

# CITY OF ALBUQUERQUE



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

January 12, 2018

Martin L. Williams  
9800 Montgomery Blvd. NE, #1  
Albuquerque, NM 87111

**Project# 1011436**  
17EPC-40060 Zone Map Amendment  
(Zone Change)

### LEGAL DESCRIPTION:

The above action for Lot 48, Block 78, Snow Heights Addition and the southerly 22 feet vacated of Candelaria Rd. NE, zoned O-1, to C-1, located on Candelaria Rd. NE, between Juan Tabo Blvd. NE and Morris St. NE, containing approximately 0.27 acre.  
(H-21) Staff Planner: Catalina Lehner

PO Box 1293

On January 11, 2018 the Environmental Planning Commission (EPC) voted to DENY Project 1011436/17EPC-40060, Zone Map Amendment (Zone Change), based on the following Findings:

Albuquerque

### FINDINGS:

NM 87103

www.cabq.gov

1. The request is for a zone map amendment (zone change) for an approximately ( $\approx$ ) 0.27 acre site located on the southern side of Candelaria Rd. NE, located on Candelaria Rd. NE, between Juan Tabo Blvd. NE and Morris St. NE, specifically between Maxine St. NE and Muriel St. NE (the "subject site"). An approximately 3,000 square foot (sf) building consisting of five office suites exists on the subject site.
2. The request was deferred for 30 days at the December 14, 2017 hearing to allow time to ensure complete notification and strengthen the zone change justification.
3. The subject site is zoned O-1 (Office and Institution Zone). The applicant is requesting a zone change to C-1 (Neighborhood Commercial) so that the zoning matches the historical use of the property and to attract new small retail tenants.
4. The subject site is in an area that the Comprehensive Plan has designated an Area of Consistency. No area of sector development plans apply.
5. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.

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6. The request partially furthers the following, applicable Goal and policy from the Comprehensive Plan:

**Goal 4.1 Character:** Enhance, protect, and preserve distinct communities.

Goal 4.1-Character refers to Goal 4.3, which contains character-defining elements for each City Community Planning Area (CPA). However, these are not defined yet. Goal 4.1 also references Land Use Policy 5.2.1, which refers to creating communities with a mix of uses that are conveniently accessed by neighborhoods, which the request would generally promote.

**Policy 4.1.4 Neighborhoods:** Enhance, protect, and preserve neighborhoods and traditional communities as key to our long-term health and vitality.

The request would generally enhance the neighborhood and be consistent with existing uses in the area, but the part of the policy about traditional communities does not apply.

7. The request furthers the following, applicable Comprehensive Plan Goal:

**Goal 5.3-Efficient Development Patterns:** Promote development patterns that maximize the utility of existing infrastructure and public facilities and the efficient use of land to support the public good.

The development pattern near the subject site has been in place since the 1970s and existing infrastructure would continue to be used. This is a more efficient use of land in the public interest, in contrast to greenfield or fringe development.

8. The applicant has not adequately 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 the request furthers applicable Goals and policies from the Comprehensive Plan (and other plans if applicable), as shown in the response to Section C. The response to Section A is sufficient, but the applicant has not adequately demonstrated that the test in Section C is met.

B. **Section B:** The proposed zone change may not adversely affect stability of land use or zoning because C-1 commercial uses are presumed to be generally compatible with existing commercial uses in the area. However, the burden is on the applicant to show why the change should be made and to demonstrate that stability and land use would not be adversely affected.

C. **Section C:** Additional citations of applicable Goals and policies in the Comprehensive Plan are needed to demonstrate that the request would not result in a significant conflict.

D. **Section D:** The applicant did not adequately make the case that a different zone category would be more advantageous to the community as articulated in applicable plans (the Comprehensive Plan). This demonstration is found in the response to Section C, in which the applicant needs to provide additional, relevant policy citations and discuss how the request

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further them. Also, the argument that there is less demand for O-1 zoning over the last 40 years is not considered a changed community condition (like a new park or community center).

- E. **Section E:** The applicant did not discuss the permissive uses in the C-1 zone, which is necessary to demonstrate that they are not harmful to adjacent property, the neighborhood, or the community. Certain C-1 permissive uses (ex. gas station) are often concerning to neighbors; single-family homes (zoned R-1) are adjacent south of the subject site. The existing building does not restrict uses, which run with the land. The building could be removed and the site reused.
  - F. **Section F:** The request would not require major or unprogrammed capital expenditures by the City and the subject site is already served by existing infrastructure.
  - G. **Section G:** Economic considerations are a factor, but they are not the determining factor for the request.
  - H. **Section H:** The response does not address location on a collector or major street, so the applicant did not answer the question.
  - I. **Section I:** The request would result in a spot zone because it would give a zone different (C-1) from surrounding zoning to one small area and one premise is involved. However, the applicant has not adequately demonstrated that the request will clearly facilitate realization of applicable Goals and policies in the Comprehensive Plan (see the response to Section C).
  - J. **Section J:** It is unclear what the applicant means by stating that "the current C-1 zone is a strip zone as O-1". Though Staff agrees that the request would result in a spot zone and not a strip zone, the response is inadequate because it doesn't mention what a strip zone is and isn't.
9. The applicant has not adequately justified the zone map amendment (zone change) pursuant to R270-1980; all tests are required to be met. The response to Section C does not contain sufficient citations of relevant Goals and policies, and the concepts as they relate to the request need to be more thought out. This is necessary to demonstrate that the request meets the requirement of not resulting in a significant conflict. Regarding Section D, the applicant did not adequately make the case that a different zone category would be more advantageous to the community as articulated in applicable plans. In the response to Section E, the applicant did not discuss permissive uses in the C-1 zone, which is necessary to demonstrate that they are not harmful to adjacent property, the neighborhood, or the community.
10. The request would result in a spot zone. Section I requires a demonstration of "clearly facilitates" applicable Goals and policies when a spot zone is involved, as is the case here, but the applicant's justification does not meet the lesser test of "no significant conflict" in Section C and therefore does not meet the more rigorous test in Section I.
11. Proper notification to the affected neighborhood organization and property owners was completed

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and certified return receipts were provided.

12. The District 8 Coalition and property owners within 100 feet of the subject site were notified, as required. A facilitated meeting was not requested. As of this writing, Staff has not received any inquiries or correspondence regarding the request. There is no known opposition.

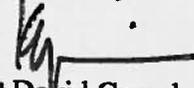
**APPEAL:** If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **JANUARY 26, 2018**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15<sup>th</sup> day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-4-4 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 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).

**ZONE MAP AMENDMENTS:** Pursuant to Zoning Code Section 14-16-4-1(C)(16), a change to the zone map does not become official until the Certification of Zoning (CZ) is sent to the applicant and any other person who requests it. Such certification shall be signed by the Planning Director after appeal possibilities have been concluded and after all requirements prerequisite to this certification are met. If such requirements are not met within six months after the date of final City approval, the approval is void. The Planning Director may extend this time limit up to an additional six months.

Sincerely,

  
David Campbell  
Planning Director

DC/CLL

cc: Martin L. Williams, 9800 Montgomery NE, Suite 1, ABQ, NM 87111  
Richard Hanna, Hanna Commercial, 8500 Menaul Blvd. NE, Ste. B-550, ABQ, NM 87112  
Stephen Caruso, 9998 Montgomery Blvd, NE, Suite B, ABQ, NM 87111  
District 8 Coalition, Donald Couchman, 6441 Concordia Rd. NE, ABQ, NM 87111  
District 8 Coalition, Daniel Flegel, 3423 Del Agua Ct. NE, ABQ, NM 87111