

# CITY OF ALBUQUERQUE



**PLANNING DEPARTMENT**  
**URBAN DESIGN & DEVELOPMENT DIVISION**  
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P.O. Box 1293, Albuquerque, NM 87103  
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## OFFICIAL NOTIFICATION OF DECISION

December 13, 2018

Melloy Brothers Enterprise, LLC    **Project #2018-001678**  
7707 Lomas Blvd. NE,                    **RZ-2018-00044 – Zone Map Amendment (Zone Change)**  
ABQ, NM 87110

### LEGAL DESCRIPTION:

The above action for all or a portion of Tract A2A, A2B, A2C, Plat of Tracts A2A, A2B, A2C & A2D, a Replat of Tracts A2A & A2B of Spanish Land Company Subdivision, and Tracts C and D of Spanish Land Company Subdivision, zoned MX-H to NR-C, located on the east side of San Mateo Blvd NE south of Osuna Rd NE, containing approximately 6.2 acres. (F-18)

Staff Planner: Cheryl Somerfeldt

PO Box 1293

On December 13, 2018 the Environmental Planning Commission (EPC) voted to APPROVE Project 2018-001678/RZ-2018-00044, a Zone Map Amendment (Zone Change), based on the following findings.

### FINDINGS:

- NM 87103
1. This is a request for a Zone Map Amendment (Zone Change) for all or a portion of Tract A2A, Plat of Tracts A2A, A2B, A2C & A2D of Spanish Land Company Subdivision, and Tracts C and D of Spanish Land Company Subdivision) located on the east side of San Mateo Boulevard NE, south of Osuna Road NE and containing approximately 6.14 acres.
  2. The request is to change the zoning of the subject site from the existing MX-H, Mixed-Use High Intensity Zone District to the proposed NR-C, Non-Residential Commercial Zone District in order to permit in order to permit Heavy Vehicle and Equipment Sales, Rental, Fueling and Repair.
  3. Light Vehicle sales, rental, repair, and fueling is permitted in the existing MX-H zone. Heavy Vehicle and equipment sales, rental, fueling, and repair is not allowed in the existing MX-H zone.
  4. Prior to the effective date of the IDO, the subject site's zoning was C-3, Heavy Commercial, which provided suitable sites for C-2 uses as well as wholesale commercial uses and some light industrial uses, which cause no vibration discernible beyond the premises. The C-3 zone automatically permitted all C-2 uses including Vehicle sales, rental, service, repair, and storage (2-17(A)(13)(a)).
  5. The IDO automatically converted the C-3 zone to MX-H on the East Side of the Rio Grande on Major Transit Corridors in order to promote a greater mix of residential and commercial uses and mixed-use infill development.

**OFFICIAL NOTICE OF DECISION**

**Project #2018-001678**

**December 13, 2018**

**Page 2 of 5**

6. The primary difference between the existing and proposed zones is the existing MX-H zone permits townhouse and multi-family residential development whereas the requested NR-C zone does not permit residential development, but does permit heavy vehicles, light manufacturing, warehouse, and wholesale.
7. The IDO established a threshold of 10,000 pounds for vehicle size to determine light versus heavy vehicles, whereas the old Zoning Code had no differentiation.
8. Pursuant to IDO Section 4-1(E)(2), the existing Heavy Vehicle use is a legal nonconforming use and may continue indefinitely as long as the use is not vacated for more than 24 months (6-8(C)(2)(a)). Legal nonconforming uses may expand up to 25% of the area occupied, which is subject to review and approval at a public hearing of the Zoning Hearing Examiner (ZHE).
9. The subject site is within an Area of Change as designated by the Comprehensive Plan and the following policies apply:
  - The request partially furthers Policy 4.1.2 because although the existing and requested zones are similar, the NR-C zone has some permitted uses such as light manufacturing that may not protect the identity and cohesiveness of the surrounding neighborhoods. Also, the requested NR-C zone would eliminate multi-family or mixed-use commercial and residential as a potential use going forward.

The request will permit the expansion of the current heavy vehicle sales and repair. If the zone change is not approved, heavy vehicle sales and repair would remain legal nonconforming and the current light vehicle sales and repair would be able to continue with no restrictions. Since this business is currently operating at this location, it is assumed that it is an appropriate scale.
  - The request furthers Policy 5.1.1 because it would permit the applicant to expand the existing heavy vehicle use, which then continues a development pattern in a consistent sustainable pattern on a long established street grid where growth is desired on a Major Transit Corridor, San Mateo Boulevard NE.
  - The request does not further Policy 5.1.10 a) or c) because it is located at a transit stop near an intersection on a Major Transit Corridor, San Mateo Boulevard NE, and the proposed non-residential commercial zone will not permit the use of the property for higher-density residential or mix-use development.
  - The request furthers Policy 5.1.10 b) because it is a transition from the Transit Corridor, San Mateo Boulevard NE, to the abutting single-family residential areas to the east.
  - The request partially furthers Policy 5.2.1 because by eliminating the potential for a Mixed-Use or multi-family development, the request would eliminate the potential for a distinct mixed-use community along a Major Transit Corridor. All new development will be subject to IDO regulations, which were put in place specifically to guide new development to be of higher quality.
  - The request furthers Policy 5.3.1 because it supports additional growth and the retention and expansion of the existing business which is in an area with existing infrastructure and public facilities.

**OFFICIAL NOTICE OF DECISION**

**Project #2018-001678**

**December 13, 2018**

**Page 3 of 5**

- The request furthers Policy 5.3.7 because the NR-C zone and its uses are appropriately and equitably located on San Mateo Boulevard NE in a location that is near the highway on a highly commercial corridor. Some NR-C uses may be objectionable but useful to society, and the request will encourage distribution evenly and fairly across the Albuquerque area and not focused in only one area of the City.
  - The request furthers Policy 5.6.2 b) g) and h) because it is located in an Area of Change and on a Major Transit Corridor. Expansion of Heavy Vehicle sales and repair could potentially encourage development and expand employment opportunities where adequate infrastructure and community services exist in an area with a highly connected street grid and frequent transit service.
  - The request does not further Policy 6.1.3 because the requested NR-C zone will eliminate multi-family residential and mixed-use developments as permitted uses, which have the potential to reduce the need for automobile travel at an infill location near an Activity Center and along a Major Transit Corridor.
  - The request furthers Policy 7.3.4 because the subject site is at an infill location. The IDO design standards will encourage quality development that enhances the built environment. The existing streetscape and block is highly commercial and vehicle oriented especially since the existing business occupies the majority of the block. The existing MX-H zone and the requested NR-C zone both have potential to enhance the built environment.
  - The request furthers Policy 8.1.2 because both the existing MX-H zone and requested NR-C zone encourage economic development efforts that have the potential to improve quality of life for new and existing residents by offering commercial opportunities for a robust, resilient, and diverse economy.
  - The request furthers Policy 8.1.3 because it will allow the expansion of the existing heavy vehicle sales and rental that permits a local employer to keep the local economic base strengthened along with other uses such as light industrial, wholesaling, and warehousing.
  - The request furthers Policy 8.2.1 because the existing business is a locally owned business and the zone change request would permit the existing heavy vehicle sales and rental to develop and expand.
10. 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 discussed in the policy analysis above, by furthering the applicable Goals and Policies of the ABC Comp Plan.
  - b) This criteria is not applicable as the proposed amendment is wholly in an Area of Change as shown on the ABC Comp Plan.
  - c) The proposed amendment is wholly within an Area of Change and furthers a preponderance of Comprehensive Plan policies as shown above, and is therefore advantageous to the community. It is advantageous if Heavy Vehicle related uses are located near the highway and trucks do not travel through residential neighborhoods.

**OFFICIAL NOTICE OF DECISION**

**Project #2018-001678**

**December 13, 2018**

**Page 4 of 5**

- d) The requested NR-C zone includes many of the same permissive use as the existing MX-H zone. The primary difference between the existing MX-H zone and the requested NR-C zone is the requested zone will no longer permit residential development. The existing MX-H zone also permits group living facilities, which would no longer be permitted, but which can in some cases be considered controversial. Controversial permitted uses in the proposed NR-C zone include Light Manufacturing, which is defined as processes that do not create noise, smoke, fumes, odors, or health or safety hazards outside of the building, and which would be required to be an enclosed building unless a Condition Use Approval is acquired. Recycling Drop-Off would be permitted and could be considered harmful. Warehousing and Wholesaling would also be permitted. All uses adjacent to residential uses would be required to buffer according the IDO's Neighborhood Edges provisions.
  - e) The City's existing infrastructure and public improvements have adequate capacity to serve the development made possible by the change of zone since the intensity of development is not intended to change, but rather make an existing and historic use permissive rather than non-conforming.
  - f) While the requested change of zone is based on the property's location on San Mateo Boulevard NE near I-25, the request is not completely based on the property's location on a major street as the applicant has cited several Comprehensive Policies, which are furthered or partially furthered by the request. The request furthers Policy 5.3.7: Locally Unwanted Land Uses, which shows that even if a land use is considered objectionable, it is the intent of the Comprehensive Plan to encourage equitable distribution of these uses across the City.
  - g) While the requested change of zone is based on economic considerations, the applicant's justification is not predominantly based on this factor or the cost of land as the applicant has cited several Comprehensive Policies, which are furthered or partially furthered by the request.
  - h) This zone change does apply a zone district different from surrounding zone districts to one small area or one premise creating a spot zone; however, the change clearly facilitates implementation of the ABC Comp Plan as described above and criteria 3 applies because the nature of the structures already on the premises which include structures adapted for Heavy Vehicle sales, rental, and repair are not suitable for uses allowed in the adjacent Mixed Use-Heavy (MX-H) and multi-family residential zone.
11. The applicant notified Del Norte Neighborhood Association, the District 4 Coalition of Neighborhood Associations, and property owners within 100-feet as required.
12. Staff has not received any comments in support or opposition to the request.

**OFFICIAL NOTICE OF DECISION**

**Project #2018-001678**

**December 13, 2018**

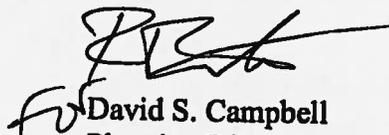
**Page 5 of 5**

**APPEAL:** If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **DECEMBER 28, 2018**. 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 14-16-6 of the IDO, Administration and Enforcement. 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 Council; rather, a formal protest of the EPC's Recommendation can be filed within the 15 day period following the EPC's recommendation.

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,

  
David S. Campbell  
Planning Director

DSC/CS

cc: Melloy Brothers Enterprises Inc., 7707 Lomas Blvd NE, ABQ, NM 87110  
Tierra West, LLC, 5571 Midway Pk., Pl., NE, ABQ, NM 87109  
Del Norte NA, Mary Bernard, 6224 Baker Av. NE, ABQ, NM 87109  
Del Norte NA, Mary White, 4913 Overland St NE, ABQ, NM 87109  
Dist. 4 Coalition of NA's, Michael Pridham, 6413 Northland Ave NE, ABQ, NM 87109  
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