request furthers Policy 4.1.1. The subject site is in Sawmill/Wells Park, one of Albuquerque's oldest distinct communities. The request would permit rehabilitation and re-use of the existing historic building and a larger range and mix of uses than what is currently permitted, therefore the property would enhance and protect the character of the Sawmill/Wells Park Community.
  - b) The request furthers Policy 4.1.2. The requested MX-T zone would protect the identity and cohesiveness of the Sawmill/Wells Park neighborhood by permitting the

- existing character and building design to continue in a similar way as its historical functions with an increased range of uses. The proposed hotel/motel is an appropriate scale of development and mix of uses as it offers a transition from the residential neighborhood to the south to the industrial neighborhood to the north.
- c) The request furthers Policy 4.1.2. The requested MX-T zone will protect and enhance a special place with a long history of varied uses in a historic building in the center of the Sawmill/Wells Park neighborhood, which assists with giving the area a sense of place. As stated, the applicant has restored the existing building, contributing to the district identity, and provides a unique tourism experience that connects the visitor with the neighborhoods' past while enhancing the existing environment.
  - d) The request furthers Policy 4.1.4. The requested MX-T zone will enhance, protect, and preserve the Sawmill/Wells Park traditional neighborhood by permitting the re-use of the existing adobe structure, which contributes to long-term health and vitality of the neighborhood. The property is located near downtown and the museums in a location where the intended hotel/motel and event facility as well as the other permitted higher density residential, office, and low-intensity commercial uses are needed.
  - e) The request furthers Policy 5.2.1. The requested MX-T zone will permit a mix of uses including the intended hotel/motel and event facility that will be conveniently accessible to the surrounding neighborhoods as well as the museum district and nearby downtown neighborhoods. Although it is a spot zone because the adjacent properties are not zoned MX-T, the requested MX-T zone is appropriate, the Sawmill/Wells Park Community MRA Plan intends Bellamah Avenue to be a mixed-use transition corridor between residential and industrial zoning and uses present across the street. The use of the existing buildings contributes to the sustainability and distinctiveness of the community. The requested MX-T zone will encourage the redevelopment of the existing property and bring services and amenities within biking and walking distance to the Sawmill/Wells Park neighborhood. The requested MX-T zone will maintain the characteristics of the communities through zoning and design standards that are consistent with the established Sawmill/Wells Park development pattern. In addition, The IDO applies Use Specific Standards that would limit the scope of the more controversial uses in the requested MX-T zone compared to the higher intensity mixed-use zones.
  - f) The request furthers Policy 5.3.1. The subject property is in an infill location because it is in the heart of the City on long established streets with existing infrastructure and public facilities. This promotes efficient development patterns that maximize the utility of existing infrastructure and public facilities to support the public good.
  - g) The request furthers Policy 5.6.3. The original tract is in an Area of Change and the adjacent tract is in an Area of Consistency; therefore the premise is subject to Area of Consistency policies. Surrounding properties to the east, south, and west are zoned R-1A, single-family; however, there are a mixed-uses along the corridor, some may be legal non-conforming. Across the street is an industrial zone and uses; therefore

- the requested MX-T zone would act as a transition between the two zones while keeping the existing buildings, and reinforcing the existing character and future character of the surrounding area. Any new development is subject to the IDO's Neighborhood Edges standards (5-9) along the southern boundary, which would protect the adjacent R-1A properties to the south.
- h) The request furthers Policy 7.3.2. The request recognizes and embraces the distinct identity of the Sawmill/ Wells Park community, making it more safe and attractive through rehabilitation of the existing buildings, which is consistent with the existing character and mix of uses on Bellamah Avenue NW.
  - i) The request furthers Policies 8.1.1 and 8.1.2. The mix of uses permitted in the MX-T zone will contribute to a diverse place on Bellamah Avenue NW, and permit a more resilient and diverse economy than solely residential uses permitted by the existing residential zones R-MH and R-1A.
  - j) The request furthers Policy 8.2.1. The requested MX-T zone will permit the applicant to operate a local business, a hotel/motel and event facility, thereby supporting the local economy.
  - k) The request furthers Policy 9.2.1. The requested MX-T zone enhances the neighborhood character by promoting and providing an existing development that is compatible with the surrounding built environment and responds to the context by closely resembling adjacent development densities and intensities. The existing RM-H zone for the original tract has a much higher development intensity and residential density than the proposed MX-T zone.
  - l) The request furthers Policy 11.2.3. The requested MX-T zone will permit the applicant to operate the desired hotel/motel event center business while considering the existing historic structure which is part of the identity, local history, and visual environment and has a unique historic significance to Albuquerque and the surrounding communities.
11. Pursuant to section 14-16-6-7(F)(3) of the Integrated Development Ordinance, Review and Decision Criteria, "An application for a Zoning Map Amendment shall be approved if it meets all of the following criteria".
- a) The proposed zone change is consistent with the health, safety, and general welfare of the City as shown by furthering (and not being in conflict with) a preponderance of applicable Goals and Policies in the ABC Comp Plan, as amended, and other applicable plans adopted by the City including the Sawmill/Wells Park Area Metropolitan Redevelopment Area Plan (MRA Plan) as shown in Finding 10 above.
  - b) The zone change to MX-T would be more advantageous to the community than the current zoning (R-MH and R-1A) because the request furthers a preponderance of applicable Goals and policies in the Comprehensive Plan regarding Community Identity, Land Use, Urban Design, Economic Development, Housing, and Heritage Conservation and does not significantly conflict with the Comprehensive Plan, as shown in Finding 10.

- c) This criterion is not applicable because the subject site is partially in an Area of Consistency. The applicant must justify the zone map amendment as though the entire site were in an Area of Consistency, pursuant to IDO Subsection 6-7(F)(3)(b).
- d) Criterion d explicitly states to consider Permissive Uses that would be harmful to adjacent property, the neighborhood, or the community. Many of the controversial uses such as Event Facility, Bar, Restaurant, and Taproom or Tasting Room are Conditional Uses, and require a Conditional Use Permit involving a public hearing with the Zoning Hearing Examiner (ZHE) where public input will be included and Conditions of Approval will apply.

The applicant listed the uses that would become Permitted if the zone change is approved. **Staff finds that** The Permissive Uses would not be harmful to adjacent property, the neighborhood, or the community, because Use-specific Standards in Section 4-3 and Neighborhood Edge provisions will mitigate harmful impacts by limiting sizes of facilities and imposing minimum distances from other similar facilities. In addition, a large facility is unlikely due to the **relatively small** size of the site.

The purpose of the MX-T zone is to serve as a transition between a more intense zone such as the NR-LM to the north and residential zones such as the R-1A to the south. That purpose would be achieved with the proposed zone change. The two tracts constituting the premise is approximately 0.7 acres making it difficult to support a school, museum, health club, hotel or motel, bank of significant size, and small versions of these uses would not be harmful to the community.

- e) The applicant refers to sub-criterion 1: the subject premise has adequate infrastructure capacity to serve development that the request would make possible. This established urban area has sufficient infrastructure to support the uses of the requested MX-T zone for the approximately 0.7 acre premise.
- f) Firstly, a change from Tract A's R-MH to MX-T is not considered an up-zone since the two zones are similar in intensity: R-MH is intended to be high density residential whereas MX-T is intended to be a transition of mixed-uses such as offices. Secondly, a change from Tract B's R-1A to MX-T would be considered an up-zone; however, as shown in the policy analysis, the requested zone change justification is based on furthering a preponderance of applicable Comprehensive Plan policies regarding Community Identity, Land Use, Urban Design, Economic Development, Housing, and Heritage Conservation as demonstrated in the response to Criterion A.
- g) Economic considerations are always a factor with a private development project, but the applicant's justification for the MX-T zone is not based completely or predominantly on the cost of land or economic considerations. Rather, the applicant has demonstrated that the request furthers a preponderance of applicable Comprehensive Plan policies regarding Community Identity, Land Use, Urban Design, Economic Development, Housing, and Heritage Conservation.

- h) This zone change request does apply to a zone district different from surrounding districts to the subject parcel. However, the applicant has sufficiently shown the requested change will clearly facilitate implementation of the ABC Comp Plan, as shown in the policy analysis. In addition, the applicant has sufficiently shown Criterion H.1. applies because the subject site is different from surrounding land because it can function as a transition between the adjacent NR-LM and R-1A zones.
12. The Albuquerque/Bernalillo County Comprehensive Plan, the Sawmill/Wells Park Metropolitan Redevelopment Plan, and the City of Albuquerque Integrated Development Ordinance (IDO) are incorporated herein by reference and made part of the record for all purposes.
13. The applicant notified property owners within 100-feet and neighborhood associations as required. The applicant attended a neighborhood meeting on June 11, 2019 with the Wells Park Neighborhood Association (NA) and submitted the resulting notes (see attached), which stated support for the request. Staff also received a voice message from the NA president expressing support but concern over the timing of the events.
14. Staff also received an email from a neighbor that expressed concern.
15. Many of the potentially controversial uses such as Event Facility, Bar, Restaurant, and Taproom or Tasting Room are Conditional Uses, and require a Conditional Use Permit involving a public hearing with the Zoning Hearing Examiner (ZHE) where public input will be included. ~~The ZHE can apply Conditions of Approval which can mitigate the potential negative effects of these uses.~~

### ***Recommendation***

***APPROVAL of Project #: 2019-002570, RZ-2019-00037, a request for Zoning Map Amendment from R-MH and R-1A to MZX-T for all or a portion of Tract A, Plat of Lands of Charles B. Gonzales, and all or a portion of Tract B, Plat of Tracts A and B, Lands of Thomas Duran located at 1100 and 1106 Bellamah Avenue NW, between 11<sup>th</sup> Street NW and 12<sup>th</sup> Street NW, near the southeast corner of 12<sup>th</sup> Street NW and Bellamah Avenue NW, and containing approximately 0.7 acres, based on the preceding Findings.***

***Cheryl Somerfeldt***  
***Planner***

### ***Notice of Decision cc list:***

List will be finalized subsequent to the EPC hearing on August 8, 2019.

APPLICANT INFORMATION

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
GORMAN INDUSTRIES  
AND  
PAINTED LADY BED & BREW

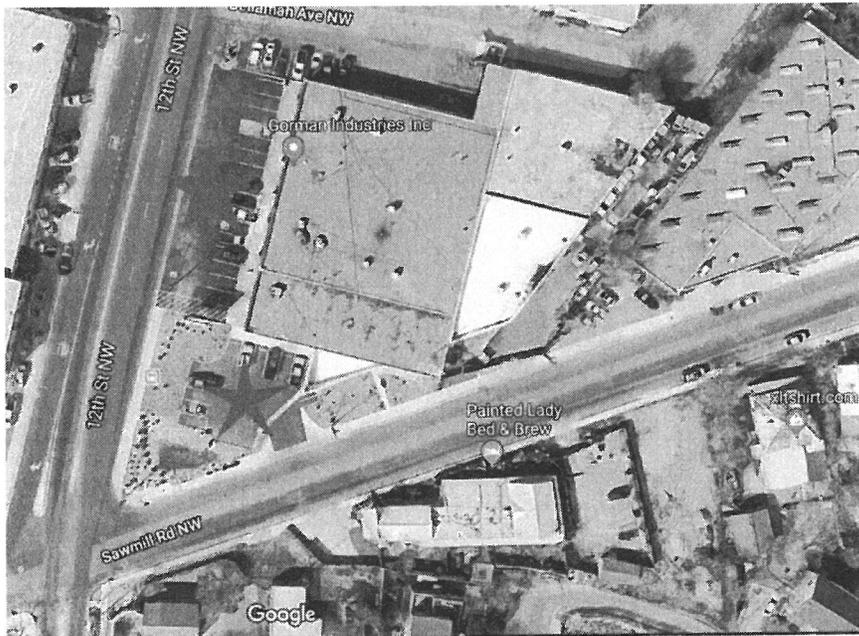
This MEMORANDUM OF UNDERSTANDING is hereby made and entered into by and between GORMAN INDUSTRIES, hereinafter referred to as COLLABORATOR and PAINTED LADY BED & BREW, LLC.

A. PURPOSE:

The purpose of this MOU is to establish a shared parking lot agreement between the two parties.

B. PAINTED LADY BED & BREW SHALL:

Utilize Gorman Industries parking areas for special events held at Painted Lady Bed & Brew. Painted Lady Bed & Brew shall be responsible for cleaning any garbage from parking areas that may have accumulated due to event. Parking areas represented below total approximately 30 parking spaces.



C. COLLABORATOR SHALL:

Offer parking areas located at 1330 12<sup>th</sup> St. NW to patrons attending special events at Painted Lady Bed & Brew.

D. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

1. NON-FUND OBLIGATING DOCUMENT. This agreement is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties to this agreement will be handled in accordance with applicable laws, regulations, and procedures. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This agreement does not provide such authority. Each party shall be fiscally responsible for their own portion work performed under the MOU.
2. LIABILITIES. It is understood that neither party to this Memorandum of Understanding is the agent of the other and neither is liable for the wrongful acts or negligence of the other. Each party shall be responsible for its negligent acts or omissions and those of its officers, employees, agents or students (if applicable), howsoever caused, to the extent allowed by their respective state laws.
3. THE PARTIES ACKNOWLEDGE THAT THE WORK SET FORTH IN ARTICLES B AND C IS EXPERIMENTAL IN NATURE AND NEITHER PARTY MAKES A WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the last written date below.

FOR: **COLLABORATOR:**

Date: 8-6-2019   
Scott Gorman

FOR: **Painted Lady Bed & Brew, LLC**

Date: 8/6/19   
Jesse Herron, owner

PUBLIC INFORMATION

**SARAH ST. JOHN**  
1239 11th St. NW  
Albuquerque, NM 87104  
505.304.4192 sarahstjohn505@gmail.com

August 2, 2019

**Via U.S. Mail**

City of Albuquerque Planning Department  
Attn: Environmental Planning Commission  
600 2<sup>nd</sup> St NW  
Albuquerque, NM 87102

**Re: Protest of Proposed Zoning Change – Project #2019-002570 (1010286) RZ-2019-00037 - 1100 & 1106 Bellamah Ave NW - Property Owner Jesse Herron (Strata Design, LLC, Agent)**

Dear Members of the Commission:

My name is Sarah St. John and I live at 1239 11th St NW, Albuquerque, NM 87104. My neighbor, Jesse Herron, lives and maintains commercial property at 1100 and 1106 Bellamah Ave NW. Mr. Herron has filed an application to change his property zoning to combine his properties and change the zoning from R-1 & RM-H to MX-T. This letter constitutes my formal protest of Mr. Herron's above-referenced proposed zoning change.

My neighbors and I are extremely concerned about Mr. Herron's application for a zoning change to MX-T, because his proposed use of property is an intrusion that would permanently change the makeup of our residential neighborhood as well as increase safety risks to our kids and families. As neighborhood residents for many years, we already face many challenges due to increased crime in the area, including property crimes, assaults, extreme drug use, auto theft, and other incidents of violence. Mr. Herron's proposal to expand his current "Bed and Brew" operation to include a tap room and bar would further subject our neighborhood to potential dangers.

Permitting a commercial business to grow its operations and sell alcohol in a residential area should be viewed with intense scrutiny and skepticism. It is well-known that neighborhoods where bars sell alcohol experience more frequent incidences of violence and other alcohol-related problems, including drunk driving. Mr. Herron seeks the City's approval of his plan to change the nature of his property so that he may dispense alcohol to guests, event attendees, and members of the general public. We are deeply worried that this change will lead to increased noise, crime, and drinking and driving in the area. We are particularly fearful about the increased risk of motor vehicle-related pedestrian injuries. Our neighborhood should be a place where we are not afraid to let our kids walk or ride their bikes down the street.

I am a single mother with a six-year old child. I built my home at 1239 11th St NW and have lived there for 22 years. Many of my neighbors have also lived in our neighborhood for decades and raised their own families. However, due to Mr. Herron's recent acquisition of the property at 1106 Bellamah NW, his properties now surround 50 percent of my home. Although we have tried to accept Mr. Herron's operation of his current commercial enterprise in our

neighborhood, we vigorously object to his plan to build a larger commercial property abutting our homes that is permitted to sell alcohol to guests and the larger public.

The Commission is currently scheduled to hold a hearing on Mr. Herron's proposed zoning change at the Commission's August 8, 2019 meeting. Unfortunately, I will be out of town on that day and will not be able to attend. Because I own property within 300 feet of the site subject to the proposed zoning change, I have standing under the Commission's Rules of Conduct to question matters relevant to Mr. Herron's application. I therefore formally request that the Commission deny Mr. Herron's proposed zoning change for the significant concerns stated above; or, at a minimum, I formally request that the Commission continue or defer Mr. Herron's application to a later date. My neighbors and I have requested a facilitated meeting with the City of Albuquerque ADR/Legal Department, but that meeting has not yet taken place. We are all taxpayers and have lived in our residential neighborhood for many years and our concerns should be properly heard and considered. Accordingly, absent additional justification from Mr. Herron and additional meetings with the public, Commission action to approve Mr. Herron's proposed zoning change would be premature.

Please do not hesitate to contact me should the Commission need additional information in support of this formal protest and my request to deny, continue, or defer Mr. Herron's application. Thank you for your consideration of this important matter.

Regards,

*/s/Sarah St. John*  
Sarah St. John

cc: Cheryl Somerfeldt, Staff Planner, Environmental Planning Commission