

# CITY OF ALBUQUERQUE



**PLANNING DEPARTMENT**  
**URBAN DESIGN & DEVELOPMENT DIVISION**  
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## OFFICIAL NOTIFICATION OF DECISION

December 9, 2016

Danny Brandenburg  
2211 Candelaria Rd. NE  
Albuquerque, NM 87107

**Project# 1000936**  
16EPC-40065 Zone Map Amendment  
(Zone Change)  
16EPC-40051 Site Development Plan for  
Subdivision Amendment  
16EPC-40052 Site Development Plan for  
Building Permit

### LEGAL DESCRIPTION:

The above actions for Tract 4, Paradise Plaza, zoned SU-1 for Mixed Use Development-C-1 Permissive Uses, excluding automobile related retail and service uses and drive-up facilities including package liquor sales ancillary to a retail grocery of 20,000 square feet minimum and restaurant with alcoholic drink sales for on-premise consumption (maximum 4.5 acres, to SU-1 for Mixed Use Development-C-1 Permissive Uses, excluding drive-up facilities including package liquor sales ancillary to a retail grocery of 20,000 square feet minimum and restaurant with alcoholic drink sales for on-premise consumption (maximum 4.5 acres), located on Unser Blvd. NW, between McMahon Blvd. NW and the Sandoval County line, containing approximately 1.9 acres. (A-11) Staff Planner: Catalina Lehner

PO Box 1293

Albuquerque

NM 87103

[www.cabq.gov](http://www.cabq.gov)

On December 8, 2016 the Environmental Planning Commission (EPC) voted to DENY Project #1000936/16EPC-40065, a Zone Map Amendment (Zone Change); 16EPC-40051, a Site Development Plan for Subdivision Amendment; and 16EPC-40052, a Site Development Plan for Building Permit, based on the following findings:

### FINDINGS: 16EPC-40065: Zone Change:

1. The request is for a zone map amendment (zone change) for Tract 4, Paradise Plaza, an approximately 1.9 acre site located on the eastern side of Unser Blvd. NW, north of McMahon Blvd. NW, in between Crown Rd. NW and Summer Ridge Rd. NW (the "subject site"). The subject site is vacant.
2. The subject site is zoned SU-1 for Mixed Uses detailed in Project #1000936, which is SU-1 for Mixed Use (C-1 uses), with exclusions (see Finding #3). Automobile related retail and service

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uses, such as a car wash, are excluded and are not allowed by the subject site's zoning.

3. The request is to change the subject site's zoning from:

"SU-1 for Mixed Use Development-C-1 Permissive Uses, excluding automobile related retail and service uses and drive-up facilities including package liquor sales ancillary to a retail grocery of 20,000 square feet minimum and restaurant with alcoholic drink sales for on-premise consumption (maximum 4.5 acres)" to:

"SU-1 for Mixed Use Development-C-1 Permissive Uses, excluding ~~automobile related retail and service uses~~ and drive-up facilities including package liquor sales ancillary to a retail grocery of 20,000 square feet minimum and restaurant with alcoholic drink sales for on-premise consumption (maximum 4.5 acres)" in order to allow development of a car wash, which is currently excluded.

4. The request was originally scheduled for the October 13, 2016 EPC hearing and has been deferred ~~twice~~ for a total of 60 days. The first deferral was to allow time for an adequate zone change justification to be written. The second deferral was to ensure that proper advertising and notification could occur, and because revised materials were received after the deadline of 10 days prior to the hearing as established by the EPC's Rules.
5. Staff notified the applicant that the zone change justification letter was incomplete on September 29, 2016. Upon receiving a complete letter (Sections A-J responded to), Staff notified the applicant on October 24, 2016 that the justification needed to be strengthened. A revised zone change justification letter was received on Wednesday, November 2, 2016, but that was not in time for the November 10, 2016 EPC hearing.
6. The subject site is within the boundaries of the Established Urban Area of the Comprehensive Plan. The Westside Strategic Plan (WSSP) applies.
7. The Albuquerque/Bernalillo County Comprehensive Plan, the WSSP, and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.
8. The applicant has not justified the zone map amendment (zone change) request pursuant to Resolution 270-1980 as follows:
- A. Section A: Consistency with the City's health, safety, morals and general welfare is shown by demonstrating that a request furthers a preponderance of applicable Goals and policies from the Comprehensive Plan and other applicable plans, which the applicant has not adequately done. Therefore, the request has not been demonstrated to be consistent with the City's health, safety, morals and general welfare.
- B. Section B: The burden is on the applicant to show why the change should be made. The applicant has not adequately demonstrated that the request would ensure stability of land use and zoning in the area. The applicant has not demonstrated that the proposed zone change is justified because the applicant's arguments are not tied to Goals and policies in applicable Plans (the Comprehensive Plan and the WSSP), and the applicant has not demonstrated that

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the existing zoning is inappropriate.

- C. Section C: The applicant's arguments do not demonstrate a nexus between the Goal or policy and the project that the zone change would make possible. About half of the policy citations are relevant to the request. The others do not apply. The subject site is not in a designated activity center. The arguments that the proposed use is compatible with existing, adjoining automobile uses and that any development is better than a vacant parcel are inadequate because they are not policy-based as required.
- Since the requested zoning is SU-1, the more rigorous standard of "clearly facilitates" applies rather than the "no significant conflict" test. The applicant did not discuss or cite any applicable policies in the WSSP and has not demonstrated that the zone change would clearly facilitate realization of the Comprehensive Plan and the WSSP, as required.
- D. Section D: The applicant has stated that the exclusion of auto-related uses from the existing zoning is inappropriate because of changed neighborhood conditions, based on statements made by the applicant that, at one time all drive-up and auto uses were prohibited, and that each parcel had to have the restrictions removed in order to develop. The applicant has provided no evidence that all drive-up and auto uses were prohibited or that restrictions had to be removed for development of each parcel to occur. Furthermore, based on Planning Department records and historical research, these statements are factually inaccurate. In sum, the applicant has not demonstrated that the existing zoning is inappropriate due to changed neighborhood conditions, or based on a preponderance of applicable policies in applicable, adopted plans (the Comprehensive Plan and the WSSP).
- E. Section E: The request is to remove the restriction on "automobile related retail and service uses", not to add permissive uses. Section E requires that the applicant discuss what the permissive uses in the requested zone are, and whether or not these uses would be harmful to adjacent property, the neighborhood, or the community. The applicant has not done this.
- F. Section F: The zone change requires no major or unprogrammed capital expenditures by the City in order to be developed.
- G. Section G: Based on the applicant's response to Section G, economic considerations are the determining factor for a change of zone. Economic considerations are always a factor but, pursuant to R270-1980, they cannot be the determining factor. The applicant has not demonstrated that economic considerations pertaining to the applicant are not the determining factor for the requested zone change.
- H. Section H: The subject site's location on a major street is not being used, in itself, as justification for the request.
- I. Section I: The test does not state that zoning the subject property must conform to surrounding zoning. The subject site and adjacent properties are zoned SU-1 and are all spot zones by definition, and the SU-1 zoning descriptor is not proposed to change. The applicant selected item 2 but did not demonstrate that the subject site could function as a transition between adjacent zones, and did not address topography, traffic or special adverse land uses nearby.

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- J. Section J: The applicant does not explain why or why not a strip zone would be created and does not adequately address item 1 (clearly facilitate realization of applicable plans) or item 2 (transition due to traffic or special adverse land uses nearby).
9. The request partially furthers the following, applicable Goals of the Comprehensive Plan:
- A. Developing and Established Urban Area Goal. Provided the site development plan complies with the design standards, the future development would generally contribute to a pleasing built environment, though it would not be related to transportation, work areas, and lifestyles.
  - B. Economic Development Goal. The request contributes somewhat to general economic development. Social, environmental, and cultural goals don't factor in.
10. The request partially furthers the following, applicable Comprehensive Plan policies:
- A. Policy II.B.5a-full range of urban land uses. The request would add another auto-oriented use to the area and would not contribute to more land use diversity, though it would be different than other auto-oriented uses nearby.
  - B. Policy II.B.5d-neighborhood values/environmental conditions/ other concerns. The proposed new development would be generally appropriate in terms of its location and intensity. The subject site is located in an existing shopping center site that is subject to design standards, which were established to respect neighborhood values and conditions of the area, which is not considered a scenic or natural environment. The proposed use would not be more intense than existing development nearby. There is no known opposition as of this writing.
  - C. Policy II.B.5i- employment and service uses/siting and effects. The proposed use can be considered a service use. The building faces Crown Rd. NW. There is a townhome development to the east. Adverse effects such as noise, lighting, pollution, and traffic could impact the adjacent residential area. The main entrance is adjacent to the townhomes and the dumpster is close by. The proposed buffering does not meet minimum Zoning Code requirements, though the light poles comply.
  - D. Policy II.B.5j-location of new commercial development. The proposed new commercial development would be located in a larger, area-wide shopping center near the intersection of arterial streets, but does not have access via mass transit. The subject site does not have the appropriate commercial zoning for the use, as desired in the policy.
  - E. Policy II.B.5k- land adjacent to arterial streets. The subject site is adjacent to Unser Blvd., a Community Principal Arterial. Access to the proposed car wash would be from a local street. There is room for queuing, but if it's really busy, cars could stack near the adjacent residential use.
  - F. Policy II.B.5l-quality design/new development. The design is franchise looking and minimal, though a wainscoting has been added to improve quality. The architectural standards of the governing site development plan for subdivision are not met, though the building is required to be a comparable quality to other buildings in the Unser/McMahon Village Center North.
  - G. Policy II.D.6b- development of local business enterprises. Though the car wash would be a local business enterprise, it would do little to expand the area's employment base.

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11. The applicant has not justified the zone map amendment (zone change) pursuant to R270-1980. The responses to Sections A, B, C, D, E, G, I, and J are insufficient for the reasons detailed in Finding 7. In sum, the applicant has not demonstrated that the zone change clearly facilitates realization of applicable Goals and policies in the Comprehensive Plan and the WSSP.
12. The affected neighborhood organization is the Westside Coalition of Neighborhood Associations, which was notified as required. Property owners were also notified as required. Staff has not received any phone calls or written comments, as of this writing.
13. Pursuant to Zoning Code §14-16-2-22(A)(1), a zone change to SU-1 zoning is required to be accompanied by an associated site development plan; the two are interdependent. Therefore, when a zone change request is denied, the site development plan requests become moot.

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**FINDINGS: 16EPC-40051: Site Development Plan for Subdivision Amendment:**

1. The request is for a Site Development Plan for Subdivision Amendment for Tract 4, Paradise Plaza, an approximately 1.9 acre site located on the eastern side of Unser Blvd. NW, north of McMahan Blvd. NW, in between Crown Rd. NW and Summer Ridge Rd. NW (the "subject site"). The subject site is vacant.
2. The applicant wants to subdivide the subject site and develop a car wash on the future, southern tract.
3. The request is accompanied by a request for a zone map amendment (zone change) (16EPC-40065) and a site development plan for building permit (16EPC-40052).
4. The request was originally scheduled for the October 13, 2016 EPC hearing and has been deferred twice- for a total of 60 days. The first deferral was to allow time for an adequate zone change justification to be written. The second deferral was to ensure that proper advertising and notification could occur, and because revised materials were received after the deadline of 10 days prior to the hearing as established by the EPC's Rules.
5. The subject site is within the boundaries of the Established Urban Area of the Comprehensive Plan. The Westside Strategic Plan (WSSP) applies.
6. The Albuquerque/Bernalillo County Comprehensive Plan, the WSSP, and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.
7. The affected neighborhood organization is the Westside Coalition of Neighborhood Associations, which was notified as required. Property owners were also notified as required. Staff has not received any phone calls or written comments, as of this writing.
8. Pursuant to Zoning Code §14-16-2-22(A)(1), a zone change to SU-1 zoning is required to be accompanied by an associated site development plan; the two are interdependent. Therefore,

when a zone change request is denied, the site development plan requests become moot.

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**FINDINGS: 16EPC-40052: Site Development Plan for Building Permit:**

1. The request is for a Site Development Plan for Building Permit for Tract 4, Paradise Plaza, an approximately 1.9 acre site located on the eastern side of Unser Blvd. NW, north of McMahon Blvd. NW, in between Crown Rd. NW and Summer Ridge Rd. NW (the "subject site"). The subject site is vacant.
2. The applicant wants to subdivide the subject site and develop a car wash on the future, southern tract.
3. The request is accompanied by a request for a zone map amendment (zone change) (16EPC-40065) and a site development plan for subdivision amendment (16EPC-40051).
4. The request was originally scheduled for the October 13, 2016 EPC hearing and has been deferred twice- for a total of 60 days. The first deferral was to allow time for an adequate zone change justification to be written. The second deferral was to ensure that proper advertising and notification could occur, and because revised materials were received after the deadline of 10 days prior to the hearing as established by the EPC's Rules.
5. The subject site is within the boundaries of the Established Urban Area of the Comprehensive Plan. The Westside Strategic Plan (WSSP) applies.
6. The Albuquerque/Bernalillo County Comprehensive Plan, the WSSP, and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.
7. The affected neighborhood organization is the Westside Coalition of Neighborhood Associations, which was notified as required. Property owners were also notified as required. Staff has not received any phone calls or written comments, as of this writing.
8. Pursuant to Zoning Code §14-16-2-22(A)(1), a zone change to SU-1 zoning is required to be accompanied by an associated site development plan; the two are interdependent. Therefore, when a zone change request is denied, the site development plan requests become moot.

**APPEAL:** If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **December 27, 2016**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15<sup>th</sup> day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-4-4 of the Zoning Code. A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed. It is not possible to appeal EPC Recommendations to City

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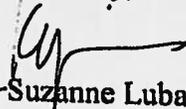
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**Council; rather, a formal protest of the EPC's Recommendation can be filed within the 15 day period following the EPC's decision.**

**You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Successful applicants are reminded that other regulations of the City Zoning Code must be complied with, even after approval of the referenced application(s).**

**Sincerely,**

  
**Suzanne Lubar**  
**Planning Director**

**SL/CLL**

**cc: Danny Brandenburg, 2211 Candelaria Rd. NE, ABQ, NM 87107**  
**Scott Anderson, 7604 Rio Penasco NW, ABQ, NM 87120**  
**Harry Hendriksen, Westside Coalition of NAs, 10592 Rio Del Sole Ct. NW, ABQ, NM 87114-2701**  
**Rene Horvath, Westside Coalition of NAs, 5515 Palomino Dr. NW, ABQ, NM 87120**