



**Environmental
Planning
Commission**

**Agenda Number: 05
Project #: PR-2019-002353
Case #: RZ-2019-00021
Hearing Date: October 10, 2019**

Supplemental Staff Report III

(to be read with the original and two supplemental Staff reports)

Agent	Angela Williamson, Modulus Architects
Applicant	Land Development 8 LLC (Joshua Skarsgard)
Request	Zone Map Amendment (zone change)
Legal Description	Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision
Location	On Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE (4201 Wyoming Blvd. NE)
Size	Approximately 0.85 acre
Existing Zoning	MX-T
Proposed Zoning	MX-L

Staff Recommendation

APPROVAL of RZ-2019-00021, based on the Findings beginning on Page 17.

**Staff Planner
Catalina Lehner, AICP-Senior Planner**

Summary of Analysis

The request for a zone change for an approximately 0.85 acre site, on the western side of Wyoming Blvd. NE, was deferred for 60 days at the June and August 2019 hearings.

A former bank building exists on the subject site. The applicant wants to develop the site with a drive-thru use, which is not allowed in the MX-T zone. The subject site was zoned MX-T upon adoption of the Integrated Development Ordinance (IDO) and is in an Area of Change.

The applicant has adequately justified the zone map amendment pursuant to the IDO zone change criteria in 14-16-6-7-(f)(3) and demonstrated that the request generally furthers a preponderance of applicable Goals and policies.

The affected neighborhood organizations, the Loma del Rey Neighborhood Association (NA), the District 4, District 7, and District 8 Coalitions, and property owners with 100 feet of the subject site, were notified as required. The Loma del Rey NA sent a letter of support for a restaurant. A homeowner expressed concern about the range of uses allowed in MX-L. The District 7 Coalition sent a letter of support.

Staff recommends approval.



I. OVERVIEW

Deferrals

At the August 8, 2019 hearing, the Environmental Planning Commission (EPC) voted to defer the request for 60 days to the October 10, 2019 hearing, at the applicant's request (see attachment). The request had also been deferred for 60 days at the June 13, 2019 EPC hearing to allow additional time to strengthen the zone change justification letter.

Request

The request is for a zone map amendment (zone change) for an approximately 0.85-acre site located on the western side of Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE (4201 Wyoming Blvd. NE). A vacant building, a former bank, exists on the subject site. The subject site is zoned MX-T, which it received upon adoption of the Integrated Development Ordinance (IDO) as a conversion from the former zoning of SU-1 for Savings and Loan Office. The MX-T zone approximates the former O-1 office zone.

The applicant is requesting a zone change to MX-L (Mixed-Use Low intensity zone) in order to develop a drive-thru restaurant. The applicant could pursue a conditional use and develop a restaurant without a zone change. However, the drive-through use is first allowed in the MX-L zone. If the request is approved, the applicant would still need to get a conditional use approval from the Zoning Hearing Examiner (ZHE) to allow the drive-through use.

For EPC Role, Context, History, Transportation System, Comprehensive Plan Corridor Designation, Transit, and Public Facilities/ Community Services:

» Please refer to p. 3-5 of the original Staff report (see attachment).

II. ANALYSIS of APPLICABLE ORDINANCES, PLANS, AND POLICIES

For analysis of the Integrated Development Ordinance (IDO), including Definitions, Zoning, Comparison of the MX-T and MX-L zones, and Use-Specific Standards:

» Please refer to p. 5-6 of the Original Staff Report (see attachment).

Albuquerque / Bernalillo County Comprehensive Plan (Rank I)

The subject site is located in an area that the 2017 Albuquerque/Bernalillo County Comprehensive Plan has designated an Area of Change. The subject site fronts Wyoming Blvd. NE, a designated Multi-Modal Corridor. The Goals and policies analyzed below are cited by the applicant in the revised zone change justification letter dated September 30 , 2019 (see attachment).

Chapter 4: Community Identity

Policy 4.1.2-Identity and Design: Protect the identity and cohesiveness of neighborhoods by ensuring the appropriate scale and location of development, mix of uses, and character of building design.

The subject site is in an Area of Change and along a designated Multi-Modal Corridor, Wyoming Blvd. NE, locations appropriate for development. The small-scale of the development that the request would make possible would generally protect the identity and

cohesiveness of the neighborhoods to the south. The request furthers Policy 4.1.2-Identity and Design.

Policy 4.2.1-Community Planning Areas: Use Community Planning Areas to track conditions and progress toward implementation of the community vision over time and organize planning efforts to identify distinct community character.

Policy 4.2.1-Community Planning Areas *does not apply* to specific, proposed development projects such as the request. Rather, Long-Range Planning Staff uses the CPAs to track conditions and progress toward implementation of the Comprehensive Plan's vision. Part of the CPA process is identifying distinct community character and weaving that into the CPA assessments.

Chapter 5: Land Use

Policy 5.1.1 -Desired Growth: Capture regional growth in Centers and Corridors to help shape the built environment into a sustainable development pattern.

Though the subject site is along a designated Multi-Modal Corridor, its small size would not capture growth that is significant to the region. Policy 5.1.1 -Desired Growth does not apply.

Policy 5.1.2-Development Areas: Direct more intense growth to Centers and Corridors and use Development Areas to establish and maintain appropriate density and scale of development within areas that should be more stable.

In generally, directing growth to designated Centers and Corridors allows them to absorb growth, which helps to maintain a relatively lesser density and smaller-scale of development in areas that should be more stable (Areas of Consistency). The request would direct growth, on a small scale, to a designated Multi-Modal Corridor in an Area of Change. The request generally furthers Policy 5.1.2-Development Areas.

Goal 5.2-Complete Communities: Foster communities where residents can live, work, learn, shop, and play together.

The request would generally add to the mix of uses available in this community, which is characterized by a wide variety of commercial, office, institutional, and residential uses, and would foster more opportunities for residents to work, shop (and potentially learn and play) together. The request generally furthers Goal 5.2-Complete Communities.

Policy 5.2.1-Land Uses: Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.

The request would generally add to the mix of uses available to neighborhoods in the area. The subject site is conveniently accessible via Wyoming Blvd., a designated Multi-Modal Corridor, in a community characterized by a wide variety of commercial, office, institutional, and residential uses. The request generally furthers Policy 5.2.1-Land Uses.

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 request would generally contribute to promoting a development pattern that maximizes the utility of existing infrastructure and the efficient use of land because the subject site is in an Area of Change that is already developed with a variety of commercial uses that are separated from the neighborhoods. The request generally furthers Goal 5.3- Efficient Development Patterns.

Policy 5.3.1-Infill Development: Support additional growth in areas with existing infrastructure and public facilities.

The area surrounding the subject site has been developed since the 1970s or earlier, and has sufficient existing infrastructure and public facilities. The request furthers Policy 5.3.1-Infill Development.

Policy 5.3.2-Leapfrog Development: Discourage growth in areas without existing infrastructure and public facilities.

Discouraging growth in areas without infrastructure and public facilities can be accomplished through implementation of the Comprehensive Plan vision and by applying regulations that favor infill development over edge development. The request would facilitate (re)development of an approximately one acre site in an established part of the City, which might discourage this growth occurring elsewhere, but the connection is tenuous and too many other factors are involved to make this conclusion. Policy 5.3.2-Leapfrog Development *does not apply*.

Policy 5.3.5-School Capacity: Discourage zone changes from non-residential to residential or mixed-use zones when affected public schools have insufficient capacity to support the anticipated increase of students based on proposed dwelling units.

The request is for a zone change from MX-T to MX-L, which is not from a non-residential zone, and the subject site is approximately one acre in size. Policy 5.3.5-School Capacity *does not apply*.

Goal 5.6 City Development Areas: Encourage and direct growth to Areas of Change where it is expected and desired and ensure that development in and near Areas of Consistency reinforces the character and intensity of the surrounding area.

Though small in scale, the request would direct growth to an Area of Change where it is expected and desired, which generally helps to ensure that development near and in Areas of Consistency reinforces the character and intensity of the surrounding area. The request generally furthers Goal 5.6 City Development Areas.

Policy 5.6.2-Areas of Change: Direct growth and more intense development to Centers, Corridors, industrial and business parks, and Metropolitan Redevelopment Areas where change is encouraged.

The subject site is in an Area of Change and along a designated Multi-Modal Corridor, Wyoming Blvd. Any growth resulting from the request would be directed to these areas, in which change is encouraged. The request furthers Policy 5.6.2-Areas of Change.

Policy 6.1.3-Auto Demand: Reduce the need for automobile travel by increasing mixed-use development, infill development within Centers, and travel demand management (TDM) programs.

The request, from a mixed-use zone to another mixed-use zone, is unlikely to result in mixed-use development or TDM programs because the subject site is less than an acre in size. It would not be within a designated Center. Policy 6.1.3-Auto Demand does not apply.

Policy 7.3.4-Infill: Promote infill that enhances the built environment or blends in style and building materials with surrounding structures and the streetscape of the block in which it is located.

The request would result in small-scale infill (re)development, but it's not possible to ascertain at this stage (no site plan) if it enhance the built environment in the area of stylistically blend with surrounding structures on the block. The request partially furthers Policy 7.3.4-Infill.

Policy 7.3.5- Development Quality: Encourage innovative and high quality design in all development.

The IDO's Building Standards apply City-wide and are intended to result in high-quality design. However, the subject site is not in a designated Center, Main Street, Premium Transit, or CPO that has additional design standards beyond the baseline standards. The request partially furthers Policy 7.3.5- Development Quality.

Goal 8.1-Placemaking: Create places where business and talent will stay and thrive.

Though the request would generally encourage economic development, and provide another commercial option in the area, the small-scale contribution of the subject site to an area characterized by a variety of (mostly) chain retailers would not have sufficient impact to further Goal 8.1-Placemaking, so Goal 8.1 *does not apply*.

Policy 8.1.2-Resilient Economy: Encourage economic development efforts that improve quality of life for new and existing residents and foster a robust, resilient, and diverse economy.

The request would generally encourage economic development efforts that would add another commercial or retail option to serve the neighborhood, which could help foster a more robust economy in general, though this area is already characterized by a variety of other commercial uses. The request partially furthers Policy 8.1.2-Resilient Economy.

Policy 8.1.3-Economic Base: Strengthen and diversify the economic base to help reduce reliance on government spending.

Economic base typically refers to jobs in the manufacturing or industrial sectors, which create multiplier effects through the economy. Adding service jobs to an approximately 1 acre site

would not strengthen and diversify the economic base. Policy 8.1.3-Economic Base does not apply.

Integrated Development Ordinance (IDO) 6-7(F)(3)-Review and Decision Criteria for Zone Map Amendments

Requirements

The review and decision criteria outline policies and requirements for deciding zone change applications. The applicant must provide sound justification for the proposed change and demonstrate that several tests have been met. The burden is on the applicant to show why a change should be made pursuant to Subsection 6-4(F)(2).

The applicant must demonstrate that the existing zoning is inappropriate because of one of three findings: 1) there was an error when the existing zone district was applied to the property; or 2) there has been a significant change in neighborhood or community conditions affecting the site; or 3) a different zone district is more advantageous to the community as articulated by the Comprehensive Plan.

Justification & Analysis

The subject site is currently zoned MX-T (Mixed-Use Transition Zone). The proposed zoning is MX-L (Mixed-Use Low Intensity Zone). The reason for the request is to allow a drive-through on the subject site. A drive-through or drive-up facility is a conditional, accessory use in the MX-L zone. A conditional use would be required in addition to the zone change.

The applicant's justification letter, analyzed here, was received on September 30, 2019 and is a response to a letter issued by Staff dated September 18, 2019 (see attachment). Pursuant to the IDO Subsection 6-4(F)(2), the applicant bears the burden of providing a sound justification for the request, based on substantial evidence.

The applicant believes that the proposed zone map amendment (zone change) meets the zone change decision criteria [14-16-6-7(F)(3)] as elaborated in the justification letter. The citations are from the IDO. The applicant's arguments are in *italics*. Staff analysis follows with the heading "Staff".

- A. A proposed zone change must be found to be 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.

Applicant: 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 Comprehensive Plan as shown below. As demonstrated in our policy analysis below, the proposed zone change to MX-L would clearly facilitate the desired "Goals and Policies" of the Comp Plan which provides a framework to guide private development land use decisions, and decision-makers as they contemplate new

plans affecting the whole community. Also, the IDO design requirements will help ensure that this rehabilitated bank site will be consistent with the health and welfare of the Abq residents.

Specifically, our Application shows that the following Goals and Policies in the ABC Comp Plan demonstrate that the proposed zone map amendment to MX-L is consistent with the health, safety and general welfare of the City:

Staff: Criterion A is an important component of a zone change justification, though all criteria are required to be fulfilled adequately. Consistency with the City's health, safety, morals, and general welfare is shown by demonstrating that a request furthers applicable Comprehensive Plan Goals and policies (and other plans if applicable) and does not conflict with them.

Applicable citations: Policy 4.1.2-Identity and Design; Policy 5.1.2-Development Areas; Goal 5.2-Complete Communities; Policy 5.2.1-Land Uses; Goal 5.3-Efficient Development Patterns; Policy 5.3.1- Infill Development; Goal 5.6-City Development Areas; Policy 5.6.2- Areas of Change; Policy 7.3.4-Infill; Policy 7.3.5-Development Quality; Policy 8.1.2-Resilient Economy.

Non-applicable citations: Policy 4.2.1-Community Planning Areas; Policy 5.1.1-Regional Growth; Policy 5.3.2-Leapfrog Development; Policy 5.3.5-School Capacity; Policy 6.1.3-Auto Demand; Goal 8.1-Placemaking; Policy 8.1.3-Economic Base.

The applicant has adequately demonstrated, in a policy-based response, that the request would be consistent with the City's health, safety, morals and general welfare because it would generally further a preponderance of applicable Comprehensive Plan Goals and policies. The main argument is that the request would support infill development and use existing infrastructure along a designated corridor in an Area of Change, where growth is generally desired. The response to Criterion A is sufficient.

- B. If the proposed amendment is located wholly or partially in an Area of Consistency (as shown in the ABC Comp Plan, as amended), the applicant has demonstrated that the new zone would clearly reinforce or strengthen the established character of the surrounding Area of Consistency and would not permit development that is significantly different from that character. The applicant must also demonstrate that the existing zoning is inappropriate because it meets any of the following criteria:
- There was typographical or clerical error when the existing zone district was applied to the property.
 - There has been a significant change in neighborhood or community conditions affecting the site.
 - A different zone district is more advantageous to the community as articulated by the ABC Com Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

Applicant: The subject site is not located in an Area of Consistency.

Staff: The subject site is located wholly in an Area of Change, so this criterion does not apply. The response to Criterion B is sufficient.

- C. If the proposed amendment is located wholly in an Area of Change (as shown in the ABC Comp Plan, as amended) and the applicant has demonstrated that the existing zoning is inappropriate because it meets at least one of the following criteria:
1. There was typographical or clerical error when the existing zone district was applied to the property.
 2. There has been a significant change in neighborhood or community conditions affecting the site that justifies this request.
 3. A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

Applicant: The proposed amendment is located in an Area of Change (as shown in the ABC Comp Plan). Our application demonstrates that (c). The change would be more advantageous to the community since many of the ABC Comp Plan goals and policies will be furthered as articulated in the policy analysis. This proposed zone change will allow for the implementation of redevelopment and implementation of patterns of land use that are consistent with the Comp Plan and will further the purpose of the MX-L zoning which is to provide for neighborhood-scale convenience shopping needs, primarily at the corners of intersections.

Staff: The subject site is located in an Area of Change. The applicant chooses #3, that a different zone district is more advantageous to the community, as articulated in the Comprehensive Plan, than the current zoning. The applicant has adequately demonstrated, through the required policy analysis in the response to Criterion A, that the request would be generally more advantageous to the community as articulated in the Comprehensive Plan. The response to criterion C is sufficient.

- D. The zone change does not include permissive uses that would be harmful to adjacent property, the neighborhood, or the community, unless the Use-specific Standards in Section 16-16-4-3 associated with that use will adequately mitigate those harmful impacts.

Applicant: The permissive uses between the MX-T zoning designation and the MX-L zoning designation are similar. The following is a list of all permissive and accessory uses in the proposed MX-L zone that are ADDITIONAL to uses permissive in the MX-T zone (from Table 4-2-1 of the IDO): Discussion of uses that will become permissive and their potential for positive or negative effect on the adjacent property, the neighborhood or the community.

Club or Event Facility – Defined as a public or privately-owned building devoted to the assembly of people for social, professional or recreational activities such as weddings, meetings or conferences. (IDO, page 453). This use would not be detrimental as it would be

compatible with the surrounding properties that include offices and a church. This use function could be positive by providing a space that would accommodate a gathering of people for events. However, due to the size of this site, less than 1 acre, development of a club or event facility is highly unlikely.

Artisan Manufacturing	Permissive
Mortuary	Conditional Primary
Pawn Shop	Conditional Primary
Outdoor Storage	Conditional Accessory
Drive-Through or Drive Up Facility	Conditional Accessory
Group Home, Medium	Permissive
Sorority or Fraternity	Permissive
Kennel	Conditional
Veterinary Hospital	Permissive
Restaurant	Permissive
Other Indoor Entertainment	Permissive
Light Vehicle Fueling Station	Conditional
Light Vehicle Repair	Permissive
Light Vehicle Sales	Conditional
Paid Parking Lot	Permissive
Parking Structure	Permissive
Self-Storage	Conditional Primary
Car Wash	Permissive

Club or Event Facility	Permissive
Commercial Services	Permissive
Bakery Goods or Confectionery Shop	Permissive
Farmers Market	Permissive
Grocery Store	Permissive
Liquor Retail	Permissive Accessory

Commercial Services - Any activity involving the provision of services carried out for profit, generally for a business customer and not an individual buyer, including but not limited to upholstery, welding, laundry, printing, or publishing, that is not listed separately as a distinct use in Table 4-2-1. These uses would help to facilitate the MX-L zoning of providing neighborhood scale needs and shopping and would be advantageous to the community.

Bakery Goods - A facility for the production and sale of baked goods and confectioneries, primarily for retail sales to customers of the facility. Accessory sales to off-site customers is allowed. These uses would help to facilitate the MX-L zoning of providing neighborhood scale needs and shopping and would be advantageous to the community.

Farmers Market - An occasional or periodic market held in a designated area where groups of individual sellers offer for sale to the public items such as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages dispensed from booths located on-site. These uses would help to facilitate the MX-L zoning of providing neighborhood scale needs and shopping and would be advantageous to the community.

Grocery Store - An establishment that sells a wide variety of goods organized in departments, including but not limited to fresh produce, meat and dairy, canned and packaged food items, small household goods, and similar items, with more than 50 percent of the gross floor area devoted to the sale of food products for home preparation and consumption. These uses would help to facilitate the MX-L zoning of providing neighborhood scale needs and shopping and would be advantageous to the community. However, development of a grocery store is not feasible due to the size of the site.

Liquor Retail – In the MX-L zone, this use is prohibited in this location.

Artisan Manufacturing - Small-scale manufacturing and related processes or activities – including but not limited to application, assembling, compounding, design, fabrication, growing, making, packaging, processing, sculpting, teaching, treating of crafts or products, or welding – often by an artist, artisan, or craftsperson working with ceramic, clay, electronics, metal, paper, plastic, stone, textiles, wood, or similar materials either by hand or with minimal automation or technology, including but not limited to 3D printing. This use includes incidental storage and direct sales to consumers. This use also includes the production of beer, wine, or spirits associated with an approved Small Brewer’s License.

Additional requirements defined in 4-3(£) (1) limit this use. Since all manufacturing must be entirely indoors, there is no perceivable negative impact of this use. Rather the opportunity to create craft goods is an opportunity to engage the community in a variety of ways, generate commerce, and could possibly create an appealing destination that when combined with retail/restaurant/bar is a very desirable.

Mortuary - this use function if implemented on site would likely represent economic opportunities for the community with minimal risk of negative impact.

Pawn Shop - Additional requirements defined in 4-3(D)(37) limit this use. This use function is a destination for commerce and does not represent any greater impact on community than Retail.

Outdoor Storage – Additional requirements defined in 4-3(E) (15) limit this use and provides for standards that mitigate any possible harmful impacts. Due to the size of this property, this use is not applicable.

Drive Through or Drive Up Facility – Additional requirements defined in 4-3(F)(4) limit this use and provide standards that mitigate any possible impacts. Development of a drive through would be a welcome addition to this community as shown by the resolution passed by the District 7 Neighborhood Coalition specifically in favor of convenient dining options. This use would further the MX-L zoning desires of providing for a wide variety of neighborhood scale options. In addition, this use would require a Conditional Use Permit which would serve to provide further protections against possible harmful impacts.

Group Home, Medium - This use may not be possible as this use is subject to 4-3(B)(9), which limits the number of these facilities within a Council District. In general, a group home would not be in conflict with the adjoining properties (multifamily, hotel, hospital)

Sorority or Fraternity – This use would not be detrimental as it would be compatible with the adjoining properties. It is however rather displaced from the university area and is an unlikely use.

Kennel - Additional requirements defined in 4-3 (D)(4) limit this use. In the MX-L zone districts, this use shall be conducted within a building. Otherwise this function would be very compatible for the area and be a desirable business function.

Veterinary Hospital – Any of the negative impacts of the veterinary use (related to sound and odor) is addressed in 4-3(D)(5). Otherwise the function would be very compatible for the area and be a desirable business function that was supported by the adjoining residential districts.

Restaurant – Additional requirements defined in 4-3(D)(8) and state law regulate this function if alcohol is to be served. If that is the case and those requirements are met, this function can occur on the site. There are a variety of dining options in the area and another restaurant function at this location would only be a benefit. It would likely capture local residents and visitors in the area which would support localized multimodal activity. There is no perceivable negative effect of this function on the adjoining properties.

Other Indoor Entertainment – Since this function would be fully contained indoors, there is likely this would be a community asset/amenity with no negative effect for it to exist on site.

Light Vehicle Fueling Station – Additional requirements defined in 4-3 (D)(17) limit this use. Per 4-3(D)(17) (I) and due to the adjacent Residential Zone, this use would require a Conditional Use Approval.

Light Vehicle Repair – Additional requirements defined in 4-3 (D)(17) limit this use. If these regulations are adhered to, the function itself would not represent a negative impact on the property and could be perceived as an asset to the adjoining areas.

Light Vehicle Sales - Additional requirements defined in 4-3(D)(19) limit this use. Due to the size of this parcel, at less than 1 acre, this use is highly unlikely.

Paid Parking Lot - Additional requirements defined in 4-3(D)(21) limit this use. The use is unlikely, but should it be implemented would contribute positively as it would presumably be supporting some other form of multi-modal transit and further would be required to place additional landscaping elements that would be desirable in context.

Parking Structure - Additional requirements defined in 4-3 (D) (21) limit this use. See rationale for Paid parking lot above.

Self-Storage – Additional requirements defined in 4-3(D)28 limit this use. Only interior storage solutions would be allowed given the size of this parcel the use would be unlikely. However, if this use were to occur, this use would represent a community asset with minimal risk of negative impact.

Car Wash - Additional requirements defined in 4-3 (D)(15) limit this use. Given the size of this parcel, this use would be unlikely. If however, the function were to be placed on the property, it would not represent a negative impact for any of the adjoining properties.

Future re-development of this property and possible uses that could be considered harmful to adjacent property owners have been mitigated by specific use standards and regulations identified in the Integrated Development Ordinance. All uses shall comply with City ordinances regulating noise, odors, vibration, glare, heat, and other special nuisance conditions affecting other properties as well as use- specific standards.

Permissive uses that could be construed as having possible harmful effects such as a fueling station, car wash, light fueling repair or parking lot are regulated by local, state and federal requirements and must comply with all New Mexico state laws, including but not limited to any required spacing from other uses or facilities. They are also controlled by Specific-Use Standards found in the IDO to mitigate potential harmful effects on the surrounding area. Future development on the subject site under the

MX-L zone would be subject to IDO requirements including Neighborhood Edges (14-16- 5-9), the mixed-use zone dimensional standards (Table 5-1-2), buffer landscaping (14-16-5- 6-(E), and building design standards (14-16-4-11). These would help ensure appropriate scale and location of development and character of building design. These Use Standards include precautionary measures such as distance requirements, size restrictions, design standards, screening requirements and various other measures. Additionally, re-development of this subject site must still go through a rigorous site planning approval process at which time the public will be fully engaged.

Staff: The applicant provided a thorough discussion of the uses that would become permissive in the MX-L zone and addressed the issue of potential harm to adjacent property, the neighborhood, or the community. The applicant points out that some of the uses, such as artesian manufacturing and light vehicle fueling station, have applicable use-specific standards that contain requirements to mitigate potential, harmful effects on the surrounding area.

Uses that would become permissive are car wash, light vehicle repair, commercial services, and grocery store. Light vehicle fueling station, light vehicle sales and rental, and pawn shop would become conditional uses in the MX-L zone. Restaurant, other indoor entertainment, and artisan manufacturing would go from conditional to permissive uses. Tap room and bar would remain conditional uses (see Table 4-2-1, p. 131 of the IDO). A drive through facility is not allowed in MX-T, but would become a conditional accessory use in MX-L.

Staff generally agrees, for an approximately 0.85 acre site, that the use-specific standards of the IDO would be sufficient to mitigate the harmful effects of uses that would become permissive in the new zone, MX-L. As for a drive-through use, that would become a conditional use in the MX-L zone and would be subject to a hearing through the ZHE process as well as IDO standards.

The subject site is not a part of the La Mirada shopping center, which was formerly zoned C-2 (SC) and fronts Montgomery Blvd. Rather, the subject site (formerly zoned SU-1 for Savings and Loan

Office) is part of a block of office uses that spans west from Wyoming Blvd. by approximately 880 feet and lies between the shopping center and the R-1C zoned homes to the south. The subject site is located on the corner and fronts Wyoming Blvd. The applicant explains, on p. 2 of the justification letter, that the subject site is not adjacent to any residentially-zoned property. Though a zone change to MX-L would encroach into the established MX-T (formerly O-1) buffer, the approximately 0.75 acre site, zoned MX-T, would remain between the subject site and the homes so a buffer would still exist. Distance from the established, single-family neighborhood is a significant factor in reducing the potential for harm. The response to Criterion D is sufficient.

- E. The City's existing infrastructure and public improvements, including but not limited to its street, trail, and sidewalk systems meet 1 of the following requirements:
1. Have adequate capacity to serve the development made possible by the change of zone.
 2. Will have adequate capacity based on improvements for which the City has already approved and budgeted capital funds during the next calendar year.
 3. Will have adequate capacity when the applicant fulfills its obligations under the IDO, the DPM, and/or an Infrastructure Improvements Agreement.
 4. Will have adequate capacity when the City and the applicant have fulfilled their respective obligations under a City- approved Development Agreement between the City and the applicant.

Applicant: The request meets the criteria of 14-16-6-7(F)(3)(e) because the existing infrastructure and public improvements currently have adequate capacity to serve the proposed development. The Subject Site includes an existing building that was formerly a Bank of Albuquerque branch. The proposed development will not create the need for any additional infrastructure or public improvements.

Staff: Requirement 1 applies. The applicant states that existing infrastructure and public improvements would have adequate capacity to serve development made possible by the proposed zone change. This is likely since the subject site has already been developed. However, if the use change would cause the need for infrastructure improvements, the applicant would be responsible for providing them. The response to Criterion E is sufficient.

- F. The applicant's justification for the requested zone change is not completely based on the property's location on a major street.

Applicant (summarized): The request meets the criteria of 14-16-6-7(F) (3) (f) because the rationale and justification for the zone change is not based on the property's location on Wyoming Blvd. The zone map amendment is justified pursuant to the analysis of the goals and policies of the Albuquerque Comp Plan.

The justification provided herein is not based on the property's location on an arterial roadway and located in a Multi Modal Corridor, but rather on a preponderance of applicable Goals and Policies of the Comp Plan as outlined in our policy narrative. The current zoning request will further multiple goals and policies of the Comprehensive Plan and will serve as an

excellent redevelopment opportunity. While the location of the property at the intersection of a Commuter Corridor is not the main reason for providing justification for commercial zoning; however, it does provide rationale for why this site is suitable for the proposed MX-L zoning and associated uses. Access and connectivity are important considerations for mixed-use development.

Staff: The subject site is located on Wyoming Blvd. NE, a Principal Arterial and multi-modal corridor, but that location is not being used as the primary justification for the request. The applicant has demonstrated that the request furthers a preponderance of applicable, Comprehensive Plan Goals and policies and does not conflict with them. The response to Criterion F is sufficient.

- G. The applicant's justification is not based completely or predominantly on the cost of land or economic considerations.

Applicant: This justification is not based completely or predominantly on the cost of land or other economic considerations and are not the determining factor for this zone change request. The requested zone change will allow MX-L uses to develop, thereby providing an expanded option of uses more advantageous to the community. These includes uses such as commercial, retail, and mixed-use choices in an area of Albuquerque where growth and vitality are in important part of the character.

Staff: The applicant could pursue a conditional use and develop a restaurant without a zone change, but the applicant wants to add the drive-through use, which is an economic consideration. However, the applicant has adequately demonstrated that the request furthers a preponderance of applicable Comprehensive Plan policies (Criteria A, C, and D) and does not conflict significantly with them. The response to Criterion G is sufficient.

- H. The zone change does not apply a zone district different from surrounding zone districts to one small area or one premises (i.e. create a "spot zone") or to a strip of land along a street (i.e. create a "strip zone") unless the change will clearly facilitate implementation of the ABC Comp Plan, as amended, and at least one of the following applies:

1. The area of the zone change is different from surrounding land because it can function as a transition between adjacent zone districts.
2. The site is not suitable for the uses allowed in any adjacent zone district due to topography, traffic, or special adverse land uses nearby.
3. The nature of structures already on the premises makes it unsuitable for the uses allowed in any adjacent zone district.

Applicant: Application of the MX-L zone will not constitute a spot zone because it is consistent with adjacent zoning to the north with the MX-T zoning to the west and south which do act as a buffer transition between the residential uses which is the purpose of this zone. The requested change to MX-L will clearly facilitate implementation of the ABC Comp Plan, as amended, as discussed in the preponderance of goals and policies furthered by the change.

This request qualifies under criteria (1) which states that the area of the zone change is different from surrounding land because it can function as a transition between adjacent zone districts. The purpose of the current zone of MX-T is to provide a buffer between residential uses and commercial uses, as documented in our request, this site is not adjacent to any residential development. However, the properties to the south and east of this parcel are adjacent to residentially zoned property therefore they create the intended buffer transition. This parcel could serve as the transition between the MX-T zoning to the West and South that is adjacent to residential and the adjacent mixed used zoning of MX-L and MX-M to the North and will function as a natural transition between both zones and densities.

Staff: The request would not result in a spot zone. MX-L zoning exists to the north, across La Mirada Place NE. Staff does not agree that the request would make the subject site function as a transition between zones because it already does: now the subject site (MX-T) is between MX-T and MX-L. With the request, the subject site would be MX-L between MX-T and MX-L. However, this ineffective argument is not needed because the request would not result in a spot zone by definition. The response to Criterion H is sufficient; only the first two sentences of the applicant's response are needed.

III. AGENCY & NEIGHBORHOOD CONCERNS

For comments from Reviewing Agencies, please refer to p. 15 of the original Staff report (see attachment).

Neighborhood/Public

» Please refer to p. 15 of the Original Staff Report (see attachment).

Neighborhood Information

The District 7 Coalition submitted a letter of support, in the form of a resolution, which states that it supports economic development of a vacant building on the edge of their neighborhoods (see attachment). The Loma del Rey NA had submitted an email stating support for a restaurant on the subject site.

Staff received a letter of concern from a homeowner in the Loma del Rey neighborhood dated June 13, 2019 (see attachment to original Staff report). She stated that the yellow sign was not posted for the time required, and said she saw it on June 10, 2019 and it was supposed to have been posted on May 28, 2019. With the deferrals, however, the yellow sign notice is adequate. The neighbor is also concerned about additional uses that the zone change would allow: car wash, fueling station, car repair, vehicle sales and rental, commercial services, self-storage, pawn shop, outdoor storage, or a drive through of some kind. Staff has not heard anything further.

IV. CONCLUSION

The request is for a zone change for an approximately 0.85 acre site located on the western side of Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE (4201 Wyoming Blvd. NE) (the "subject site"). A building, a former bank, exists on the subject site.

The subject site is zoned MX-T, received upon adoption of the IDO, and is part of a buffer of MX-T zoned properties that separate the shopping center to the north from the established neighborhood to the south. The applicant is requesting a zone change to MX-L (Mixed-Use Low intensity zone) in order to re-develop the subject site with a drive-thru use, most likely a restaurant as stated in the applicant's letter. Drive-throughs are an accessory use not allowed in the MX-T zone, but are conditionally allowed in the MX-L zone. A conditional use would still be needed if the zone change request is approved.

The zone map amendment has been adequately justified pursuant to the IDO Review and Decision criteria for zone changes 6-7(F)(3).

The applicant notified the Loma del Rey Neighborhood Association (NA), the District 4 Coalition of NAs, the District 6 Coalition of NAs, the District 8 Coalition of NAs, and property owners within 100 feet of the subject site as required. The Loma del Rey NA and the District 7 Coalition submitted letters of support. A neighbor stated that she's concerned about the additional uses that the proposed zone change would allow.

Staff recommends approval.

FINDINGS - RZ-2019-00021, October 10, 2019- Zone Map Amendment (Zone Change)

1. The request is for a zone map amendment (zone change) for an approximately 0.85 acre site known as Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision (the “subject site”). The subject site is located on the western side of Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE (4201 Wyoming Blvd. NE). A building, which was a bank, exists on the subject site.
2. The subject site is zoned MX-T, which it received upon adoption of the Integrated Development Ordinance (IDO) as a conversion from the former zoning of SU-1 for Savings and Loan Office. The applicant is requesting a zone change to MX-L (Mixed-Use Low intensity zone) and intends to re-develop the subject site with a drive-through use, most likely a restaurant as indicated in the record.
3. A restaurant use could develop on the subject site without a zone change. However, the MX-T zone does not allow drive-throughs, which are an accessory use. Drive-throughs are conditionally allowed in the MX-L zone. Even if the request is approved, the applicant would still need to obtain a conditional use for the drive-through.
4. The subject site is in an area that the Comprehensive Plan has designated an Area of Change. Wyoming Blvd. NE is designated as a Multi-Modal Corridor.
5. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Integrated Development Ordinance (IDO) are incorporated herein by reference and made part of the record for all purposes.
6. The following are notable differences between the MX-T and the MX-L zones. Most are in the Motor Vehicle Related and the Food, Beverage, and other Indoor Entertainment categories.
 - Restaurant, tap room, other indoor entertainment, club or event facility, artesian manufacturing, car wash, light vehicle fueling and repair become permissive uses in MX-L.
 - Light vehicle fueling station, light vehicle sales and rental, pawn shop, and kennel become conditional uses in MX-L.
 - Liquor retail becomes a permissive accessory use in MX-L.
 - Outdoor storage becomes a conditional accessory use in MX-L.
7. The request furthers the following, applicable Goal and policies regarding communities:
 - A. Goal 5.2-Complete Communities: Foster communities where residents can live, work, learn, shop, and play together.

The request would generally add to the mix of uses available in this community, which is characterized by a wide variety of commercial, office, institutional, and residential uses,

and would foster more opportunities for residents to work, shop (and potentially learn and play) together.

- B. Policy 5.2.1-Land Uses: Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.

The request would generally add to the mix of uses available to neighborhoods in the area. The subject site is conveniently accessible via Wyoming Blvd., a designated Multi-Modal Corridor, in a community characterized by a wide variety of commercial, office, institutional, and residential uses.

- C. Policy 4.1.2-Identity and Design: Protect the identity and cohesiveness of neighborhoods by ensuring the appropriate scale and location of development, mix of uses, and character of building design.

The subject site is in an Area of Change and along a designated Multi-Modal Corridor, Wyoming Blvd. NE, locations appropriate for development. The small-scale of the development that the request would make possible would generally protect the identity and cohesiveness of the neighborhoods to the south.

8. The request furthers the following, applicable Goal and policy pair regarding efficient development patterns:

- A. 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 request would generally contribute to promoting a development pattern that maximizes the utility of existing infrastructure and the efficient use of land because the subject site is in an Area of Change that is already developed with a variety of commercial uses that are separated from the neighborhoods.

- B. Policy 5.3.1-Infill Development: Support additional growth in areas with existing infrastructure and public facilities.

The area surrounding the subject site has been developed since the 1970s or earlier, and has sufficient existing infrastructure and public facilities.

9. The request furthers the following, applicable Goal and policies regarding Development Areas:

- A. Goal 5.6 City Development Areas: Encourage and direct growth to Areas of Change where it is expected and desired and ensure that development in and near Areas of Consistency reinforces the character and intensity of the surrounding area.

Though small in scale, the request would direct growth to an Area of Change where it is expected and desired, which generally helps to ensure that development near and in Areas of Consistency reinforces the character and intensity of the surrounding area.

- B. Policy 5.6.2-Areas of Change: Direct growth and more intense development to Centers, Corridors, industrial and business parks, and Metropolitan Redevelopment Areas where change is encouraged.

The subject site is in an Area of Change and along a designated Multi-Modal Corridor, Wyoming Blvd. Any growth resulting from the request would be directed to these areas, in which change is encouraged.

- C. Policy 5.1.2-Development Areas: Direct more intense growth to Centers and Corridors and use Development Areas to establish and maintain appropriate density and scale of development within areas that should be more stable.

In generally, directing growth to designated Centers and Corridors allows them to absorb growth, which helps to maintain a relatively lesser density and smaller-scale of development in areas that should be more stable (Areas of Consistency). The request would direct growth, on a small scale, to a designated Multi-Modal Corridor in an Area of Change.

10. The applicant has adequately justified the request pursuant to the Integrated Development Ordinance (IDO) Section 6-7(F)(3)-Review and Decision Criteria for Zone Map Amendments, as follows:

- A. Criterion A: Consistency with the City's health, safety, morals and general welfare is shown by demonstrating that a request furthers a preponderance of applicable Comprehensive Plan Goals and policies and does not conflict with them.

The applicant has adequately demonstrated, in a policy-based response, that the request is consistent with the City's health, safety, morals and general welfare because it would generally further a preponderance of applicable Comprehensive Plan Goals and policies. The main argument are that the request would support infill development and use existing infrastructure along a designated corridor in an Area of Change, where growth is desired.

- B. Criterion B: This criterion does not apply because the subject site is not located in an Area of Consistency, either wholly or in part.
- C. Criterion C: The subject site is located in an Area of Change. The applicant chooses #3, and believes that a different zone district is more advantageous to the community, as articulated in the Comprehensive Plan, than the current zoning. The applicant has adequately demonstrated, through the required policy analysis in the response to Criterion A, that the request would be generally more advantageous to the community as articulated in the Comprehensive Plan.
- D. Criterion D: The applicant provided a thorough discussion of the uses that would become permissive in the MX-L zone and adequately addressed the issue of potential harm to adjacent property, the neighborhood, or the community. Some uses, such as artesian manufacturing and light vehicle fueling station, have applicable use-specific standards in the IDO intended to mitigate potential, harmful effects. Some uses would be very unlikely to develop on the approximately 0.85 acre subject site.

The subject site is part of a block of office uses that spans west from Wyoming Blvd. by approximately 880 feet and lies between the La Mirada shopping center to the north and the R-1C zoned homes to the south. The subject site is on the corner and is not adjacent to any residentially-zoned property. Though a zone change to MX-L would encroach into the established MX-T (formerly O-1) buffer, there is another site (approximately 0.75 acre) between the subject site and the homes, so a buffer (zoned MX-T) would remain. Distance from the established, single-family neighborhood is a significant factor in reducing the potential for harm.

- E. Criterion E: Requirement 1 applies. The applicant states that existing infrastructure and public improvements would have adequate capacity to serve development made possible by the proposed zone change.
 - F. Criterion F: The subject site is located on Wyoming Blvd. NE, a Principal Arterial and multi-modal corridor, but that location is not being used as the primary justification for the request. The applicant has demonstrated that the request furthers a preponderance of applicable, Comprehensive Plan Goals and policies and does not conflict with them.
 - G. Criterion G: The applicant could pursue a conditional use and develop a restaurant without a zone change, but the applicant wants to add the drive-through use, which is an economic consideration. However, the applicant has adequately demonstrated that the request furthers a preponderance of applicable Comprehensive Plan policies (Criteria A, C, and D) and does not conflict significantly with them.
 - H. Criterion H: The request would not result in a spot zone because the request would not apply a zone district different from surrounding zone districts, to the subject site. MX-L zoning is found north of the subject site, in two parcels in the La Mirada Shopping Center that front Wyoming Blvd. NE.
11. The zone map amendment is adequately justified pursuant to the IDO Review and Decision criteria for zone changes in 14-16-6-7(F)(3). The policy analysis demonstrates that the request furthers a preponderance of applicable Goals and policies and does not conflict with them. The applicant adequately addressed the issue of potential harm to adjacent property, the neighborhood, or the community. The responses to the remaining sections are sufficient.
12. The affected neighborhood organizations are the Loma del Rey Neighborhood Association (NA), the District 4 Coalition of NAs, the District 6 Coalition of NAs, and the District 8 Coalition of NAs, which was notified as required. Property owners within 100 feet of the subject site were also notified as required.
13. As of this writing, Staff received letters of support from the Loma del Rey NA and the District 7 Coalition. The letters state general support for the zone change to allow for a restaurant on the subject site. A neighbor provided a letter stating she is concerned about additional uses that the zone change would allow: car wash, fueling station, car repair, vehicle sales and rental, commercial services, self-storage, pawn shop, outdoor storage, or a drive through.

RECOMMENDATION - RZ-2019-00021, October 10, 2019

APPROVAL of Project #: 2019-002353, Case #: 2019-00021, a zone change from MX-T to MX-L, for Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision, an approximately 0.85 acre site located on Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE (4201 Wyoming Blvd. NE), based on the preceding Findings.

Catalina Lehner

**Catalina Lehner, AICP
Senior Planner**

Notice of Decision cc list:

Land Development 8, LLC, Joshua Skarsgard, 8220 San Pedro NE, #500, ABQ, NM 87113
Modulus Architects, Attn: Angela Williamson, 100 Sun Ave. NE, Suite 305, ABQ, NM 87109
Jessica Armijo, Loma Del Rey NA, 3701 Erbbe St., NE, ABQ, NM 87111
Brian Eagan, Loma Del Rey NA, 8416 Hilton Av., NE #48, ABQ, NM 87111
Donald Couchman, Dist. 8 Coalition of NAs, 6441 Concordia Rd NE, ABQ, NM 87111
Mary Kurkjian, Dist. 8 Coalition of NAs, 13709 Canada del Oso Pl., NE, ABQ, NM 87111
Daniel Regan, Dist. 4 Coalition of NAs, 4109 Chama St. NE, ABQ, NM 87109
Michael Pridham, Dist. 4 Coalition of NAs, 6413 Northland Av., NE, ABQ, NM 87109
Lynne Martin, Dist. 7 Coalition of NAs, 1531 Espejo NE, ABQ, NM 87112
David Haughawout, Dist. 7 Coalition of NAs, 2824 Chama St. NE, ABQ, NM 87110
Carolyn Baker-Nair, cnair@gmx.com
Alan Varela, avarela@cabq.gov

CITY OF ALBUQUERQUE



PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
600 2nd Street NW, 3rd Floor, 87102
P.O. Box 1293, Albuquerque, NM 87103
Office (505) 924-3860 Fax (505) 924-3339

OFFICIAL NOTIFICATION OF DECISION

August 8, 2019

Land Development 8, LLC
Josh Skarsgard
8220 San Pedro NE, #500
Albuquerque, NM 87113

Project #2019-002353
RZ-2019-00021 – Zone Map Amendment
(Zone Change)

LEGAL DESCRIPTION:

The above action for Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision, zoned MX-T, to MX-L, located at 4201 Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE, containing approximately 0.85 acre. (G-19)

Staff Planner: Catalina Lehner

PO Box 1293

On August 8, 2019 the Environmental Planning Commission (EPC) voted to DEFER Project 2019-002353/RZ-2019-00021, a Zone Map Amendment (Zone Change), for 60 days to the October 10, 2019 public hearing.

Albuquerque

Sincerely,


for Brennan Williams
Interim Planning Director

NM 87103

www.cabq.gov

BW/CL

cc: Land Development 8, LLC, Joshua Skarsgard, 8220 San Pedro NE, #500, ABQ, NM 87113
Angela Williamson, 100 Sun Avenue NE, Suite 305, ABQ, NM 87109
Jessica Armijo, Loma Del Rey NA, 3701 Erbbe St., NE, ABQ, NM 87111
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David Haughawout, Dist. 7 Coalition of NAs, 2824 Chama St. NE, ABQ, NM 87110
Alan Varela, avarela@cabq.gov

July 29, 2019

Environmental Planning Commission
City of Albuquerque
600 2nd Street NW
Albuquerque NM, 87102

Re: *Agency Authorization for ANGELA WILLIAMSON to act as agent on behalf of Land Development 8, LLC and Red Shamrock 2, LLC – Zone Map Amendment - EPC*

Dear Environmental Planning Commission:

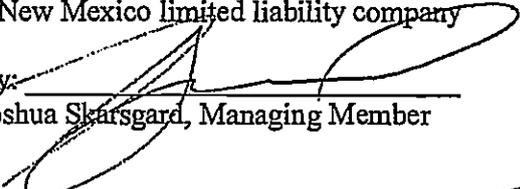
Please be advised that Ms. Angela Willimason (“Agent”) has been granted the express authority to represent Land Development 8, LLC and Red Shamrock 2, LLC (jointly “Applicant”) in regards to a Zone Map Amendment from MX-T to MX-L (“Application”) upon the real property located at 4201 Wyoming Blvd. NE, Albuquerque, NM 87111 (“Subject Property”). All questions and communication should be directed to the following:

ANGELA M. WILLIAMSON
100 Sun Avenue NE, Suite 305
Albuquerque, NM 87109
Mobile + Text 505.999.8016

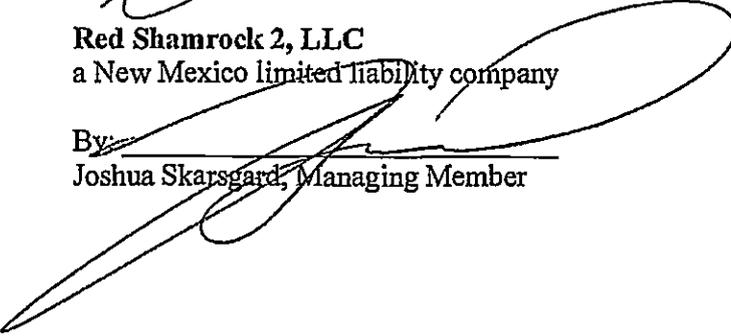
Thank you in advance for your cooperation.

Sincerely,

Land Development 8, LLC
a New Mexico limited liability company

By: 
Joshua Skarsgard, Managing Member

Red Shamrock 2, LLC
a New Mexico limited liability company

By: 
Joshua Skarsgard, Managing Member



September 30, 2019

City of Albuquerque
Care of: Chairman of the EPC
Environmental Planning Commission
600 2nd Street, NW
Albuquerque, NM 87102

**RE: EPC submittal for Zone Map Amendment from MX-T to MX-L – 4201 Wyoming Blvd. NE
Albuquerque, NM 87111**

Dear Environmental Planning Commission:

Please be advised that Modulus Architects, Inc. , as Agent, represents the landowner, Land Development 8, LLC and Red Shamrock 2, LLC (jointly "**Applicant**") regarding this application for a Zone Map Amendment from MX-T to MX-L ("**Application**") on the real property located at 4201 Wyoming Blvd. NE Albuquerque, NM 87111, further described as:

Lot numbered Three (3) of La Mirada Subdivision, as the same is shown and designated the plat entitled "Amended Summary Plat: Lots 3, 4, 6, 8, 9, 10, 13 & 14 and a Part of Lot 7, La Mirada Subdivision, Albuquerque, New Mexico," filed in the office of the County Clerk of Bernalillo County, New Mexico, on March 20, 1981, in Plat Book C18, Page 32. Said parcel lying situate within Section 6, Township 10 North, Range 4 East of the New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico ("**Subject Site**"). Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision. ("**Legal Description**")

BACKGROUND

The Subject Site located on the western side of Wyoming Blvd one block south of Montgomery. The site is 0.8070 acres with a +/-2,424 square foot building (formerly a Bank of Albuquerque). The site was annexed in 1940's and originally had O-1 office zoning. In August 1973, the Environmental Planning Commission (EPC) heard a request for a zone change from O-1 and P to SU-1 for a Savings and Loan (Z-73-127, see attachments). The EPC approved the request and the subject site was zoned SU-1 for a Savings and Loan Office. The Subject Property was owned and operated by either "Albuquerque Federal Savings or Loan Association" or its successor, "Albuquerque Federal Savings Bank" from 1973 to the early 1990's when the property was sold to Bank of Albuquerque. Bank of Albuquerque was acquired as a business by Bank of Oklahoma (BOKF), but the property remained a bank with a drive thru teller service until 2017 when the property was closed. The property has been vacant since that time.

The subject property is located in an established area characterized by a variety of land uses with La Mirada Shopping Center adjacent to the north and numerous commercial uses surrounding the

property such as retail shopping, restaurants, banks, big box development, grocery stores, church and a learning center.

This building is located a few blocks south of the Montgomery Blvd. and Wyoming Blvd. intersection at 4201 Wyoming Blvd. NE. Specifically, the following are the uses that surround the Subject Property (see map below).

Neighbor to the West: La Mirada Shopping Center

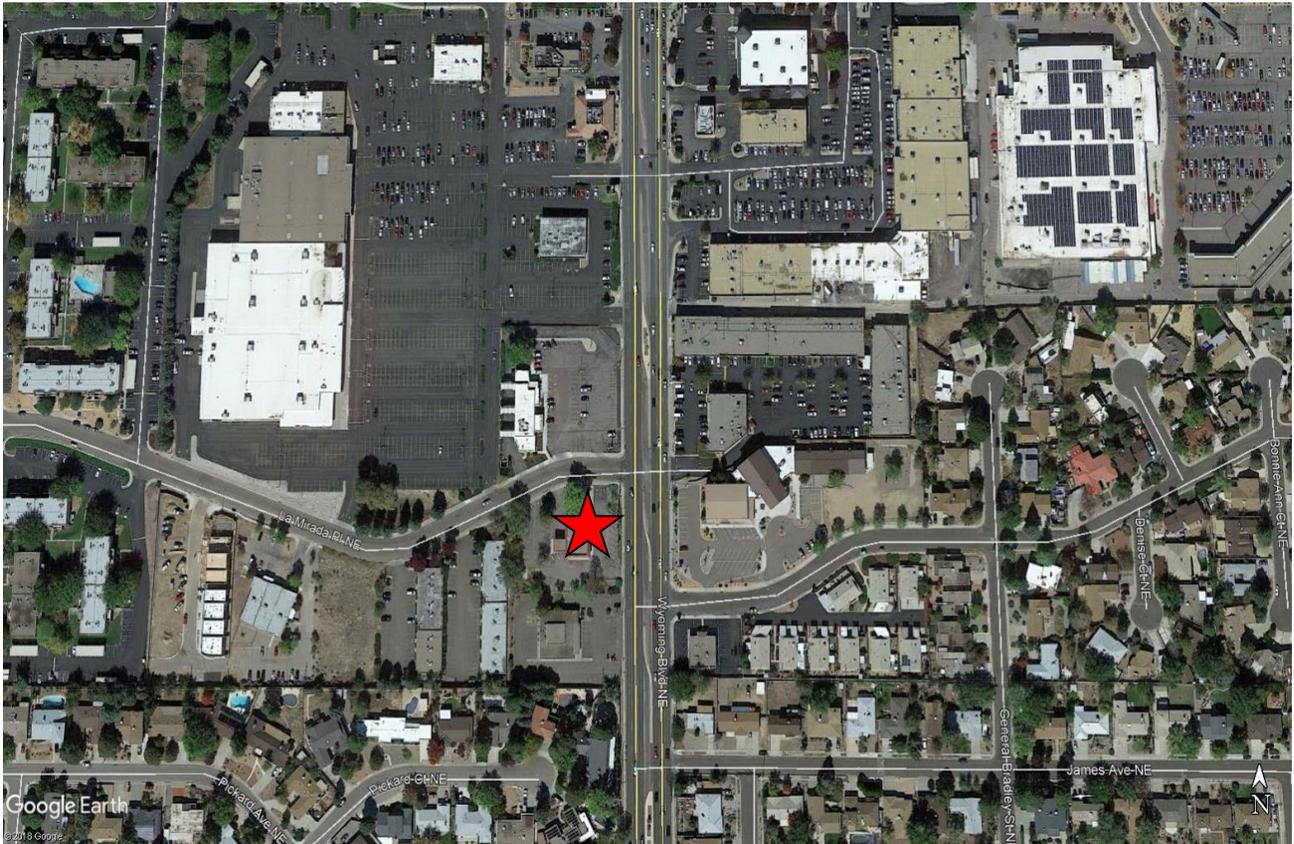
Neighbor to the North: Bank of America

Neighbor to the East: Church and Chiropractor

Neighbor to the West: Offices

NOTE: The map below indicates the surrounding development as either commercial or residential. The MX-T zone is a transition zone between residential neighborhoods and more intense commercial areas. As you can see, the subject property is not adjacent to residentially developed or zoned property.





PROPOSED ZONING

This Zone Map Amendment requests seeks to “rezone” the subject property from MX-T to MX-L (Mixed Use Low Intensity). The MX-L zone district is clearly more in line with redeveloping this property with what is more advantageous to the community as articulated by the ABC Comp Plan goals and policies (*in italics*) noted in our policy justification portion of this letter and are furthered by the proposed zone change.

This site is located along a Multi Modal Corridor at the corner of a Principal Arterial Roadway and within the 660 ft. benchmark of a Major Transit Corridor, also a Principal Arterial Roadway in an Area of Change, identified by the Land Use Map as “Commercial”. The site is in a Multi-Modal Corridor in the Mid-Heights sector. The MX-L zone allows for neighborhood-scale convenience shopping needs, primarily at the corners of collector intersections. Primary land uses include non-destination retail and commercial uses. The MX-L zone is appropriate in this location and would allow the property to be redeveloped with a range of expanded uses that are consistent with the adjacent uses, the Comprehensive Plan and the desires of the community residents.

The obvious inconsistency in the conversion to the MX-T zone begins with the fact that the purpose of the MX-T zone district is to provide a transition between residential neighborhoods and more intense commercial areas.

2-4(A)(1) PURPOSE MIXED USE – TRANSITION ZONE DISTRICT (MX-T)

The purpose of the MX-T zone district is to provide a transition between residential neighborhoods and more intense commercial areas. Primary land uses include a range of low-density multi-family residential and small-scale office, institutional, and pedestrian-oriented commercial uses. Allowable uses are shown in Table 4-2-1. (pg. 23)

This property is not adjacent to residentially zoned or residentially developed property and therefore does not serve as a transition as was the intention of this zoning designation. The requested MX-L zone is more appropriate as identified below in which the purpose of the MX-L zone district is to provide for neighborhood-scale convenience shopping needs, primarily at the corners of intersections.

2-4(B)(1) PURPOSE MIXED-USE – LOW INTENSITY ZONE DISTRICT (MX-L)

The purpose of the MX-L zone district is to provide for neighborhood-scale convenience shopping needs, primarily at the corners of collector intersections. Primary land uses include non-destination retail and commercial uses, as well as townhouses, low-density multi-family residential dwellings, and civic and institutional uses to serve the surrounding area, with taller, multi-story buildings encouraged in Centers and Corridors. (pg. 25)

For the purposes of comparison, there are few differences between the MX-T zone and the MX-L zone. I have outlined them here for your review. Again, the goal of the Zone Map Amendment request is to allow for a greater range of commercial uses appropriate for the scale of this site which is less than one acre in size but will result in redevelopment of this property. Our analysis will outline these differences in the policy analysis of our review.

Although not part of the criterion for approval of a Zone Map Amendment, it is noteworthy to document that the District 7 Coalition of Neighborhoods has passed a resolution (Resolution 2019-01) in full support of this request for a Zone Map Amendment for MX-T to MX-L to allow for expanded range of use for redevelopment of this property citing the economic vitality of the area. A copy of this resolution accompanies this request and has been submitted to the staff planner, Ms. Catalina Lehner.

POLICY ANALYSIS

COMPLIANCE WITH IDO SECTION 14-16-6-7(F)(3)

IDO Section 14-16-6-7(F)(3) “Review and Decision Criteria” requires that an Applicant of a zone map amendment offer sufficient justification for the Application by providing a detailed response to all of the policies contained within that section. In compliance, Angela Williamson with Modulus Architects, as Agent on behalf of the Applicant, provides the following responses to IDO Section 14-16-6-7(F)(3):

SSECTION A

14-16-6-7(F)(3)(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.*

Applicant Response: 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 Comprehensive Plan as shown below.

Policy 4.1.2 Identity and Design: Protect the identity and cohesiveness of neighborhoods by ensuring the appropriate scale and location of development, mix of uses, and character of building design.

This request furthers this policy because future development on the subject site under the MX-L zone, would provide for neighborhood -scale convenience shopping needs, non-destination retail and

commercial uses. These are the intended development for low intensity zoning which ensures appropriate scale and location of development. Any future redevelopment under the requested MX-L zoning would be subject to IDO requirements including Neighborhood Edges (14-16- 5-9), the mixed-use zone dimensional standards (Table 5-1-2), buffer landscaping (14-16-5- 6-(E), and building design standards (14-16-4-11). These would help to further provide assurances of appropriate scale and location of development and character of building design. The request furthers Policy 4.1.2.

POLICY 4.2.1

Community Planning Areas: Use Community Planning Areas to track conditions and progress toward implementation of the community vision over time and organize planning efforts to identify distinct community character. [ABC]

This request furthers this policy because the property is located within the Mid Heights Community Planning Area, the policy is to implement the community vision via an organized planning effort. The District 7 Coalition of Neighborhoods that represents the Mid Heights Planning Area and this property have identified the vision for the redevelopment of this property and have published a resolution in support of this request. The vision for this area is to allow for redevelopment with a greater range of uses to better respond to the needs identified by the residents of this area. This request furthers Policy 4.2.1 – Community Planning Areas

POLICY 5.1.1 Desired Growth: Capture regional growth in Centers and Corridors to help shape the built environment into a sustainable development pattern. [ABC]

This request furthers this policy because the redevelopment of this property will help to facilitate regional growth in this corridor. Although this contribution may be small, it is contributing to the overall goal to provide diversity of development and creates a benefit at the 10,000-person scale just as it does the 10 million-person scale. Local economic specialization and competitive advantage matter, Redevelopment would further this policy and could generally contribute to shaping a sustainable development pattern and is the most appropriate area to accommodate growth and discourage the need for development at the urban edge. This request furthers Policy 5.1.1 – Land Use

POLICY 5.1.2

Development Areas: Direct more intense growth to Centers and Corridors and use Development Areas to establish and maintain appropriate density and scale of development within areas that should be more stable. [ABC]

This request furthers this policy because this property is located alongside a designated transit corridor which is intended to receive more intense growth. The MX-L zone would allow low intensity redevelopment in an “Area of Change” and would be an infill project, it establishes appropriate density and scale of redevelopment within an area that should be more stable. This request furthers Policy 5.1.2 – Land Use

GOAL 5.2 Complete Communities

Foster communities where residents can live, work, learn, shop and play together.

POLICY 5.2.1 Land Uses: Create healthy, sustainable, and distinct communities with a mix of uses

that are conveniently accessible from surrounding neighborhoods. [ABC]

This request furthers Goal 5.2 and Policy 5.2.1 because the proposed zone change request for mixed-use zone of MX-L would allow for a greater range of uses than the current zone. The purpose of the MX-L zone district is to provide for neighborhood scale convenience shopping needs. Although small in size, this redevelopment would help to contribute to the overall goal of creating a healthy, sustainable and distinct community in an Area of Change. The request would make possible redevelopment of this property which is conveniently accessible from surrounding neighborhoods. This will encourage redevelopment that brings goods and services within walking and biking distance of neighborhoods. The location within a multi modal corridor offers choice transportation, walkability and biking options to services and employment. Characteristics of the community will be maintained since the requested zoning is similar to the existing zoning designation, and occur in an existing commercial zone. The commercial viability of the Property is necessary to maintain productive use of the property and avoid the continued existence of a shuttered under-utilized property. The redevelopment of the site, with an existing building will allow for a greater range of uses and adjacent to MX-L and MX-M. This request furthers Policy 5.2.1 – Land Use

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.

POLICY 5.3.1

Infill Development: Support additional growth in areas with existing infrastructure and public facilities. [ABC]

This request furthers Policy 5.3.1 because the proposed zone change will support additional growth in an Area of Change with existing infrastructure and public facilities. The Zone Change to MX-L will allow for the expanded uses and opportunity for growth in an area with existing infrastructure. This request furthers Policy Goal 5.3 – Efficient Development Patterns and Policy 5.3.1 – Infill Land Use Development.

POLICY 5.3.2

Leapfrog Development: Discourage growth in areas without existing infrastructure and public facilities. [ABC]

This request furthers this policy because it discourages leap frog development and encourages redevelopment opportunities on an existing property in an area with existing infrastructure and public facilities. This request furthers Policy 5.3.2

POLICY 5.3.5

School Capacity: Discourage zone changes from non-residential to residential or mixed-use zones when affected public schools have insufficient capacity to support the anticipated increase of students based on proposed dwelling units. [ABC]

This request furthers this policy because this is not a zone change request from non-residential to residential that would affect public schools. This request furthers Policy 5.3.5

GOAL 5.6 City Development Areas

Encourage and direct growth to Areas of Change where it is expected and desired and ensure that development is and near Areas of Consistency reinforces the character and intensity of the surrounding area.

The subject site is designated an Area of Change along with the neighboring properties. The request would encourage and direct growth to an Area of Change, as desired by the Comprehensive Plan. Focusing growth in this location would also help direct pressure for development away from the surrounding neighborhoods, which are intended to remain stable in order to reinforce their character and maintain the low-intensity of the surrounding area. The request generally furthers Goal 5.6-City Development Areas.

POLICY 5.6.2

Areas of Change: Direct growth and more intense development to Centers, Corridors, industrial and business parks, and Metropolitan Redevelopment Areas where change is encouraged. [A]

This request furthers this policy because the subject Property is located in an Area of Change, a Multi Modal Corridor and within 660 ft. a Major Transit Corridor and will direct growth and more intense development to this area where change is encouraged as desired by the Comprehensive Plan. Because the proposed zone change will encourage growth and high-quality future redevelopment in accordance with this policy adjacent to a Major Transit Corridor in an area with adequate infrastructure, the zone change from MX-T uses to the requested MX-L zoning will have the effect of discouraging zone changes from industrial uses to either mixed use or residential zones. This request furthers Policy 5.6.2 – Land Use

POLICY 6.1.3 – Auto Demand:

Reduce the need for automobile traveling by increasing mixed-use development, infill development within Centers and travel demand management (TDM) programs.

The request could increase mixed-use development and infill development which would reduce the need for automobile traveling. Located within 660 ft. of a Major Transit Corridor, Montgomery Boulevard has one of the longest routes and one of the highest ridership routes in Albuquerque. This request furthers Policy 6.1.3 – Auto Demand

POLICY 7.3.4

Infill: Promote infill that enhances the built environment or blends in style and building materials with surrounding structures and the streetscape of the block in which it is located. [ABC]

This request furthers this policy because it will allow for the redevelopment of the built environment, although small in scale but still relevant. This building was built in the 1970's and does not blend with current styles, trends and the surrounding structures in which it is located. This request furthers Policy 7.3.4

POLICY 7.3.5

Development Quality: Encourage innovative and high-quality design in all development. [ABC]

The proposed zone change does not include building elevations for the redevelopment of the subject property but there is an existing building on the site. In the redevelopment process applicable IDO design standards would ensure higher quality design than what exists today. This request furthers this policy in that it would allow redevelopment of this property that would be guided by innovation and

high-quality design.

GOAL 8.1-Placemaking: Create places where business and talent will stay and thrive.

The request could facilitate development of a place where business and talent will stay and thrive because the MX-L zone allows for a greater variety of business and commercial uses than what is currently allowed and would support such a place. The request generally furthers Goal 8.1-Placemaking.

POLICY 8.1.2

Resilient Economy: Encourage economic development efforts that improve quality of life for new and existing residents and foster a robust, resilient, and diverse economy. [ABC]

This request furthers this Policy because the proposed zone change will encourage and facilitate an economic development effort that would generally contribute to improved quality of life for existing and new residents and contribute to a diverse and vibrant economy by revitalizing a developed area with growth that is consistent with and enhances the establish character of existing development. A wider variety of commercial uses would be possible under the MX-L zone which would contribute to a robust, resilient and diverse economy. This type of economic development is best suited for infill locations. This subject site encompasses all aspects of successful economic development, albeit a small contribution but an important one nevertheless. This request furthers this Policy.

POLICY 8.1.3

Economic Base: Strengthen and diversify the economic base to help reduce reliance on government spending. [ABC]

This request furthers this Policy by allowing for future redevelopment of the property providing an incentive to local business to expand and diversify employment, promote local hiring, higher wages and business that contributes to the economic base of the community and region that helps reduce reliance on government spending. The requested zone change will allow for a wider variety of commercial uses under the MX-L zone which would contribute to a robust, resilient and diverse economy. This request furthers this Policy.

As demonstrated in our policy narrative, the proposed zone change would further a preponderance of Goals and Policies found in the ABC Comprehensive Plan and would clearly facilitate the desired goals of the Comp Plan which provides a framework to guide private development land use decisions, and decision-makers as they contemplate new plans affecting the whole community.

SECTION B

14-16-6-7(F)(3)(b): *If the proposed amendment is located wholly or partially in an Area of Consistency (as shown in the ABC Comp Plan, as amended), the applicant has demonstrated that the new zone would clearly reinforce or strengthen the established character or the surrounding Area of Consistency and would not permit development that is significantly different from that character. The applicant must also demonstrate that the existing zoning is inappropriate because it meets any of the following criteria:*

- 1. There was a typographical or clerical error when the existing zone district was applied to the property.*
- 2. There has been a significant change in neighborhood or community conditions affecting the site.*
- 3. A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).*

Applicant Response: The Subject Site is not located in an Area of Consistency.

SECTION C

14-16-6-7(F)(3)(c): *If the proposed amendment is located wholly or partially in an Area of Change (as shown in the ABC Comp Plan, as amended), the applicant has demonstrated that the existing zoning is inappropriate because it meets at least one of the following criteria:*

1. *There was a typographical or clerical error when the existing zone district was applied to the property.*
2. *There has been a significant change in neighborhood or community conditions affecting the site that justifies this request.*
3. *A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).*

Applicant Response:

The proposed amendment is located in an Area of Change (as shown in the ABC Comp Plan). Our application demonstrates that (c). The change would be more advantageous to the community since

many of the ABC Comp Plan goals and policies will be furthered as articulated in the policy analysis. This proposed zone change will allow for the implementation of redevelopment and implementation of patterns of land use that are consistent with the Comp Plan and will further the purpose of the MX-L zoning which is to provide for neighborhood-scale convenience shopping needs, primarily at the corners of intersections.

SECTION D

14-16-6-7(F)(3)(d): *The zone change does not include permissive uses that would be harmful of adjacent property, the neighborhood, or the community, unless the Use-specific Standards in Section 16-16-4-3 associated with that use will adequately mitigate those harmful impacts.*

Applicant Response:

The permissive uses between the MX-T zoning designation and the MX-L zoning designation are similar. The following is a list of all permissive and accessory uses in the proposed MX-L zone that are **ADDITIONAL** to uses permissive in the MX-T zone (from Table 4-2-1 of the IDO):

Discussion of uses that will become permissive and their potential for positive or negative effect on the adjacent property, the neighborhood or the community.

Club or Event Facility – Defined as a public or privately-owned building devoted to the assembly of people for social, professional or recreational activities such as weddings, meetings or conferences. (IDO, page 453). This use would not be detrimental as it would be compatible with the surrounding properties that include offices and a church. This use function could be positive by providing a space that would accommodate a gathering of people for events. However, due to the size of this site, less than 1 acre, development of a club or event facility is highly unlikely.

<i>Club or Event Facility</i>	<i>Permissive</i>
<i>Commercial Services</i>	<i>Permissive</i>
<i>Bakery Goods or Confectionery Shop</i>	<i>Permissive</i>
<i>Farmers Market</i>	<i>Permissive</i>
<i>Grocery Store</i>	<i>Permissive</i>
<i>Liquor Retail</i>	<i>Permissive Accessory</i>

<i>Artisan Manufacturing</i>	<i>Permissive</i>
<i>Mortuary</i>	<i>Conditional Primary</i>
<i>Pawn Shop</i>	<i>Conditional Primary</i>
<i>Outdoor Storage</i>	<i>Conditional Accessory</i>
<i>Drive-Through or Drive Up Facility</i>	<i>Conditional Accessory</i>
<i>Group Home, Medium</i>	<i>Permissive</i>
<i>Sorority or Fraternity</i>	<i>Permissive</i>
<i>Kennel</i>	<i>Conditional</i>
<i>Veterinary Hospital</i>	<i>Permissive</i>
<i>Restaurant</i>	<i>Permissive</i>
<i>Other Indoor Entertainment</i>	<i>Permissive</i>
<i>Light Vehicle Fueling Station</i>	<i>Conditional</i>
<i>Light Vehicle Repair</i>	<i>Permissive</i>
<i>Light Vehicle Sales</i>	<i>Conditional</i>
<i>Paid Parking Lot</i>	<i>Permissive</i>
<i>Parking Structure</i>	<i>Permissive</i>
<i>Self-Storage</i>	<i>Conditional Primary</i>
<i>Car Wash</i>	<i>Permissive</i>

Commercial Services - Any activity involving the provision of services carried out for profit, generally for a business customer and not an individual buyer, including but not limited to upholstery, welding, laundry, printing, or publishing, that is not listed separately as a distinct use in Table 4-2-1. These uses would help to facilitate the MX-L zoning of providing neighborhood scale needs and shopping and would be advantageous to the community.

Bakery Goods - A facility for the production and sale of baked goods and confectioneries, primarily for retail sales to customers of the facility. Accessory sales to off-site customers is allowed. These uses would help to facilitate the MX-L zoning of providing neighborhood scale needs and shopping and would be advantageous to the community.

Farmers Market - An occasional or periodic market held in a designated area where groups of individual sellers offer for sale to the public items such as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages dispensed from booths located on-site. These uses would help to facilitate the MX-L zoning of providing neighborhood scale needs and shopping and would be advantageous to the community.

Grocery Store - An establishment that sells a wide variety of goods organized in departments, including but not limited to fresh produce, meat and dairy, canned and packaged food items, small household goods, and similar items, with more than 50 percent of the gross floor area devoted to the sale of food products for home preparation and consumption. These uses would help to facilitate the MX-L zoning of providing neighborhood scale needs and shopping and would be advantageous to the community. However, development of a grocery store is not feasible due to the size of the site.

Liquor Retail – In the MX-L zone, this use is prohibited in this location.

Artisan Manufacturing - Small-scale manufacturing and related processes or activities – including but not limited to application, assembling, compounding, design, fabrication, growing, making, packaging, processing, sculpting, teaching, treating of crafts or products, or welding – often by an artist, artisan, or craftsperson working with ceramic, clay, electronics, metal, paper, plastic, stone, textiles, wood, or similar materials either by hand or with minimal automation or technology, including but not limited to 3D printing. This use includes incidental storage and direct sales to consumers. This use also includes the production of beer, wine, or spirits associated with an approved Small Brewer’s License

Additional requirements defined in 4-3(E) (1) limit this use. Since all manufacturing must be entirely indoors, there is no perceivable negative impact of this use. Rather the opportunity to create craft goods is an opportunity to engage the community in a variety of ways, generate commerce, and could possibly create an appealing destination that when combined with retail/restaurant/bar is a very desirable.

Mortuary - this use function if implemented on site would likely represent economic opportunities for the community with minimal risk of negative impact.

Pawn Shop - Additional requirements defined in 4-3(D)(37) limit this use. This use function is a destination for commerce and does not represent any greater impact on community than Retail.

Outdoor Storage – Additional requirements defined in 4-3(E (15) limit this use and provides for standards that mitigate any possible harmful impacts. Due to the size of this property, this use is not applicable.

Drive Through or Drive Up Facility – Additional requirements defined in 4-3(F)(4) limit this use and provide standards that mitigate any possible impacts. Development of a drive through would be a welcome addition to this community as shown by the resolution passed by the District 7 Neighborhood Coalition specifically in favor of convenient dining options. This use would further the MX-L zoning desires of providing for a wide variety of neighborhood scale options. In addition, this use would require a Conditional Use Permit which would serve to provide further protections against possible harmful impacts.

Group Home, Medium - This use may not be possible as this use is subject to 4-3(B)(9), which limits the number of these facilities within a Council District. In general, a group home would not be in conflict with the adjoining properties (multifamily, hotel, hospital)

Sorority or Fraternity – This use would not be detrimental as it would be compatible with the adjoining properties. It is however rather displaced from the university area and is an unlikely use.

Kennel - Additional requirements defined in 4-3 (D)(4) limit this use. In the MX-L zone districts, this use shall be conducted within a building. Otherwise this function would be very compatible for the area and be a desirable business function.

Veterinary Hospital – Any of the negative impacts of the veterinary use (related to sound and odor) is addressed in 4-3(D)(5). Otherwise the function would be very compatible for the area and be a desirable business function that was supported by the adjoining residential districts.

Restaurant – Additional requirements defined in 4-3(D)(8) and state law regulate this function if alcohol is to be served. If that is the case and those requirements are met, this function can occur on the site. There are a variety of dining options in the area and another restaurant function at this location would only be a benefit. It would likely capture local residents and visitors in the area which would support

localized multimodal activity. There is no perceivable negative effect of this function on the adjoining properties.

Other Indoor Entertainment – Since this function would be fully contained indoors, there is likely this would be a community asset/amenity with no negative effect for it to exist on site.

Light Vehicle Fueling Station – Additional requirements defined in 4-3 (D)(17) limit this use. Per 4-3(D)(17) (I) and due to the adjacent Residential Zone, this use would require a Conditional Use Approval.

Light Vehicle Repair – Additional requirements defined in 4-3 (D)(17) limit this use. If these regulations are adhered to, the function itself would not represent a negative impact on the property and could be perceived as an asset to the adjoining areas.

Light Vehicle Sales - Additional requirements defined in 4-3(D)(19) limit this use. Due to the size of this parcel, at less than 1 acre, this use is highly unlikely.

Paid Parking Lot - Additional requirements defined in 4-3(D)(21) limit this use. The use is unlikely, but should it be implemented would contribute positively as it would presumably be supporting some other form of multi-modal transit and further would be required to place additional landscaping elements that would be desirable in context.

Parking Structure - Additional requirements defined in 4-3 (D) (21) limit this use. See rationale for Paid parking lot above.

Self-Storage – Additional requirements defined in 4-3(D)28 limit this use. Only interior storage solutions would be allowed an given the size of this parcel the use would be unlikely. However, if this use were to occur, this use would represent a community asset with minimal risk of negative impact.

Car Wash - Additional requirements defined in 4-3 (D)(15) limit this use. Given the size of this parcel, this use would be unlikely. If however, the function were to be placed on the property, it would not represent a negative impact for any of the adjoining properties.

Future re-development of this property and possible uses that could be considered harmful to adjacent property owners have been mitigated by specific use standards and regulations identified in the Integrated Development Ordinance. All uses shall comply with City ordinances regulating noise, odors, vibration, glare, heat, and other special nuisance conditions affecting other properties as well as use-specific standards.

Permissive uses that could be construed as having possible harmful effects such as a fueling station, car wash, light fueling repair or parking lot are regulated by local, state and federal requirements and must comply with all New Mexico state laws, including but not limited to any required spacing from other uses or facilities. They are also controlled by Specific-Use Standards found in the IDO to mitigate potential harmful effects on the surrounding area. Future development on the subject site under the MX-L zone would be subject to IDO requirements including Neighborhood Edges (14-16- 5-9), the mixed-use zone dimensional standards (Table 5-1-2), buffer landscaping (14-16-5- 6-(E), and building design standards (14-16-4-11). These would help ensure appropriate scale and location of development and character of building design. These Use Standards include precautionary measures such as distance requirements, size restrictions, design standards, screening requirements and various other measures. Additionally, re-development of this subject site must still go through a rigorous site planning approval process at which time the public will be fully engaged.

SECTION E

14-16-6-7(F)(3)(e): *The City's existing infrastructure and public improvements, including but not limited to its street, trail, and sidewalk systems meet one of the following requirements:*

1. *Have adequate capacity to serve the development made possible by the change of zone.*
2. *Will have adequate capacity based on improvements for which the City has already approved and budgeted capital funds during the next calendar year.*
3. *Will have adequate capacity when the applicant fulfills its obligation under the IDO, the DPM, and/or an Infrastructure Improvements Agreement.*
4. *Will have adequate capacity when the City and the applicant have fulfilled their respective obligations under a City-approved Development Agreement between the City and the applicant.*

Applicant Response: The request meets the criteria of 14-16-6-7(F)(3)(e) because the existing infrastructure and public improvements currently have adequate capacity to serve the proposed development. The Subject Site includes an existing building that was formerly a Bank of Albuquerque branch. The proposed development will not create the need for any additional infrastructure or public improvements.

SECTION F

14-16-6-7(F)(3)(f): *The applicant's justification for the requested zone change is not completely based on the property's location on a major street.*

Applicant Response:

The request meets the criteria of 14-16-6-7(F) (3) (f) because the rationale and justification for the zone change is not based on the property's location on Wyoming Blvd. The zone map amendment is justified pursuant to the analysis of the goals and policies of the Albuquerque Comp Plan contained in this Justification Letter (above) and through a careful examination of the requires of 14-16-6-7 (F).

The justification provided herein is not based on the property's location on an arterial roadway and located in a Multi Modal Corridor, but rather on a preponderance of applicable Goals and Policies of the Comp Plan as outlined in our policy narrative. The current zoning request is to allow for future MX-L uses, future development permissible by the MX-L zone will further multiple goals and policies of the Comprehensive Plan and will serve as an excellent redevelopment opportunity, albeit a small opportunity but an important one. This zone change seeks to provide use options that are in demand in the surrounding area and the City as a whole. While the location of the property at the intersection of a Commuter Corridor is not the main reason for providing justification for commercial zoning; however, it does provide rationale for why this site is suitable for the proposed MX-L zoning and associated uses. Access and connectivity are important considerations for mixed-use development.

The IDO policies and goals strongly encourage infill development in locations (similar to the Subject Property) and the Applicant believes that this zone map amendment will create jobs and needed services to this community (which is currently vacant).

SECTION G

14-16-6-7(F)(3)(g): *The applicant's justification is not based completely or predominately on the cost of land or economic considerations.*

Applicant Response:

This justification is not based completely or predominantly on the cost of land or other economic considerations and are not the determining factor for this zone change request. The requested zone change will allow MX-L uses to develop, thereby providing an expanded option of uses more advantageous to the community. These includes uses such as commercial, retail, and mixed-use choices

in an area of Albuquerque where growth and vitality are in important part of the character.

SECTION H

14-16-6-7(F)(3)(h): *The zone change does not apply a zone district different from surrounding zone districts*

to one small area, one premises (i.e. create a "spot zone") or to a strip of land along a street (i.e. create a "strip zone") unless the change will clearly facilitate implementation of the ABC Comp Plan, as amended, and at least one of the following applies:

1. *The area of the zone change is different from surrounding land because it can function as a*

transition between adjacent zone districts.

2. *The site is not suitable for the uses allowed in any adjacent zone district due to topography, traffic, or special adverse land uses nearby.*
3. *The nature of structures already on the premises makes it unsuitable of the uses allowed in any adjacent zone district.*

Applicant Response:

Application of the MX-L zone will not constitute a spot zone because it is consistent with adjacent zoning to the north with the MX-T zoning to the west and south which do act as a buffer transition between the residential uses which is the purpose of this zone. The requested change to MX-L will clearly facilitate implementation of the ABC Comp Plan, as amended, as discussed in the preponderance of goals and policies furthered by the change.

This request qualifies under criteria (1) which states that the area of the zone change is different from surrounding land because it can function as a transition between adjacent zone districts. The purpose of the current zone of MX-T is to provide a buffer between residential uses and commercial uses, as documented in our request, this site is not adjacent to any residential development. However, the properties to the south and east of this parcel are adjacent to residentially zoned property therefore they create the intended buffer transition. This parcel could serve as the transition between the MX-T zoning to the West and South that is adjacent to residential and the adjacent mixed used zoning of MX-L and MX-M to the North and will function as a natural transition between both zones and densities.

We appreciate the opportunity to submit for a zone map amendment. Thank you for your consideration of this request.

Sincerely,

Angela M. Williamson, CEO/Principal (Agent)
Modulus Architects, Inc.
100 Sun Ave NE, Suite 305
Albuquerque, New Mexico 87109
Office: 505.338.1499 ext. 1000
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Email: awilliamson@modulusarchitects.com

DISTRICT 7 COALITION OF NEIGHBORHOODS
RESOLUTION 2019-01

SUPPORT FOR APPLICATION FOR ZONING CHANGE AT 4201 WYOMING BLVD NE
TO ALLOW FOR ACTIVE USE OF LONG TIME VACANT FORMER BANK BUILDING

WHEREAS, the District 7 Coalition of Neighborhoods, is composed of multiple City of Albuquerque recognized neighborhood associations, which represent the residents of homes and owners of businesses located in Albuquerque City Council District 7 (D-7) (NE Heights area).

WHEREAS, the vacant former Bank of Albuquerque building at 4201 Wyoming Blvd NE, Albuquerque, NM, is located inside City of Albuquerque, City Council District 7, near the point where the Loma Del Rey Neighborhood, Sandia High School Area Neighborhood and Stardust Skies Park Neighborhood are all adjoining, on the west side of Wyoming Blvd, at La Mirada Place NE, a block south of Montgomery Blvd NE.

WHEREAS, the District 7 Coalition of Neighborhoods desires to support the proposed zone change from MX-T to MX-L to allow for responsible economic development to occur on the edge of our neighborhoods, possibly a new restaurant, to help bring back economic activity to fill up the vacant commercial building that has now sat empty for many years in a row on the SW corner of Wyoming Blvd NE at La Mirarda Place NE, one block south of Montgomery Blvd.

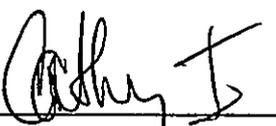
WHEREAS, multiple residents, in multiple neighborhoods in City Council District 7 have indicated their support for this proposed zoning change over many months.

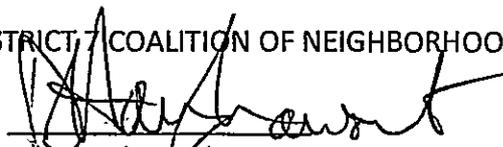
NOW, THEREFORE BE IT RESOLVED BY THE MEMBERS OF THE DISTRICT 7 COALITION OF NEIGHBORHOODS THAT:

1. The District 7 Coalition of Neighborhoods supports the swift approval of the application for zone change for Project # 2019-002353 for a zone change from MX-T to MX-L.
2. A copy of this Resolution be submitted to applicant: Land Development 8 LLC, via their agent Joshua Skarsgard, for submission to the City of Albuquerque, Environmental Planning Commission (EPC) for their consideration of approval of the zone change.

PASSED and ADOPTED this 4th day of September, 2019
BY A VOTE OF FOR AND AGAINST.



Attest: 
Cathy Intemann, Secretary

DISTRICT 7 COALITION OF NEIGHBORHOODS
By: 
David Haughawout
President, email: davidh.d7@comcast.net



**Environmental
Planning
Commission**

**Agenda Number: 3
Project #: PR-2019-002353
Case #: RZ-2019-00021
Hearing Date: August 08, 2019**

Supplemental Staff Report
(to be read with the original Staff report)

Agent	Self
Applicant	Land Development 8 LLC (Joshua Skarsgard)
Request	Zone Map Amendment (zone change)
Legal Description	Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision
Location	On Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE (4201 Wyoming Blvd. NE)
Size	Approximately 0.85 acre
Existing Zoning	MX-T
Proposed Zoning	MX-L

Staff Recommendation

DENIAL of RZ-2019-00021, based on the Findings beginning on Page 13.

**Staff Planner
Catalina Lehner, AICP-Senior Planner**

Summary of Analysis

The request is for a zone change for an approximately 0.85 acre site on the western side of Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE, was deferred for 60 days at the June 13, 2019 hearing.

A former bank building exists on the subject site. The applicant wants to develop the site with a drive-thru use, which is not allowed in the MX-T zone. The subject site was zoned MX-T upon adoption of the Integrated Development Ordinance (IDO) and is in an Area of Change.

The applicant has not adequately justified the zone map amendment pursuant to the IDO zone change criteria in 6-7-(f)(3). The responses to Criteria A, C, D, G and H are insufficient. The burden is on the applicant to provide a sound justification that meets all the criteria.

The affected neighborhood organizations, the Loma del Rey Neighborhood Association (NA), the District 4, District 7, and District 8 Coalitions, and property owners with 100 feet of the subject site were notified as required. The Loma del Rey NA sent a letter of support for a restaurant. A homeowner expressed concern about the range of uses allowed in MX-L.

Staff recommends denial.



I. OVERVIEW

Deferrals

This request was deferred for 60 days at the June 13, 2019 Environmental Planning Commission (EPC) hearing. The applicant's requested a deferral in order to have more time to strengthen the zone change justification letter. Staff had provided two guidance memos dated May 13, 2019 and May 24, 2019 (see attachments in original Staff report).

Request

The request is for a zone map amendment (zone change) for an approximately 0.85-acre site located on the western side of Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE (4201 Wyoming Blvd. NE). A vacant building, which was a small bank, exists on the subject site. The subject site is zoned MX-T, which it received upon adoption of the Integrated Development Ordinance (IDO) as a conversion from the former zoning of SU-1 for Savings and Loan Office.

The applicant is requesting a zone change to MX-L (Mixed-Use Low intensity zone) in order to re-develop the subject site with a drive-thru restaurant. Though a restaurant could develop by obtaining a conditional use (no zone change needed), the applicant specifically wants the drive-through facility use, which is first allowed in MX-L.

Drive-through facilities are not allowed in the MX-T zone, but are conditionally allowed in the MX-L zone. If the requested zone change is approved, the applicant would still need to get a conditional use approval from the Zoning Hearing Examiner (ZHE) to allow the drive-through facility.

For EPC Role, Context, History, Transportation System, Comprehensive Plan Corridor Designation, Transit, and Public Facilities/ Community Services:

» Please refer to p. 3-5 of the original Staff report (see attachment).

II. ANALYSIS of APPLICABLE ORDINANCES, PLANS, AND POLICIES

For analysis of the Integrated Development Ordinance (IDO), including Definitions, Zoning, Comparison of the MX-T and MX-L zones, and Use-Specific Standards:

» Please refer to p. 5-6 of the Original Staff Report (see attachment).

Albuquerque / Bernalillo County Comprehensive Plan

The subject site is located in an area that the 2017 Albuquerque/Bernalillo County Comprehensive Plan has designated an Area of Change. The Goals and policies listed below are cited by the applicant in the zone change justification letter dated July 11, 2019 (see attachment). Staff does not provide analysis or additional citations other than what the applicant provided because, pursuant to the IDO Subsection 6-4(F)(2), the applicant bears the burden of providing a sound justification for the request, based on substantial evidence.

*Chapter 4: Community Identity
Policy 4.1.2-Identity and Design*

Chapter 5: Land Use

Policy 5.2.1-Mix of Land Uses

Sub-Policy 5.2.1(h)- Infill Development/complementary uses

Goal 5.3-Efficient Development Patterns

Policy 5.3.1-Infill Development

Policy 5.3.7- Locally Unwanted Land Uses (LULUs)

Policy 5.6.2- Areas of Change and Action b

Chapter 6-Transportation

Policy 6.1.3 –Auto Demand

Economic Development

Goal 8.1-Placemaking

Integrated Development Ordinance (IDO) 6-7(F)(3)-Review and Decision Criteria for Zone Map Amendments

Requirements

The review and decision criteria outline policies and requirements for deciding zone change applications. The applicant must provide sound justification for the proposed change and demonstrate that several tests have been met. The burden is on the applicant to show why a change should be made pursuant to Subsection 6-4(F)(2).

The applicant must demonstrate that the existing zoning is inappropriate because of one of three findings: 1) there was an error when the existing zone district was applied to the property; or 2) there has been a significant change in neighborhood or community conditions affecting the site; or 3) a different zone district is more advantageous to the community as articulated by the Comprehensive Plan.

Justification & Analysis

The subject site is currently zoned MX-T (Mixed-Use Transition Zone). The proposed zoning is MX-L (Mixed-Use Low Intensity Zone). The reason for the request is to allow a drive-through on the subject site. A drive-through or drive-up facility is a conditional, accessory use in the MX-L zone. A conditional use would be required in addition to the zone change.

The applicant's letter, analyzed here, was received on July 15, 2019. Staff had provided two memos, dated May 13 and May 24, 2019, to the applicant to provide guidance for strengthening the zone change justification (see attachments to the original Staff report).

Section III of the revised justification letter contains the applicant's responses to the IDO criteria 6-7(F)(3). Section I of the letter contains history information, which was mostly provided in the June 13, 2019 original Staff report.

The applicant believes that the proposed zone map amendment (zone change) meets the zone change decision criteria [14-16-6-7(F)(3)] as elaborated in the justification letter. The applicant's primary argument is that the former use on the subject site, a bank with a drive-through, existed

for over 40 years. Staff points out that the zone change criteria do not include historical arguments; they focus on the current request.

The first citation is from the IDO. The applicant's arguments are in *italics*. Staff analysis follows with the heading "Staff".

- A. A proposed zone change must be found to be 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.

Applicant: 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 Comprehensive Plan as shown below. As demonstrated in our policy analysis below, the proposed zone change to MX-L would clearly facilitate the desired "Goals and Policies" of the Comp Plan which provides a framework to guide private development land use decisions, and decision-makers as they contemplate new plans affecting the whole community. Also, the IDO design requirements will help ensure that this rehabilitated bank site will be consistent with the health and welfare of the Abq residents.

Specifically, our Application shows that the following Goals and Policies in the ABC Comp Plan demonstrate that the proposed zone map amendment to MX-L is consistent with the health, safety and general welfare of the City:

Staff: Criterion A is an important component of a zone change justification, though all criteria are required to be fulfilled adequately. Consistency with the City's health, safety, morals, and general welfare is shown by demonstrating that a request furthers applicable Comprehensive Plan Goals and policies (and other plans if applicable) and does not conflict with them.

The applicant has not adequately demonstrated that the request would be consistent with the City's health, safety, morals and general welfare by not fully analyzing and showing conformance with applicable Comprehensive Plan Goals and policies (see Section C, below), and by relying on primary arguments that are not included in the zone change criteria.

Applicable citations: Policy 4.1.2-Identity and Design; Policy 5.2.1-Land Uses and Sub-Policy h; Goal 5.3-Efficient Development Patterns; Policy 5.3.1- Infill Development; Policy 5.6.2- Areas of Change.

Non-applicable citations: Policy 5.3.7-Locally Unwanted Land Uses; Policy 6.1.3-Auto Demand; Goal 8.1-Placemaking.

The applicant does not adequately demonstrate that the request furthers a preponderance of applicable Comprehensive Plan Goals and policies. Additional Goals and policies could be included. Regarding the Goals and policies cited, the applicant fails to develop sufficient connections between them and the request to demonstrate that the Goals and policies are furthered.

Instead, the applicant focuses on the subject site's context and history, rather than on developing linkages between the cited Goals and policies and the request. Neither context nor history is included in the IDO's zone change criteria in 6-7(F)(3). Overall, the applicant has not shown that the request would further applicable Goals and policies because an adequate connection between the request and applicable Goals and policies has not been demonstrated.

For instance, in the response to Policy 5.2.1 regarding creating healthy, sustainable, distinct communities with a mix of uses, the applicant states that the request would help provide a mix of uses, but then lists a variety of chain restaurants and businesses with drive-thru windows. The applicant's justification does not further the intent of Policy 5.2.1 because it would not promote a mix of uses. Furthermore, introducing another auto-oriented use along a designated Multi-Modal Corridor intended to promote multiple modes of transportation would not contribute to a mix of travel modes that help community health and sustainability.

The applicant relies on history and contextual arguments that are not included in the zone change criteria of 6-7(F)(3), and weaves them through the zone change justification in various places. For example, in the discussion of Policy 4.1.2, the applicant states that the subject property was a bank with a drive-through use for 44 years, but does not explain what this has to do with the policy and therefore fails to create a connection between the two. In the discussion of Policy 5.6.2, the applicant states that the subject site is surrounded on all sites by commercial uses. Not only is this inaccurate (there are office and residential uses in the area), there is no demonstrated connection between this idea and the policy cited. The response to Criterion A is insufficient.

- B. If the proposed amendment is located wholly or partially in an Area of Consistency (as shown in the ABC Comp Plan, as amended), the applicant has demonstrated that the new zone would clearly reinforce or strengthen the established character of the surrounding Area of Consistency and would not permit development that is significantly different from that character. The applicant must also demonstrate that the existing zoning is inappropriate because it meets any of the following criteria:
- There was typographical or clerical error when the existing zone district was applied to the property.
 - There has been a significant change in neighborhood or community conditions affecting the site.
 - A different zone district is more advantageous to the community as articulated by the ABC Com Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

Applicant: The subject site is not located in an Area of Consistency.

Staff: The subject site is located wholly in an Area of Change, so this criterion does not apply. The response to Criterion B is sufficient.

C. If the proposed amendment is located wholly in an Area of Change (as shown in the ABC Comp Plan, as amended) and the applicant has demonstrated that the existing zoning is inappropriate because it meets at least one of the following criteria:

1. There was typographical or clerical error when the existing zone district was applied to the property.
2. There has been a significant change in neighborhood or community conditions affecting the site that justifies this request.
3. A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

Applicant: A different zone district is more advantageous to the community based on the goals and policies of the Albuquerque/Bernalillo County Comprehensive Plan. The request would be more advantageous to the community because it would direct re-development in this "Area of Change" where the property has experienced retail banking with a drive thru service window for over 40 years. The development density requested (MX-L) would be consistent with what the community has experienced on this site for decades (retail with drive thru window services).

The request (zone change to MX-L) would facilitate "regional growth" and the creation of jobs. Both the market forces and the surrounding neighbors are in agreement. The analysis of the Policies and Goals below are further contained in Section A (above).

Staff: The subject site is located in an Area of Change. The applicant chooses #3, that a different zone district is more advantageous to the community, as articulated in the Comprehensive Plan, than the current zoning. However, the applicant has not adequately demonstrated, through the required policy analysis in the response to Criterion A, that the request would be more advantageous to the community as articulated in the Comprehensive Plan.

The burden is on the applicant to identify applicable Goals and policies, provide a pertinent analysis of how the request furthers each cited Goal and policy while addressing any conflicts, and creating meaningful connections between the citations and the request rather than relying on arguments that are outside the scope of the criteria in 6-7(F)(3). Neither the historic argument nor the contextual argument responds to the IDO's zone change criteria.

The applicant does not explain how the 0.85 acre subject site would facilitate regional growth; the scale and scope of uses in the MX-L zone are too small, especially given the fact that the applicant has stated that the subject site is planned for re-development as a drive-through restaurant. The response to criterion C is insufficient.

D. The zone change does not include permissive uses that would be harmful to adjacent property, the neighborhood, or the community, unless the Use-specific Standards in Section 16-16-4-3

associated with that use will adequately mitigate those harmful impacts.

Applicant: The request meets the criteria of 14-16-6-7(F) (3) (d) because the subject site is currently zoned MX-T [IDO 14-16-2- 4], which was assigned upon adoption of the IDO. Primary land uses are described in Table 4-2: Allowable Uses, IDO p. 130.*

The request proposes to change the subject site's zoning to MX-L (Mixed-Use Low Intensity Zone District, IDO 14-16-2- 4(B)), which was assigned upon adoption of the IDO.*

Specific permissive uses are listed in Table 4-2: Allowable Uses, IDO p. 130. Having said that, the Primary land uses are non-destination retail and commercial uses, townhouses, low-density multi-family residential dwellings, and civic and institutional uses to serve the surrounding area.*

A couple of key differences between the MX-L and the MX-T zones are contained in the following list:

- 1. General retail and drive thru windows are “conditional uses” in the MX-L zone.*
- 2. In the MX-L zone, only General Retail, Small is allowed.*
- 3. In the MX-T zone, General Retail, Small and General Retail, Medium are allowed permissively.*
- 4. A bar, light vehicle fueling station, and light vehicle sales and rental, mortuary, pawn shop, and transit facility are conditional uses in the MX-L zone (and require a hearing before the Zoning Hearing Examiner (ZHE)).*
- 5. Hospital, catering service, and nightclub are not allowed in MX-L.*
- 6. The following are uses that are permissive in the MX-L zone are not permissive uses in the MX-T Zone: Restaurant, tap room, other indoor entertainment, club or event facility, artesian manufacturing, car wash, light vehicle fueling and repair.*
- 7. The following are uses that are conditional uses in the MX-L zone but are not conditional uses in the MX-T Zone: Light vehicle fueling station, light vehicle sales and rental, and kennel.*
- 8. The following are uses that are “accessory use” in the MX-L zone but are not “accessory use” in the MX-T Zone: Liquor retail.*
- 9. The following are uses that are “conditional accessory” in the MX-L zone but are not “conditional accessory” in the MX-T Zone: Outdoor storage*
- 10. The requested MX-L zone does not include permissive uses that would be harmful of adjacent property, the neighborhood, or the community.*

APPLICANT RESPONSE: The Applicant believes that the request does not include permissive uses that would be harmful of adjacent property, the neighborhood, or the community, because any added uses from the change from MX-T to MX-L can be mitigated by the use-specific Standards in Section 16-16-4-3 associated with that use.

Specifically, the Applicant believes that the new uses available to the site: taproom, club, and liquor retail (as an accessory use) could be harmful to the neighbors but their impact would be buffered by the fact that they had to comply with the use specific standards in Section 16-16-4-3 and that specific use would be buffered from the residential neighbors by the small offices to the west of the site, and the Sylvan Learning Center (commercial building) to the south. Additionally the alcohol related uses are regulated and must comply with all state laws.

The zone change would be consistent with the surrounding land uses to the north of the Subject Site (Bank of America), and allow a slightly broader variety of community services to be developed than the existing zoning allows, adding to the healthy mix of uses already present.

It is important to remember that this site was historically a bank with a drive thru window, and the Applicant is simply attempting to re-establish a drive thru window use that existed for years on the Subject Property.

Future development on the subject site under the MX-L zone (if approved by the EPC) would be subject to IDO requirements including Neighborhood Edges (14-16- S-9) buffer landscaping (14-16-5- 6-(E), and building design standards (14-16-4-11) to help buffer any damage to local residents (if any). City ordinances (Noise Ordinance, etc.) would also apply to future uses and serve to mitigate the potentially harmful impacts.

It is very important to note that there are no residentially zoned properties adjacent to this Subject Property (see below). The permissive uses between the MX-L zoning designation and the MX-T zoning designation are very similar.

The Change in Permissive Uses Will Not be Harmful: Based on the above analysis, diagrams and zoning map attached above, the Applicant believes that the change in permissive uses (coupled with the Use Standards in the IDO) along with State, County and City ordinances.... will give confidence to the neighbors and the EPC that the expanded permissive uses will not be harmful to the neighborhood.

Staff: Overall, the applicant's justification does not provide a focused and convincing discussion that the proposed zone change would not be harmful to adjacent property, the neighborhood, or the community, and did not sufficiently discuss the differences between the existing MX-T zoning and the proposed MX-L zoning. A zone change includes all of the uses in the requested zone, and not just the use envisioned at the moment. The list of differences between the MX-L and MX-T zones contains some factual inaccuracies, for example: the uses listed in #6 are conditional in MX-T and car wash and light vehicle fueling and repair are not allowed.

Car wash, light vehicle repair, commercial services, and grocery store would become permissive uses. Light vehicle fueling station, light vehicle sales and rental, and pawn shop would become conditional uses in the MX-L zone. Restaurant, other indoor entertainment, and artisan manufacturing would go from conditional to permissive uses. Tap room and bar would remain conditional uses (see Table 4-2-1, p. 131 of the IDO). A drive through facility is not allowed in MX-T, but would become a conditional accessory use in MX-L.

The applicant did not adequately address the issue of potential harm to adjacent property, the neighborhood, or the community. In the second part of the response, the applicant focuses on land uses to the north and states that the proposed zone change would be consistent with the existing shopping center, which is across the street (La Mirada Place) from the subject site. However, there are other uses in the area such as small-scale office uses to the south and west, an R-1C subdivision to the south, and a church/school to the east.

The subject site is not a part of the La Mirada shopping center, which was formerly zoned C-2 (SC) and fronts Montgomery Blvd. That area was purposefully zoned as a large-scale shopping center where commercial uses are intended to concentrate. The block south of La Mirada Place was zoned O-1; the O-1 zone was commonly used as a transition between R-1 (the subdivision to the south) and C-2 uses. The proposed zone change would claim part of that buffer and reduce its size.

Though the subject site was formerly zoned SU-1 for Savings and Loan Office, it was clearly part of a block of office uses and functioned as an office. Therefore, the IDO conversion was to the MX-T zone along with the rest of the block. (Note that the drive-thru use ceased operation in approximately 2011 and did not exist at the time of IDO adoption, so non-conformance is not an issue). The MX-T zoned area, originally created as a block of O-1 zoning to buffer the neighborhood from the shopping center's more intense commercial uses, could begin to erode if the request is approved. The response to Criterion D is insufficient.

- E. The City's existing infrastructure and public improvements, including but not limited to its street, trail, and sidewalk systems meet 1 of the following requirements:
1. Have adequate capacity to serve the development made possible by the change of zone.
 2. Will have adequate capacity based on improvements for which the City has already approved and budgeted capital funds during the next calendar year.
 3. Will have adequate capacity when the applicant fulfills its obligations under the IDO, the DPM, and/or an Infrastructure Improvements Agreement.
 4. Will have adequate capacity when the City and the applicant have fulfilled their respective obligations under a City- approved Development Agreement between the City and the applicant.

Applicant: The request meets the criteria of 14-16-6-7(F)(3)(e) because the existing infrastructure and public improvements currently have adequate capacity to serve the proposed development. The Subject Site includes an existing building that was formerly a Bank of Albuquerque branch. The proposed development will not create the need for any additional infrastructure or public improvements.

Staff: Requirement 1 applies. The applicant states that existing infrastructure and public improvements would have adequate capacity to serve development made possible by the proposed zone change. This is likely since the subject site has already been developed. However, if the use change would cause the need for infrastructure improvements, the applicant would be responsible for providing them. The response to Criterion E is sufficient.

- F. The applicant's justification for the requested zone change is not completely based on the property's location on a major street.

Applicant: The request meets the criteria of 14-16-6-7(F) (3) (f) because the rationale and justification for the zone change is not based on the property's location on Wyoming Blvd. The zone map amendment is justified pursuant to the analysis of the goals and policies of the Albuquerque Comp Plan.

The IDO policies and goals strongly encourage infill development in locations (similar to the Subject Property) and the Applicant believes that this zone map amendment will create jobs and needed services to this community (which is currently vacant).

Staff: The subject site is located on Wyoming Blvd. NE, a Principal Arterial and multi-modal corridor. The applicant's response to Criterion F is sufficient because the applicant believes that the request is justified pursuant to the Goals and policies of the Comprehensive Plan. However, Staff points out that the applicant's responses to Criteria A, C, and D (which are about Comprehensive Plan Goals and policies) do not demonstrate that a preponderance of applicable Goals and policies are furthered.

- G. The applicant's justification is not based completely or predominantly on the cost of land or economic considerations.

Applicant: The request meets the criteria of 14-16-6-7(F) (3) (g) because the cost of the land or economic considerations is not the basis for the Applicant's justification. The zone map amendment is justified pursuant to the analysis of the goals and policies of the Albuquerque Comp Plan contained in this Justification Letter (above) and through a careful examination of the requires of 14-16-6-7 (F) and is not a result of economic considerations as the predominant reason for the application.

Staff: Economic considerations are a factor. Since the applicant has not adequately demonstrated that the request furthers a preponderance of applicable Comprehensive Plan policies (Criteria A, C, and D), it has not been shown that the justification is not completely or predominantly based on the cost of land or economic considerations.

The applicant is the property owner and could pursue a conditional use for a restaurant if desired, with no zone change needed. However, the applicant wants to add the drive-through use, which is a predominantly economic consideration. The response to Criterion G is insufficient.

- H. The zone change does not apply a zone district different from surrounding zone districts to one small area or one premises (i.e. create a "spot zone") or to a strip of land along a street (i.e. create a "strip zone") unless the change will clearly facilitate implementation of the ABC Comp Plan, as amended, and at least one of the following applies:

1. The area of the zone change is different from surrounding land because it can function as a transition between adjacent zone districts.

2. The site is not suitable for the uses allowed in any adjacent zone district due to topography, traffic, or special adverse land uses nearby.
3. The nature of structures already on the premises makes it unsuitable for the uses allowed in any adjacent zone district.

Applicant: The request meets the criteria because the properties just north of the Subject Site are zoned MX-L, the proposed zone change to MX-L will be congruent to existing zoning in the direct vicinity to the north. The proposed development will also be complementary with the surrounding uses because the “small offices” to the west of the Subject Property buffer it from the houses to the west.

During the IDO conversion the Applicant believes that a Drive Thru Bank (or Savings and Loan) is much more applicable to a C-1 zone, than an O-1 Zone and should have received the MX-L zoning identical to its neighboring bank (Bank of America).

The MX-T zoning is aimed largely after the O-1 zoning and is attempting to provide a buffer to the residents west of the small offices. It is important to note that there is no need to buffer the MX-L uses from the nearby small offices to the west. The buffering is supposed to take place between commercial and residential properties. That is a huge factor in analyzing this request and helps justify why MX-L is the more appropriate land use than MX-T (and the zone change is also supported by over 10 Comp Plan Goals and Policies – see Section C above).

Staff: It appears that the applicant believes that the request would not result in a spot zone. This should be expressly stated and all zoning around the subject site should be taken into consideration, but the arguments are only partially developed. The applicant does not adequately explain how the area of the zone change is different from surrounding land, and how it can function as a transition, presuming that reason 1 is chosen.

The IDO conversion of the subject site was to the MX-T zone, based on the subject site’s former zoning of SU-1 for Savings and Loan Office, and potentially because the subject site is a part of a block of O-1 (now MX-T) zoning that buffered the single-family homes directly to the south. Therefore, the response to Criterion H is insufficient.

III. AGENCY & NEIGHBORHOOD CONCERNS

For comments from Reviewing Agencies, please refer to p. 15 of the original Staff report (see attachment).

Neighborhood/Public

» Please refer to p. 15 of the Original Staff Report (see attachment).

Updated Neighborhood Information

Staff received a letter of concern from a homeowner in the Loma del Rey neighborhood dated June 13, 2019 (see attachment). She expressed concern that the yellow sign was not posted for the time required, and noted that she saw it on June 10, 2019 and it was supposed to have been posted

on May 28, 2019. With the deferral, however, the yellow sign notice is adequate. The neighbor is also concerned about additional uses that the zone change would allow: car wash, fueling station, car repair, vehicle sales and rental, commercial services, self-storage, pawn shop, outdoor storage, or a drive through of some kind. Staff has not heard anything further.

IV. CONCLUSION

The request is for a zone change for an approximately 0.85 acre site located on the western side of Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE (4201 Wyoming Blvd. NE) (the “subject site”). A building, a former bank, exists on the subject site.

The subject site is zoned MX-T, received upon adoption of the Integrated Development Ordinance (IDO), and is part of a buffer of MX-T zoned properties that separate the shopping center to the north from the established neighborhood to the south. The applicant is requesting a zone change to MX-L (Mixed-Use Low intensity zone) in order to re-develop the subject site with a drive-thru use, most likely a restaurant as stated in the applicant’s letter. Drive-throughs are an accessory use not allowed in the MX-T zone, but are conditionally allowed in the MX-L zone. A conditional use would still be needed if the zone change request is approved.

However, the zone map amendment has not been adequately justified pursuant to the IDO Review and Decision criteria for zone changes 6-7(F)(3). The responses to Sections A, C, D, G and H are insufficient. Pursuant to IDO Section 6-4(F)(2), the applicant bears the burden of providing a sound justification.

The affected neighborhood organizations are the Loma del Rey Neighborhood Association (NA), the District 4 Coalition of NAs, the District 6 Coalition of NAs, and the District 8 Coalition of NAs, which was notified as required. Property owners within 100 feet of the subject site were also notified as required. The Loma del Rey NA submitted a letter stating that the board voted to support the zone change to allow for a new restaurant. A neighbor submitted a letter of concern, stating that she’s concerned about the additional uses that the proposed zone change would allow.

Staff recommends denial of the zone change request.

FINDINGS - RZ-2019-00021, August 08, 2019- Zone Map Amendment (Zone Change)

1. The request is for a zone map amendment (zone change) for an approximately 0.85 acre site known as Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision (the “subject site”). The subject site is located on the western side of Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE (4201 Wyoming Blvd. NE). A building, which was a bank, exists on the subject site.
2. The subject site is zoned MX-T, which it received upon adoption of the Integrated Development Ordinance (IDO) as a conversion from the former zoning of SU-1 for Savings and Loan Office. The applicant is requesting a zone change to MX-L (Mixed-Use Low intensity zone) in order to re-develop the subject site with a drive-thru use, most likely a restaurant as indicated in the applicant’s letter.
3. A restaurant use could develop on the subject site without a zone change. However, the MX-T zone does not allow drive-throughs, which are an accessory use. Drive-throughs are conditionally allowed in the MX-L zone. Even if this zone change were approved, the applicant would still need to obtain a conditional use for the drive-through.
4. The subject site is in an area that the Comprehensive Plan has designated an Area of Change. Wyoming Blvd. NE is designated as a Multi-Modal Corridor.
5. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Integrated Development Ordinance (IDO) are incorporated herein by reference and made part of the record for all purposes.
6. The following are notable differences between the MX-T and the MX-L zones. Most are in the Motor Vehicle Related and the Food, Beverage, and other Indoor Entertainment categories.
 - Restaurant, tap room, other indoor entertainment, club or event facility, artesian manufacturing, car wash, light vehicle fueling and repair become permissive uses in MX-L.
 - Light vehicle fueling station, light vehicle sales and rental, pawn shop, and kennel become conditional uses in MX-L.
 - Liquor retail becomes an accessory use in MX-L.
 - Outdoor storage becomes a conditional accessory use in MX-L.
7. The applicant has not adequately justified the request pursuant to the Integrated Development Ordinance (IDO) Section 6-7(F)(3)-Review and Decision Criteria for Zone Map Amendments, as follows:
 - A. Criterion A: Consistency with the City’s health, safety, morals and general welfare is shown by demonstrating that a request furthers a preponderance of applicable

Comprehensive Plan Goals and policies and does not conflict with them. The applicant has not adequately demonstrated that the request would be consistent with the City's health, safety, morals and general welfare by not fully analyzing and showing conformance with applicable Comprehensive Plan Goals and policies.

The applicant fails to develop sufficient connections between cited Goals and policies and the request to demonstrate that they are furthered. Instead, the applicant focuses on the subject site's context and history, rather than on developing linkages between the cited Goals and policies and the request. Neither context nor history is included in the IDO's zone change criteria in 6-7(F)(3). Overall, the applicant has not shown that the request would further applicable Goals and policies because an adequate connection between the request and applicable Goals and policies has not been demonstrated. The response to Criterion A is insufficient.

- B. Criterion B: This criterion does not apply because the subject site is not located in an Area of Consistency, either wholly or in part.
- C. Criterion C: The applicant believes that a different zone district is more advantageous to the community, as articulated by the Comprehensive Plan, than the current zoning. However, the applicant has not adequately demonstrated, through the required policy analysis in the response to Criterion A, that the request would be more advantageous to the community as articulated in the Comprehensive Plan. The burden is on the applicant to identify applicable Goals and policies, provide a pertinent analysis of how the request furthers each cited Goal and policy while addressing any conflicts, and create meaningful connections between the citations and the request to show that the Goals and policies are furthered.
- D. Criterion D: The applicant did not sufficiently address the issue of potential harm to adjacent property, the neighborhood, or the community because a focused and accurate discussion of the differences between the existing MX-T zoning and the proposed MX-L zoning was not provided.

Car wash, light vehicle repair, commercial services, and grocery store would become permissive uses in the MX-L zone. Light vehicle fueling station, light vehicle sales and rental, and pawn shop would become conditional uses. Restaurant, other indoor entertainment, and artisan manufacturing would go from conditional to permissive uses. Tap room and bar would remain conditional uses (see Table 4-2-1, p. 131 of the IDO). A drive through facility is not allowed in MX-T, but would become a conditional accessory use in MX-L.

The MX-T zoned block on the southern side of La Mirada Drive was originally zoned O-1 and was created to buffer the neighborhood (zoned R-1) from the more intense commercial uses in the shopping center, zoned MX-M (formerly C-2 SC). The proposed zone change would remove a portion of that buffer and therefore would be harmful to adjacent property, the neighborhood, or the community.

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- E. Criterion E: Requirement 1 applies. The applicant states that existing infrastructure and public improvements would have adequate capacity to serve development made possible by the proposed zone change.
- F. Criterion F: The subject site is located on Wyoming Blvd. NE, a Principal Arterial and multi-modal corridor. The applicant's response to Criterion F is sufficient because the applicant believes that the request is justified pursuant to the Goals and policies of the Comprehensive Plan. However, Staff points out that the applicant's responses to Criteria A, C, and D (which are about Comprehensive Plan Goals and policies) do not demonstrate that a preponderance of applicable Goals and policies are furthered.
- G. Criterion G: Economic considerations are a factor. Since the applicant has not adequately demonstrated that the request furthers a preponderance of applicable Comprehensive Plan policies (Criteria A, C, and D), it has not been shown that the justification is not completely or predominantly based on the cost of land or economic considerations.

The applicant is the property owner and could pursue a conditional use for a restaurant if desired, with no zone change needed. However, the applicant wants to add the drive-through use, which is a predominant economic consideration.

- H. Criterion H: Though not expressly stated, it appears that the applicant believes that the request would not result in a spot zone. The applicant does not adequately explain how the area of the zone change is different from surrounding land and how it can function as a transition.

The IDO conversion of the subject site was to the MX-T zone, based on the subject site's former zoning of SU-1 for Savings and Loan Office, and potentially because the subject site is a part of a block of O-1 (now MX-T) zoning that buffered the single-family homes directly to the south.

8. The zone map amendment is not adequately justified pursuant to the IDO Review and Decision criteria for zone changes 6-7(F)(3). The responses to Sections A, C, D, F, G and H are insufficient. The policy analysis does not sufficiently demonstrate that the request furthers a preponderance of applicable Goals and policies and does not conflict with them (Sections A and C). The applicant did not adequately address the issue of potential harm to adjacent property, the neighborhood, or the community (Section D). The responses to Sections F, G, and H do not demonstrate that the applicant has fulfilled the requirements.
9. Pursuant to IDO Section 6-4(F)(2), the applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence. The applicant has not done this.
10. The affected neighborhood organizations are the Loma del Rey Neighborhood Association (NA), the District 4 Coalition of NAs, the District 6 Coalition of NAs, and the District 8

Coalition of NAs, which was notified as required. Property owners within 100 feet of the subject site were also notified as required.

11. As of this writing, Staff has received a letter of support from the Loma del Rey NA. The letter states that the board voted to support the zone change to allow for a new restaurant on the subject site. A neighbor provided a letter of concern. She is concerned about additional uses that the zone change would allow: car wash, fueling station, car repair, vehicle sales and rental, commercial services, self-storage, pawn shop, outdoor storage, or a drive through.

RECOMMENDATION - RZ-2019-00021, August 08, 2019

DENIAL of Project #: 2019-002353, Case #: 2019-00021, a zone change from MX-T to MX-L, for Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision, an approximately 0.85 acre site located on Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE (4201 Wyoming Blvd. NE), based on the preceding Findings.

Catalina Lehner

***Catalina Lehner, AICP
Senior Planner***

Notice of Decision cc list:

Land Development 8, LLC, Joshua Skarsgard, 8220 San Pedro NE, #500, ABQ, NM 87113
Jessica Armijo, Loma Del Rey NA, 3701 Erbbe St., NE, ABQ, NM 87111
Brian Eagan, Loma Del Rey NA, 8416 Hilton Av., NE #48, ABQ, NM 87111
Donald Couchman, Dist. 8 Coalition of NAs, 6441 Concordia Rd NE, ABQ, NM 87111
Mary Kurkjian, Dist. 8 Coalition of NAs, 13709 Canada del Oso Pl., NE, ABQ, NM 87111
Daniel Regan, Dist. 4 Coalition of NAs, 4109 Chama St. NE, ABQ, NM 87109
Michael Pridham, Dist. 4 Coalition of NAs, 6413 Northland Av., NE, ABQ, NM 87109
Lynne Martin, Dist. 7 Coalition of NAs, 1531 Espejo NE, ABQ, NM 87112
David Haughawout, Dist. 7 Coalition of NAs, 2824 Chama St. NE, ABQ, NM 87110
Carolyn Baker-Nair, cnair@gmx.com
Alan Varela, avarela@cabq.gov

HISTORY

CITY OF ALBUQUERQUE



PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
600 2nd Street NW, 3rd Floor, 87102
P.O. Box 1293, Albuquerque, NM 87103
Office (505) 924-3860 Fax (505) 924-3339

OFFICIAL NOTIFICATION OF DECISION

June 13, 2019

Land Development 8, LLC
Josh Skarsgard
8220 San Pedro NE #500
Albuquerque, NM 87113

Project #2019-002353
RZ-2019-00021 – Zone Map Amendment
(Zone Change)

LEGAL DESCRIPTION:

The above action for Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision, zoned MX-T, to MX-L, located at 4201 Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE, containing approximately 0.85 acre. (G-19)

Staff Planner: Catalina Lehner

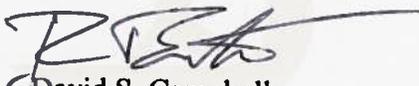
PO Box 1293

On June 13, 2019 the Environmental Planning Commission (EPC) voted to DEFER Project 2019-002353/RZ-2019-00021, a Zone Map Amendment (Zone Change), for 60 days to the August 8, 2019 public hearing.
Albuquerque

NM 87103

www.cabq.gov

Sincerely,


for David S. Campbell
Planning Director

DSC/CL

cc: Land Development 8, LLC, Joshua Skarsgard, 8220 San Pedro NE, #500, ABQ, NM 87113
Jessica Armijo, Loma Del Rey NA, 3701 Erbbe St., NE, ABQ, NM 87111
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David Haughawout, Dist. 7 Coalition of NAs, 2824 Chama St. NE, ABQ, NM 87110
Alan Varela, avarela@cabq.gov

APPLICANT INFORMATION

July 29, 2019

Environmental Planning Commission
City of Albuquerque
600 2nd Street NW
Albuquerque NM, 87102

Re: *Agency Authorization for ANGELA WILLIAMSON to act as agent on behalf of Land Development 8, LLC and Red Shamrock 2, LLC – Zone Map Amendment - EPC*

Dear Environmental Planning Commission:

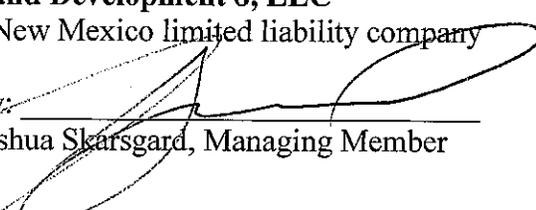
Please be advised that Ms. Angela Willimason (“**Agent**”) has been granted the express authority to represent Land Development 8, LLC and Red Shamrock 2, LLC (jointly “**Applicant**”) in regards to a Zone Map Amendment from MX-T to MX-L (“**Application**”) upon the real property located at 4201 Wyoming Blvd. NE, Albuquerque, NM 87111 (“**Subject Property**”). All questions and communication should be directed to the following:

ANGELA M. WILLIAMSON
100 Sun Avenue NE, Suite 305
Albuquerque, NM 87109
Mobile + Text 505.999.8016

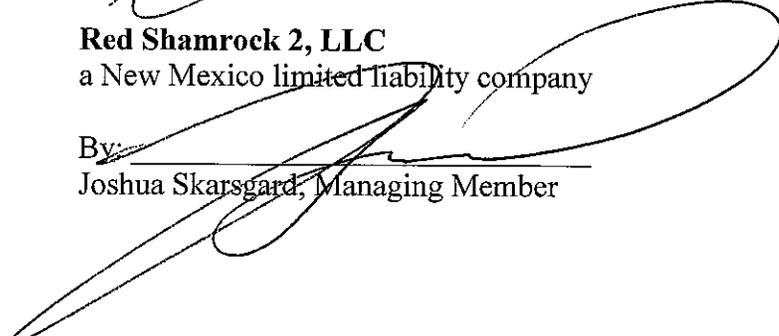
Thank you in advance for your cooperation.

Sincerely,

Land Development 8, LLC
a New Mexico limited liability company

By: 
Joshua Skarsgard, Managing Member

Red Shamrock 2, LLC
a New Mexico limited liability company

By: 
Joshua Skarsgard, Managing Member

July 11, 2019

City of Albuquerque
Care of: Chairman of the EPC
Environmental Planning Commission
600 2nd Street, NW
Albuquerque, NM 87102

RE: EPC submittal for Zone Map Amendment from MX-T to MX-L – 4201 Wyoming Blvd. NE Albuquerque, NM 87111

Dear Environmental Planning Commission:

Please be advised that Josh Skarsgard, as Agent, represents the landowner, Land Development 8, LLC and Red Shamrock 2, LLC (jointly "**Applicant**") regarding this application for a Zone Map Amendment from MX-T to MX-L ("**Application**") on the real property located at 4201 Wyoming Blvd. NE Albuquerque, NM 87111, further described as:

Lot numbered Three (3) of La Mirada Subdivision, as the same is shown and designated the plat entitled "Amended Summary Plat: Lots 3, 4, 6, 8, 9, 10, 13 & 14 and a Part of Lot 7, La Mirada Subdivision, Albuquerque, New Mexico," filed in the office of the County Clerk of Bernalillo County, New Mexico, on March 20, 1981, in Plat Book C18, Page 32. Said parcel lying situate within Section 6, Township 10 North, Range 4 East of the New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico ("**Subject Site**").

Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision. ("**Legal Description**")

I. History of the Subject Site and Location of the Subject Site.

The Subject Site is 0.8070 acres with a +/-2,424 square foot building (formerly a Bank of Albuquerque branch with a drive thru teller)

The site was annexed in 1940's and originally had O-1 office zoning.

In August 1973, the Environmental Planning Commission (EPC) heard a request for a zone change from O-1 and P to SU-1 for a Savings and Loan (Z-73-127, see attachments). The EPC voted to approve the request and the subject site was zoned SU-1 for a Savings and Loan Office.

The Subject Property was owned and operated by either "Albuquerque Federal Savings or Loan Association" or its successor, "Albuquerque Federal Savings Bank" from 1973 to the early 1990's when the property was sold to Bank of Albuquerque. Bank of Albuquerque was acquired as a business by Bank of Oklahoma (BOKF), but the property remained a bank with a drive thru teller service.

In sum, the property has been used as a **bank with a drive thru window from 1973 until 2017** when the property was closed by Bank of Albuquerque and sold to the Applicant. The property has been vacant since late 2017.

This building is located a few blocks south of the Montgomery Blvd. and Wyoming Blvd. intersection at 4201 Wyoming Blvd. NE. Specifically, the following are the uses that surround the Subject Property (see map below).

The subject site is **not** located in a designated Activity Center. Wyoming Blvd is designated as a multi-modal corridor.

Neighbor to the West: La Mirada Shopping Center and Offices (MX-T Offices and MX-M Shopping Center)

Neighbor to the North: Bank of America (Zoned MX-L)

Neighbor to the East: Church and Chiropractor (Zoned R-ML)

Neighbor to the West: Offices (Zoned MX-T).

NOTE: The Subject Property is NOT contiguous to any residential zoned properties.



The future proposed use on the Subject Site is either: (1) retail commercial building; and/or (2) a restaurant with drive thru window.

The current IDO MX-T zoning adopted by the City of Albuquerque does not allow a drive thru

window (even though the vacant bank building on the property contains a drive thru window).

This application for a zone map amendment is requesting a zone change to MX-L (Mixed-Use Low intensity zone) in order to re-develop the subject site with a possible drive-thru restaurant. Though a restaurant could develop by obtaining a conditional use in the current MX-L zoning (no zone change needed). However, drive-thru land uses are currently **not** allowed in the MX-T zone but are conditionally allowed in the MX-L zone (the desired zone change land use designation). If the requested zone change is approved, then the next application necessary would be to apply for a conditional use from the Zoning Hearing Examiner (ZHE), which, if approved would allow a drive thru window for a restaurant on the Subject Property.

In short, the property has been used as a bank with drive thru since 1973 (and closed in 2017). The Applicant desires an opportunity to re-establish drive thru window as a possible land use available in the zoning district.

II. Summary of the Zone Map Amendment Request

Current Zoning: The subject site is currently zoned MX-T. It was previously zoned SU-1 for Savings and Loan prior to the adoption of Albuquerque's Integrated Development Ordinance ("IDO").

Proposed Zoning: The application for zone map amendment is from the existing MX-T to MX-L.

III. Compliance with IDO Section 14-16-6-7(F)(3)

IDO Section 14-16-6-7(F)(3) "Review and Decision Criteria" requires that an Applicant of a zone map amendment offer sufficient justification for the Application by providing a detailed response to all of the policies contained within that section. In compliance, Joshua Skarsgard, as Agent on behalf of the Applicant, provides the following responses to IDO Section 14-16-6-7(F)(3):

14-16-6-7(F)(3)(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.

Applicant Response: 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 Comprehensive Plan as shown below. As demonstrated in our policy analysis below, the proposed zone change to MX-L would clearly facilitate the desired "Goals and Policies" of the Comp Plan which provides a framework to guide private development land use decisions, and decision-makers as they contemplate new plans affecting the whole community. Also, the IDO design requirements will help ensure that this rehabilitated bank site will be consistent with the health and welfare of the Abq residents.

Specifically, our Application shows that the following Goals and Policies in the ABC Comp Plan demonstrate that the proposed zone map amendment to MX-L is consistent with the health, safety and general welfare of the City:

Policy 5.2.1 “Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.”

The request (if approved) would facilitate redevelopment of the vacant bank branch into a possible mix of uses that would support this as a distinct community for meeting your shopping, retail and dining needs (as the site is surrounded by over 30 retail/restaurant businesses). Policy 5.2.1 wants applicants to prove that this zone change would help provide a mix of uses and are conveniently accessible from the surrounding neighborhoods. The existence of many drive thru windows from neighboring restaurant and retail uses proves that this zone map amendment application would be consistent with the existing mix of uses on Wyoming Blvd. and Montgomery Blvd (see the partial list below):

- Taco Cabana (with drive thru window)
- McDonald's (with drive thru window)
- Wells Fargo (with drive thru window)
- Starbucks (with drive thru window)
- Bank of America (with drive thru window)
- Walgreens (with drive thru Pharmacy window).

Future uses on the Subject Property would generally help contribute to a healthy, sustainable, and distinct community because they would bring additional opportunities for neighbors to have access to” services, food and coffee, etc. Additionally, the redevelopment of the Bank would bring needed jobs to the area and help contribute to its distinct character as a shopping destination for nearby residents.

The subject site’s location along a Multi Modal Corridor (Wyoming Blvd) would help transit users reach the Subject Property via bus, car, bicycle or walking.

For the above reason, the request furthers Policy 5.2.1.

Policy 5.2.1 (h) Encourage infill development that adds complementary uses and is compatible in form and scale to the immediately surrounding development

The Subject Property is in an “Area of Change” and **Policy 5.2.1** and its Subsection (h) both encourage a “*mix of uses that are conveniently accessible from surrounding neighborhoods*” and “*encourage infill development that... is compatible in form and scale to the immediately surrounding environment*”.

The Subject Property has been a bank or credit union with a drive thru for over 44 years (before going “dark” in 2017) that is compatible and identical to the neighboring Bank of America drive thru site located immediately north of the Subject Property. These two properties have been compatible in form and scale for over 40 years, and the IDO removed the ability of the landowner to maintain this similar form and scale, when they applied the MX-T zone to the Subject Property, and then applied the MX-L zone to the Bank of America property. It was the City of Albuquerque IDO that adopted zoning regulations to make these two properties incompatible (e.g. a motorist can utilize the drive thru window at Bank of America, but would not be allowed to enjoy a drive thru window upon the Subject Property). This zone change application seeks to implement the compatibility with the property to the north (Bank of America).

This zone change will also “encourage infill development” by allowing the property owner to rehabilitate the existing building as opposed to demolishing the existing building and drive thru window (and drive thru canopy) because the drive thru use was removed by the City of Albuquerque as part of their adoption of the IDO and the current zoning MX-T (which is similar to the O-1 zone in the prior zoning code).

For the above reason, the request furthers Policy 5.2.1 (h)

Goal 5.3 Promote development patterns that maximize the utility of existing infrastructure and public facilities and the efficient use of land to support the public good.

Policy 5.3.1 Infill Development: Support additional growth in areas with existing infrastructure and public facilities.

The zone change (if approved by the EPC) would promote development patterns that maximize the existing infrastructure and public facilities by allowing the Applicant to remodel the **existing building** and utilize the **existing drive thru window**, which would be a very efficient use of the land (because it would avoid the demolition of the drive thru window and the drive thru canopy that overhangs the drive thru window).

The Subject Property has utilized the existing infrastructure (e.g. local bus routes for employees traveling to the bank branch for work; and tying into the existing utility infrastructure for sewer, water, etc.) for over 40 years, as well.

The community has grown accustomed to this location (and the neighboring Bank of America) for drive thru services for banking or other commercial retail shopping needs. The current zoning MX-T forbids drive thru window services and would not take advantage of the existing infrastructure (e.g. curb cuts off of Wyoming Blvd. that provides vehicular access and circulation around the Subject Property's drive thru window, etc.).

The IDO explicitly laid out **Goal 5.3** and **Policy 5.3.1** which provide EPC commissioners with a rationale for supporting zone changes that look to “*maximize the utility of existing infrastructure... and efficient use of land*” which are both met by allowing this Applicant to simply redevelop the existing building as opposed to demolishing a building that has served this community as a drive thru amenity for over 40 years.

The application furthers Goal 5.3 and Policy 5.3.1.

Policy 5.3.7 Locally Unwanted Land Uses: Ensure that land uses that are objectionable to immediate neighbors but may be useful to society are located carefully and equitably to ensure that social assets are distributed evenly and social responsibilities are borne fairly across the Albuquerque area.

The zone change application further Policy 5.3.7 because the zone map amendment application is supported by the adjacent Loma Del Rey Neighborhood Association. The neighbors state the following on May 2nd: “*This is a letter of support for the proposed application for changing zoning for the land at 4201 Wyoming Boulevard Northeast, Albuquerque, New Mexico. The board of directors for Loma Del Rey neighborhood association voted 7-0 in the favor of the proposal. We wish you success at the environmental Planning Commission.*”

We believe that the zone change is located “carefully and equitably” so as to meet the needs and desires of the nearby residents, and therefore furthers Policy 5.3.7

Policy 5.6.2 - Areas of Change: Direct growth and more intense development to Centers, Corridors, industrial and business parks, and Metropolitan Redevelopment Areas where change is encouraged.

b) Encourage development that expands employment opportunities

“The intent is to make Areas of Change the focus of new urban-scale development that benefit job creation and expanded housing options. By focusing growth in Areas of Change, additional residents, services, and jobs can be accommodated in locations ready for new development.” See Page 5-23 of the IDO

The Subject Property (Former Bank of Albuquerque with a drive thru window) is designated as an Area of Change along a Multi Modal Transit Corridor (Wyoming Blvd. in front of the subject site). The Subject Site is surrounded on ALL SIDES by commercial uses.

The zone change will not have negative impacts on surrounding residential areas with respect to noise, stormwater runoff, contaminants, lighting, air quality, or traffic because they are not located near the Subject Site to be impacted by the redevelopment and operation retail space or a restaurant.

Retail and/or restaurant use would be a great addition to the neighborhood and be a nice benefit by rehabilitating an aging building with a fresh, visually appealing look. The Applicant believes that this location for retail/restaurant respects the neighborhood values.

The request would encourage and direct growth to an Area of Change, as desired by the Comprehensive Plan Policy 5.6.2. and this area Montgomery and Wyoming is home to a large array of retail and shopping and dining uses (Target, Walgreens, Bank of America, McDonald’s, etc.)

The application, if approved would provide the Applicant the opportunity to redevelop the bank branch which would further **Subsection (b) of Policy 5.6.2** by the encouraging job creation in the following manner:

1. Hiring of general contractor to remodel the Subject Property
2. Hiring of subcontractors for construction needs (drywall, paint, etc.)
3. Hiring of surveyors, engineers, architects, and other support services.
4. Hiring of employees and managers to run the restaurant or retail business on the Subject Property.

Focusing growth (via redevelopment of the closed Bank branch) in this location would also help direct pressure for development away from the surrounding Loma Del Rey neighborhood (Area of Consistency) and into the shopping center area that has historically provided those services to the residents.

The request generally furthers **Goal 5.6** and **Policy 5.6.2** (including **subsection b**)

Policy 6.1.3- Auto Demand: Reduce the need for automobile travel by increasing mixed-use development, infill development within Centers...

The request could partially further **Policy 6.1.3** by reducing the need for automobile travel by “*increasing infill development within Centers*”.

The Subject Property is likely to not be redeveloped based upon the land use restrictions of the current zoning MX-T. If the zone map amendment is approved the subject property could be a ripe location for infill development rehabilitation project that would reduce the vehicular travel for nearby residents by providing another retail or dining choice to local residents (and therefore avoiding certain trips in the car to seek out other dining or retail options outside of the Montgomery and Wyoming Blvd. shopping area).

Though the re-development (rehabilitation of the Bank) would not be in a designated Activity Center as intended, the subject site is located along a Multi Modal Transit Corridor (Wyoming Blvd) and could reduce vehicular demands upon the neighbors through an approved zone change application.

The request partially furthers Policy 6.1.3.

Goal 8.1 - Placemaking: Create places where business and talent will stay and thrive.

The request could partially further **Goal 8.1** because the application, if approved, would facilitate the re-development and rehabilitation of the vacant bank branch on the Subject Property that could be turned into a business that could attract talent. Why would a zone change help further this goal? Because the MX-L zone allows for a greater variety of business, commercial, and restaurant uses than the MX-T zone which would be attractive to tenants seeking a variety of retail or restaurant needs (including the possibility of a drive thru window – if approved by the ZHE as part of a subsequent conditional use application).

The application for a zone change, if approved, could partially further **Goal 8.1** by joining in the re-development taking place behind the subject site with the closed HASTINGS and large boxes that will be rehabilitated. A wider variety of uses (bank, retail, dining with drive thru window, etc.) could develop under the MX-L zone, and therefore could encourage economic development opportunities with a larger variety of permissive uses available in the zoning category.

The request partially furthers Goal 8.1 Placemaking.

Policy 4.1.2 - Identity and Design: Protect the identity and cohesiveness of neighborhoods by ensuring the appropriate scale and location of development, mix of uses, and character of building design.

The zone change request would facilitate re-development of the closed bank under the MX-L zone in an Area of Change and along Wyoming Blvd (which is considered a “multi modal transit center”).

We believe that the City of Albuquerque adopting the IDP and a new zoning designation (MX-T) that does **not** allow a drive thru window was the act that did **not** protect the identity and cohesiveness of the Subject Property, because the subject property was a bank with a drive thru use from 1973 until 2017 (44 years). Accordingly, the way for the EPC to

remedy this removal of a land use (drive thru window) from the Subject Property is to approve the zone map amendment to MX-L which provides the Applicant with a chance to apply for a conditional use to the ZHE (and prove that a drive thru window is not injurious to the surrounding community).

Additionally, all future site plans for the Subject Property would be subject to IDO requirements established specifically to protect the identity and cohesiveness of the Wyoming Blvd and Montgomery Blvd. neighborhoods (E.G. **Loma Del Rey** Neighborhood for residential, and the **Montgomery Crossing** for commercial / shopping center neighborhoods). Specifically, the design standards located in the IDO will provide assurances that the nearby neighborhood will experience the appropriate scale and building design:

- Buffer landscaping (14-16-5-6-(E)),
- Building design standards (14-16-4-11).

As a result of the analysis provided above, the zone change request furthers Policy 4.1.4- Identity and Design.

14-16-6-7(F)(3)(b): *If the proposed amendment is located wholly or partially in an Area of Consistency (as shown in the ABC Comp Plan, as amended), the applicant has demonstrated that the new zone would clearly reinforce or strengthen the established character or the surrounding Area of Consistency and would not permit development that is significantly different from that character. The applicant must also demonstrate that the existing zoning is inappropriate because it meets any of the following criteria:*

1. *There was a typographical or clerical error when the existing zone district was applied to the property.*
2. *There has been a significant change in neighborhood or community conditions affecting the site.*
3. *A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).*

Applicant Response: The Subject Site is not located in an Area of Consistency.

14-16-6-7(F)(3)(c): *If the proposed amendment is located wholly or partially in an Area of Change (as shown in the ABC Comp Plan, as amended), the applicant has demonstrated that the existing zoning is inappropriate because it meets at least one of the following criteria:*

1. *There was a typographical or clerical error when the existing zone district was applied to the property.*
2. *There has been a significant change in neighborhood or community conditions affecting the site that justifies this request.*
3. *A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).*

Applicant Response: A different zone district is more advantageous to the community based on the goals and policies of the Albuquerque/Bernalillo County Comprehensive Plan (see below for the list of policies and goals and their analysis is contained in Section a. above).

The request would be more advantageous to the community (*as articulated in the Comp Plan Policies below*) because it would direct re-development in this “Area of Change” where the property has experienced retail banking with a drive thru service window for over 40 years.

Specifically, the development density requested in the zone change application (MX-L) would be consistent with what the community has experienced on this site for decades (retail with drive thru window services). The density of the request would NOT exceed the prior land use on the site, and the request received a unanimous approval from the Loma Del Rey Neighborhood Association which tells the Applicant and the EPC commissioners that the development density, and development intensity of the MX-L zone is more advantageous to the community.

The request (zone change to MX-L) would facilitate “regional growth” and the creation of jobs by providing a list of permissive uses that are responsive to the needs of restaurants and retail companies looking to grow into this Wyoming Blvd. corridor. The current zoning of MX-T is similar to the O-1 zoning of the prior Zoning Code and it is not generating any market interest for office uses (or any use that is permissive in the MX-T zone).

Both the market forces, and the surrounding neighbors are in agreement... this Subject Property needs MX-L zoning designation to give it a chance to redevelop and create jobs at a density that the community is used to seeing at the Subject Property.

The analysis of the Policies and Goals below are further contained in Section A. of this Justification Letter (above).

Policy 4.1.2 - Identity and Design: Protect the identity and cohesiveness of neighborhoods by ensuring the appropriate scale and location of development, mix of uses, and character of building design.

Goal 8.1 - Placemaking: Create places where business and talent will stay and thrive.

Policy 6.1.3 - Auto Demand: Reduce the need for automobile travel by increasing mixed-use development, infill development within Centers...

Policy 5.6.2 - Areas of Change: Direct growth and more intense development to Centers, Corridors, industrial and business parks, and Metropolitan Redevelopment Areas where change is encouraged.

b) Encourage development that expands employment opportunities

Policy 5.3.7 Locally Unwanted Land Uses: Ensure that land uses that are objectionable to immediate neighbors but may be useful to society are located carefully and equitably to ensure that social assets are distributed evenly and social responsibilities are borne fairly across the Albuquerque area.

Goal 5.3 Promote development patterns that maximize the utility of existing infrastructure and public facilities and the efficient use of land to support the public good.

Policy 5.3.1 Infill Development: Support additional growth in areas with existing infrastructure and public facilities.

Policy 5.2.1 (h) Encourage infill development that adds complementary uses and is compatible in form and scale to the immediately surrounding development

Policy 5.2.1 “Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.”

14-16-6-7(F)(3)(d): *The zone change does not include permissive uses that would be harmful of adjacent property, the neighborhood, or the community, unless the Use-specific Standards in Section 16-16-4-3 associated with that use will adequately mitigate those harmful impacts.*

Applicant Response: The request meets the criteria of 14-16-6-7(F) (3) (d) because the subject site is currently zoned **MX-T** [IDO 14-16-2- 4], which was assigned upon adoption of the IDO. Primary land uses are described in Table 4-2: Allowable Uses, IDO p. 130.

The request proposes to change the subject site’s zoning to **MX-L** (Mixed-Use Low Intensity Zone District, IDO 14-16-2- 4(B)), which was assigned upon adoption of the IDO.

Specific permissive uses are listed in **Table 4-2: Allowable Uses, IDO p. 130**. Having said that, the Primary land uses are non-destination retail and commercial uses, townhouses, low-density multi-family residential dwellings, and civic and institutional uses to serve the surrounding area.

A couple of key differences between the MX-L and the MX-T zones are contained in the following list:

1. General retail and drive thru windows are “**conditional uses**” in the MX-L zone.
2. In the MX-L zone, only General Retail, Small is allowed.
3. In the MX-T zone, General Retail, Small and General Retail, Medium are allowed permissively.
4. A bar, light vehicle fueling station, and light vehicle sales and rental, mortuary, pawn shop, and transit facility are **conditional uses** in the MX-L zone (and require a hearing before the Zoning Hearing Examiner (ZHE)).
5. Hospital, catering service, and nightclub are **not** allowed in MX-L.
6. The following are uses that are permissive in the MX-L zone are not permissive uses in the MX-T Zone: Restaurant, tap room, other indoor entertainment, club or event facility, artesian manufacturing, car wash, light vehicle fueling and repair.
7. The following are uses that are conditional uses in the MX-L zone but are not conditional uses in the MX-T Zone: Light vehicle fueling station, light vehicle sales and rental, and kennel.
8. The following are uses that are “accessory use” in the MX-L zone but are not “accessory use” in the MX-T Zone: Liquor retail.
9. The following are uses that are “conditional accessory” in the MX-L zone but are not “conditional accessory” in the MX-T Zone: Outdoor storage
10. The requested MX-L zone does not include permissive uses that would be harmful of adjacent property, the neighborhood, or the community.

APPLICANT RESPONSE: The Applicant believes that the request does not include permissive uses that would be harmful of adjacent property, the neighborhood, or the community, because any added uses from the change from MX-T to MX-L can be mitigated by the use-specific Standards in Section 16-16-4-3 associated with that use.

Specifically, the Applicant believes that the new uses available to the site: taproom, club, and liquor retail (as an accessory use) could be harmful to the neighbors but their impact would be buffered by the fact that they had to comply with the use specific standards in Section 16-16-4-3 and that specific use would be buffered from the residential neighbors by the small offices to the west of the site, and the Sylvan Learning Center (commercial building) to the south. Additionally the alcohol related uses (if utilized on the site) are regulated by local, state and federal requirements and must comply with all New Mexico state laws, including but not limited to any required spacing from other uses or facilities.

The zone change would be consistent with the surrounding land uses to the **north** of the Subject Site (Bank of America), and allow a slightly broader variety of community services to be developed on the Subject Site than the existing zoning allows, adding to the healthy mix of uses already present in the neighborhood. It is important to remember that this site was historically a bank with a drive thru window, and the Applicant is simply attempting to re-establish a drive thru window use that existed for years on the Subject Property.

Future development on the subject site under the MX-L zone (if approved by the EPC) would be subject to IDO requirements including Neighborhood Edges (14-16- S-9) buffer landscaping (14-16-5- 6-(E), and building design standards (14-16-4-11) to help buffer any damage to local residents (if any).

It is important to note that other City ordinances (Noise Ordinance, etc.) would also apply to future uses and serve to mitigate the potentially harmful impacts of such uses on the subject site.

It is very important to note that there are no residentially zoned properties adjacent to this Subject Property (see below).

SEE THE BUFFER OF THE SUBJECT PROPERTY PROVIDED BY THE SMALL OFFICES TO THE WEST AND THE MX-M TO THE WEST and STREETS TO THE NORTH AND EAST.



The permissive uses between the MX-L zoning designation and the MX-T zoning designation are very similar. I have outlined the permissive uses in MXM in the following list (adjacent to one another in the 4-2-1 table below):

Excerpt from Table 4-2-1: Allowable Uses								
P = Permissive Primary C = Conditional Primary A = Permissive								
CV = Conditional if Structure Vacant for 5 years or more T = Tem								
Zone Category >>	Residential						Mixed	
	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L
COMMERCIAL USES								
Agriculture and Animal-related								
Community garden	P	P	P	P	P	P	P	P
Veterinary hospital	C						C	P
Other pet services	C						C	P
Food, Beverage, and Indoor Entertainment								
Auditorium or theater						A	A	A
Bar							C	C
Health club or gym			A		A	A	P	P
Residential community amenity	P	P	P	P	P	P	P	P
Restaurant							C	P
Tap room or tasting room							C	C
Other indoor entertainment							C	P
Retail Sales								
Bakery goods or confectionery shop							CV	P
Farmers' market	T		T	T	T	T	T	P
General retail, small			A			A	A	P
Liquor retail							C	A

The Change in Permissive Uses Will Not be Harmful:

Based on the above analysis, diagrams and zoning map attached above, the Applicant believes that the change in permissive uses (coupled with the Use Standards in the IDO) along with State, County and City ordinances.... will give confidence to the neighbors and the EPC that the expanded permissive uses will not be harmful to the neighborhood.

We also remind the EPC commissioners the Loma Del Rey NA unanimously (7-0) approved the zone map amendment request and that gives us confident they will not be harmed by the expanded uses in the MX-L zone (request).

14-16-6-7(F)(3)(e): *The City's existing infrastructure and public improvements, including but not limited to its street, trail, and sidewalk systems meet one of the following requirements:*

1. *Have adequate capacity to serve the development made possible by the change of zone.*

2. *Will have adequate capacity based on improvements for which the City has already approved and budgeted capital funds during the next calendar year.*
3. *Will have adequate capacity when the applicant fulfills its obligation under the IDO, the DPM, and/or an Infrastructure Improvements Agreement.*
4. *Will have adequate capacity when the City and the applicant have fulfilled their respective obligations under a City-approved Development Agreement between the City and the applicant.*

Applicant Response: The request meets the criteria of 14-16-6-7(F)(3)(e) because the existing infrastructure and public improvements currently have adequate capacity to serve the proposed development. The Subject Site includes an existing building that was formerly a Bank of Albuquerque branch. The proposed development will not create the need for any additional infrastructure or public improvements.

14-16-6-7(F)(3)(f): *The applicant's justification for the requested zone change is not completely based on the property's location on a major street.*

Applicant Response: The request meets the criteria of 14-16-6-7(F) (3) (f) because the rationale and justification for the zone change is not based on the property's location on Wyoming Blvd. The zone map amendment is justified pursuant to the analysis of the goals and policies of the Albuquerque Comp Plan contained in this Justification Letter (above) and through a careful examination of the requires of **14-16-6-7 (F)**.

The IDO policies and goals strongly encourage infill development in locations (similar to the Subject Property) and the Applicant believes that this zone map amendment will create jobs and needed services to this community (which is currently vacant).

The Loma Del Rey NA agrees with the Applicant that this zone change is justified on the merits. This zone change is not justified because of the location of the major street (Wyoming Blvd).

14-16-6-7(F)(3)(g): *The applicant's justification is not based completely or predominately on the cost of land or economic considerations.*

Applicant Response: The request meets the criteria of 14-16-6-7(F) (3) (g) because the cost of the land or economic considerations is not the basis for the Applicant's justification. The zone map amendment is justified pursuant to the analysis of the goals and policies of the Albuquerque Comp Plan contained in this Justification Letter (above) and through a careful examination of the requires of **14-16-6-7 (F)** and is not a result of economic considerations as the predominant reason for the application.

14-16-6-7(F)(3)(h): *The zone change does not apply a zone district different from surrounding zone districts to one small area, one premises (i.e. create a "spot zone") or to a strip of land along a street (i.e. create a "strip zone") unless the change will clearly facilitate implementation of the ABC Comp Plan, as amended, and at least one of the following applies:*

1. *The area of the zone change is different from surrounding land because it can function as a transition between adjacent zone districts.*
2. *The site is not suitable for the uses allowed in any adjacent zone district due to topography, traffic, or special adverse land uses nearby.*
3. *The nature of structures already on the premises makes it unsuitable of the uses allowed in any adjacent zone district.*

Applicant Response: The request meets the criteria of 14-16-6-7(F) (3) (h) because the properties just north of the Subject Site are zoned MX-L (Bank of America, etc.), the proposed zone change of the Subject Site to MX-L will be congruent to existing zoning in the direct vicinity to the north. The proposed development will also be complementary with the surrounding uses because the “small offices” to the west of the Subject Property buffer it from the houses to the west. The Applicant is simply attempting to explain to the EPC that the more appropriate zoning designation for the Subject Property is MX-L (and not MX-T).

During the IDO conversion the Applicant believes that a Drive Thru Bank (or Savings and Loan) is much more applicable to a C-1 zone, than an O-1 Zone and should have received the MX-L zoning identical to its neighboring bank (Bank of America).

The MX-T zoning is aimed largely after the O-1 zoning and is attempting to provide a buffer to the residents west of the small offices (which are located west of the Subject Property). It is important to note that there is no need to buffer the MX-L uses from the nearby small offices to the west (because they are also commercial/office zoning uses). The buffering is supposed to take place between commercial and residential properties. That is a huge factor in analyzing this request and helps justify why MX-L is the more appropriate land use than MX-T (and the zone change is also supported by over 10 Comp Plan Goals and Policies – see Section C above).

We appreciate the opportunity to submit for a zone map amendment. Thank you for your consideration to this request.

Sincerely,

Joshua J. Skarsgard

Joshua J. Skarsgard, Agent

July 11, 2019

City of Albuquerque
Care of: Chairman of the EPC
Environmental Planning Commission
600 2nd Street, NW
Albuquerque, NM 87102

RE: "Project Letter" for EPC submittal for Zone Map Amendment from MX-T to MX-L – 4201 Wyoming Blvd. NE Albuquerque, NM 87111

Dear Environmental Planning Commission:

Please be advised that Josh Skarsgard, as Agent, represents the landowner, Land Development 8, LLC and Red Shamrock 2, LLC (jointly "**Applicant**") regarding this application for a Zone Map Amendment from MX-T to MX-L ("**Application**") on the real property located at 4201 Wyoming Blvd. NE Albuquerque, NM 87111, further described as:

Lot numbered Three (3) of La Mirada Subdivision, as the same is shown and designated the plat entitled "Amended Summary Plat: Lots 3, 4, 6, 8, 9, 10, 13 & 14 and a Part of Lot 7, La Mirada Subdivision, Albuquerque, New Mexico," filed in the office of the County Clerk of Bernalillo County, New Mexico, on March 20, 1981, in Plat Book C18, Page 32. Said parcel lying situate within Section 6, Township 10 North, Range 4 East of the New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico ("**Subject Site**").

Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision. ("**Legal Description**")

Question: What is the intention of the project-i.e. why a zone change is claimed to be needed. What do you want to develop and why? What was the use of the property on May 17, 2018?

Applicant Answer: The intention of the project is to establish zoning (MX-L) which will allow for a subsequent ZHE Hearing, which if successful, could lead to the use of a drive thru window again on this property (even though a drive thru bank window has been used on the property from 1973 to 2017 (46 years). The property has received interest from coffee shops and restaurants that desire to provide convenience to customers through a drive thru pick up window for coffee or food. The use of the property was a vacant former bank with a drive thru window on May 17, 2018.

Question: Could the subject site have qualified for a voluntary zone conversion? Why or why not? If so, why did you not pursue the easier (and free) path?

Applicant Answer: On May 7, 2018, City Council adopted Resolution 18-29 directing the Planning Department to create a process for property owners to request a zoning conversion (at no cost to the property owner) for one of the five reasons. At the time of the zone change application request by the Applicant, none of the five reasons appeared to apply to the subject property.

Question: It can be argued that the MX-L zone is appropriate for the subject site, since MX-T was assigned based on the zoning conversion rules adopted by the City Council. Why shouldn't the property be zoned MX-T?

Applicant Answer: The MX-T zone was inappropriate selected by the City for this property for four reasons: **(1)** The Subject Property has had an operational drive thru window (bank) since 1973 (and drive thru uses are *disallowed* in the current MX-T Zone). The IDO conversion rules missed the longstanding history of drive thru and retail uses utilized upon this Subject Property; and **(2)** the adjacent Loma Del Rey Neighborhood Association and nearby property owners overwhelmingly support a drive thru restaurant use to be applicable to the Subject Property (*see their Letter of Support in the file*); **(3)** the property neighboring to the north (also a Bank) are zoned MX-L which is the more appropriate use for the site (because the MX-L at least provides for an additional hearing to the ZHE to apply for a conditional use application to establish a drive thru use); and **(4)** the IDO describes the purpose of the MX-T zone as follows: "*The purpose of the MX-T zone district is to provide a transition between residential neighborhoods and more intense commercial areas.*" The Subject Property is **NOT** immediately contiguous to any residential zoned property and therefore the purpose of a "transition" or "buffer" between residential uses and "more intense commercial uses" is nonexistent. The Property immediately to the west of the Subject Property is an office complex (*not residential homes that require any kind of "buffer" from a commercial use*).



The more appropriate zoning to be assigned by the IDO should have been MX-L (which was provided to the Bank of America located directly north of the Subject Property). How is it that the Bank of America building neighboring to the north of the Subject Property

receives MX-L, whereas the Subject Property was also a Bank, yet it received MX-T zoning designation?

CONCLUSION

We appreciate the opportunity to submit for a zone map amendment to re-establish a zoning designation that allows for a future conditional use hearing at the ZHE (for a drive thru window).

Thank you for your consideration of this Project Letter.

Sincerely,

Joshua J. Skarsgard

Joshua J. Skarsgard, Agent

CORRESPONDENCE

Lehner, Catalina L.

From: Lehner, Catalina L.
Sent: Thursday, June 13, 2019 3:14 PM
To: 'cnair@gmx.com'
Cc: Henry, Dora L.
Subject: RE: 4201 Wyoming NE Hearing for Zoning Request

Dora, thanks for forwarding.

Hello Carolyn,
Thanks for reaching out. I haven't heard anything from any neighbors until now. The Environmental Planning Commission (EPC) held its regularly scheduled hearing today, but this case was deferred for 60 days to the August 8, 2019 hearing.

Thank you for letting me know about the sign. Yes, there is a Sign Posting Agreement that has to be adhered to. Because of the deferral, there will be adequate notice. However, I will verify this.

The applicant intends a restaurant with a drive-thru (meaning fast-food restaurant). A restaurant can go on the site with the current zoning, but he wants the drive thru use.

Please read the Staff report, available at the following link, for Staff's analysis of the requested zone change:
http://documents.cabq.gov/planning/environmental-planning-commission/June2019/Agenda%2020_PR-2019-002353_La%20Mirada.pdf

Information about the EPC can be found here:
<http://www.cabq.gov/planning/boards-commissions/environmental-planning-commission/epc-agendas-reports-minutes>

Please let me know if you have additional questions. Thank you.



CATALINA LEHNER
senior planner
o 505.924.3935
e clehner@cabq.gov
cabq.gov/planning

From: Henry, Dora L.
Sent: Thursday, June 13, 2019 11:59 AM
To: Lehner, Catalina L.
Subject: FW: 4201 Wyoming NE Hearing for Zoning Request

I received this today for 2019-002353. Dora

From: Carolyn Baker-Nair [mailto:cnair@gmx.com]
Sent: Thursday, June 13, 2019 10:55 AM
To: Henry, Dora L.
Subject: 4201 Wyoming NE Hearing for Zoning Request

Hi Dora,

My name is Carolyn Baker-Nair. I am a homeowner in the **Loma Del Rey Neighborhood**, more specifically I live directly across the street from the empty property at **4201 Wyoming NE**. I was surprised and also frustrated to see the request for a zoning change sign posted with the hearing date listed as this morning! The sign was not posted until Tuesday or Wednesday this week, 6/11 or 6/12. The request states that the sign is "Required to be posted from May 28, 2019 to June 13, 2019". The sign was not posted until two days ago. I know for sure the sign was not there until Tuesday or Wednesday because I cross Wyoming and walk right by the front doors and around the side (where a second notice is posted) of the building every other day. On Monday I noticed eggs had been thrown at the door - there was no request posted on Monday 6/10/2019.

If community members like myself would have known in advance then we could have arranged to attend the hearing this morning.

I am concerned that the zoning change would allow for the following additional uses: car wash, fueling station, car repair, vehicle sales and rental, commercial services, self storage, pawn shop, outdoor storage, or a drive through of some kind. The animal services are not so alarming as a pawn shop or a car wash. This is my community and I am concerned that the above listed changes would make my town home community an unsafe place to live, especially with the homes being directly visible from 4201 Wyoming NE.

Can you tell me what kind of business is being proposed for 4201 Wyoming and explain what will happen next because the request sign was not posted as required? Thank you for your time.

Carolyn Baker-Nair
Loma Del Rey Neighborhood
(505) 322-9318

=====
This message has been analyzed by Deep Discovery Email Inspector.



Environmental Planning Commission

Agenda Number: 2
Project #: PR-2019-002353
Case #: RZ-2019-00021
Hearing Date: June 13, 2019

Staff Report

Agent	Self
Applicant	Land Development 8 LLC (Joshua Skarsgard)
Request	Zone Map Amendment (zone change)
Legal Description	Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision
Location	On Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE (4201 Wyoming Blvd. NE)
Size	Approximately 0.85 acre
Existing Zoning	MX-T
Proposed Zoning	MX-L

Staff Recommendation

DENIAL of RZ-2019-00021, based on the Findings beginning on Page 17.

***Staff Planner
Catalina Lehner, AICP-Senior Planner***

Summary of Analysis

The request is for a zone change for an approximately 0.85 acre site on the western side of Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE. A building, a former bank, exists on the subject site.

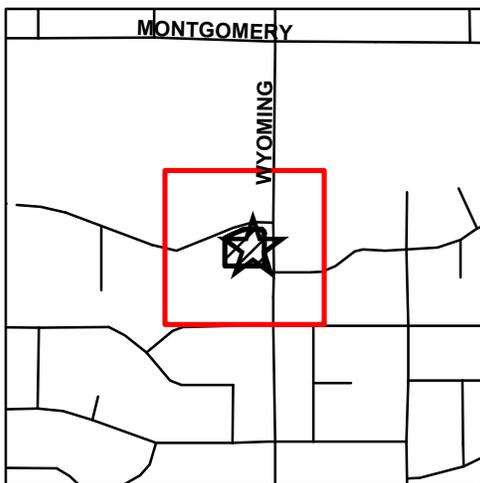
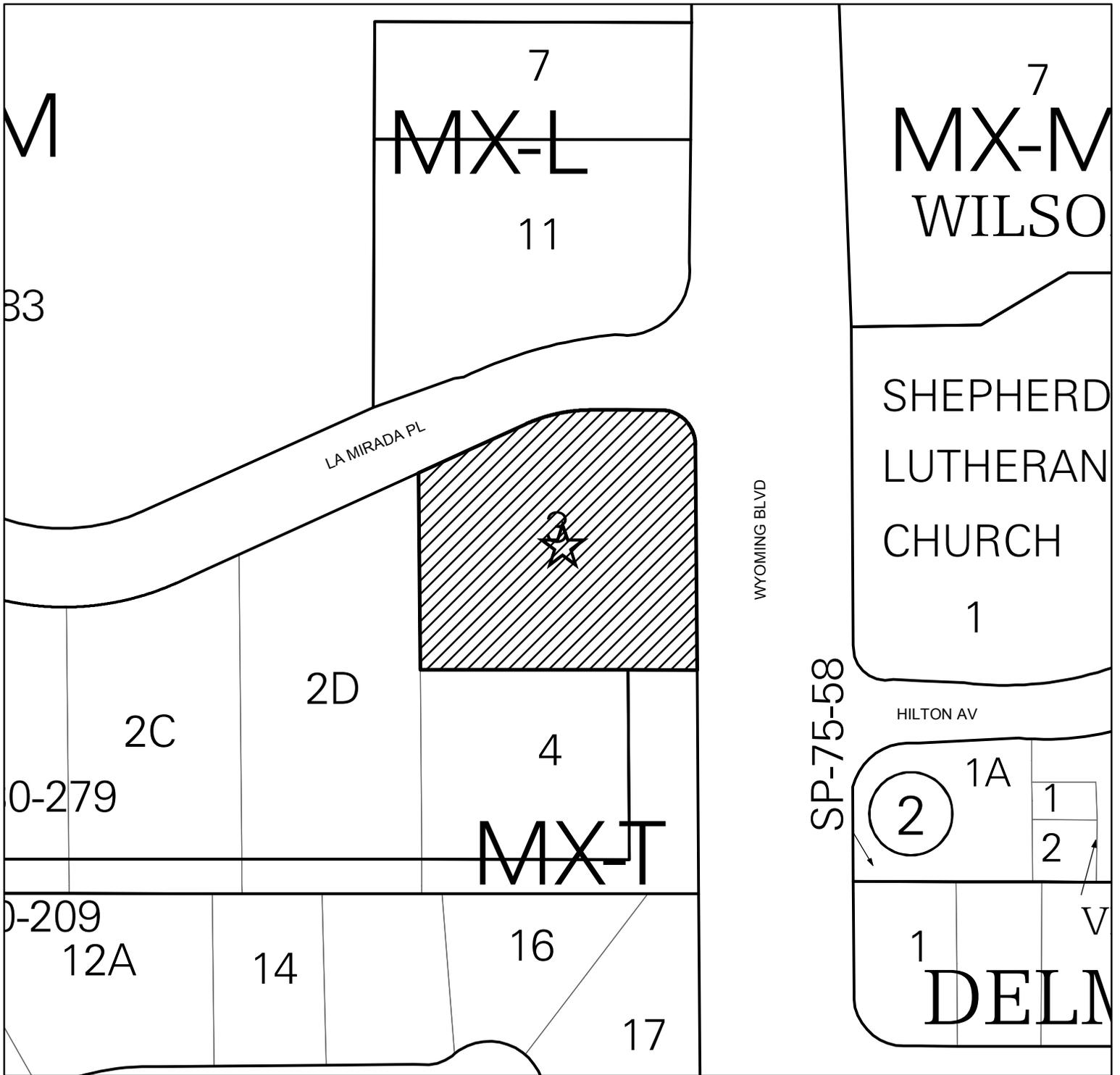
The applicant seeks a zone change request in order to develop the site with a drive-thru use, which is not allowed in the MX-T zone. The subject site was zoned MX-T upon adoption of the Integrated Development Ordinance (IDO). The subject site is in an Area of Change as designated by the Comprehensive Plan.

The applicant has not adequately justified the zone map amendment pursuant to the IDO zone change criteria in 6-7-(f)(3). The responses to Sections A, C, D, F, G and H are insufficient. The burden is on the applicant to provide a sound justification that meets all the criteria.

The affected neighborhood organizations are the Loma del Rey Neighborhood Association (NA), the District 4, District 7, and District 8 Coalitions, which was notified as required. Property owners within 100 feet of the subject site were also notified as required. The Loma del Rey NA sent a letter of support for a restaurant.

Staff recommends denial.





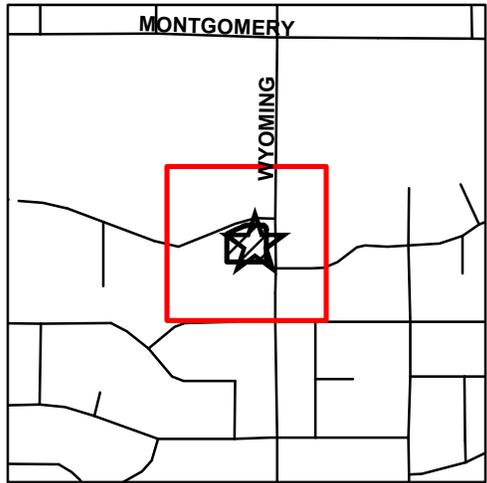
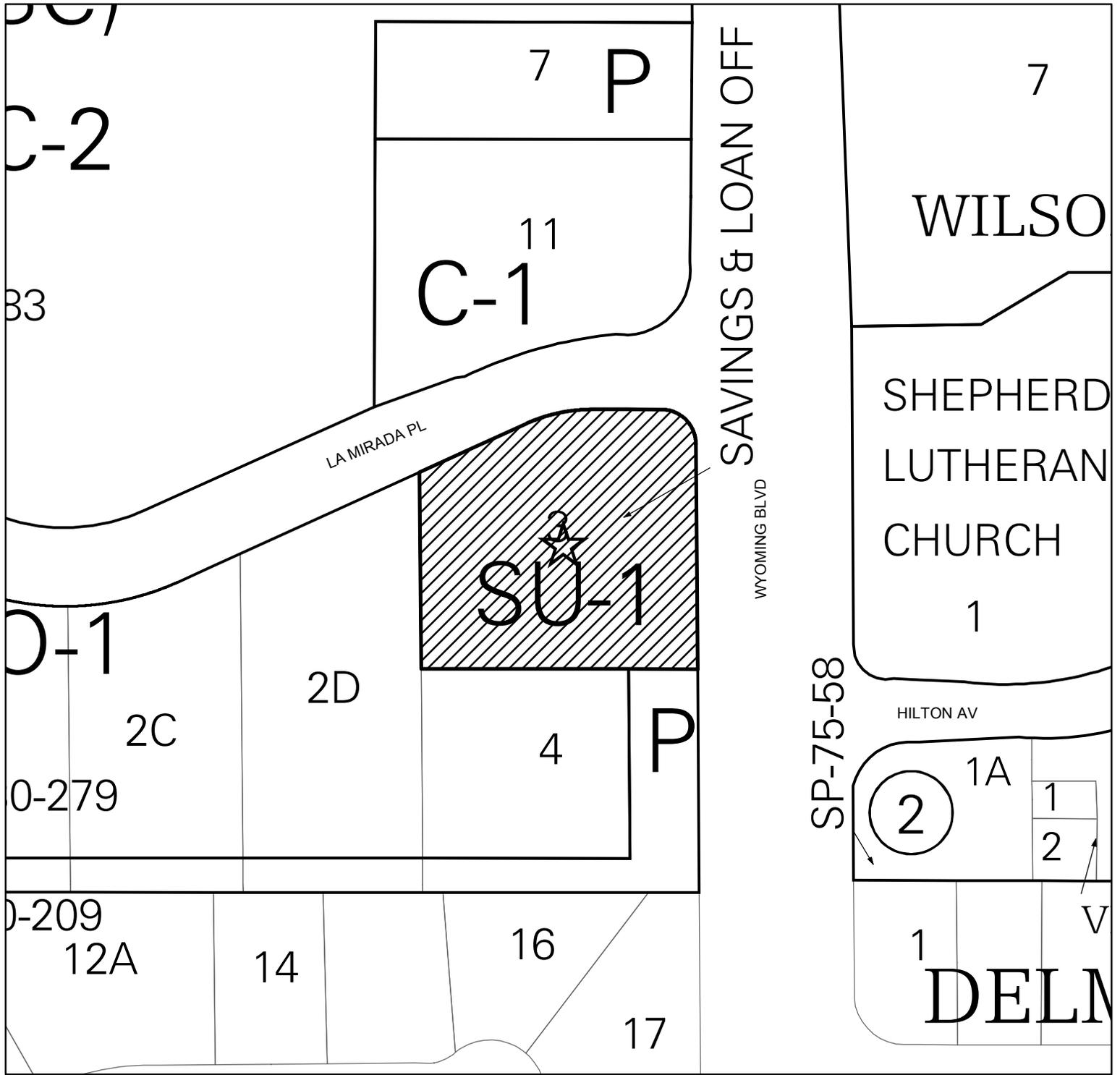
IDO ZONING MAP

Note: Gray shading indicates County.



1 inch = 100 feet

Hearing Date:
6/13/2019
Project Number:
PR-2019-002353
Case Numbers:
RZ-2019-00021
Zone Map Page:
G-19



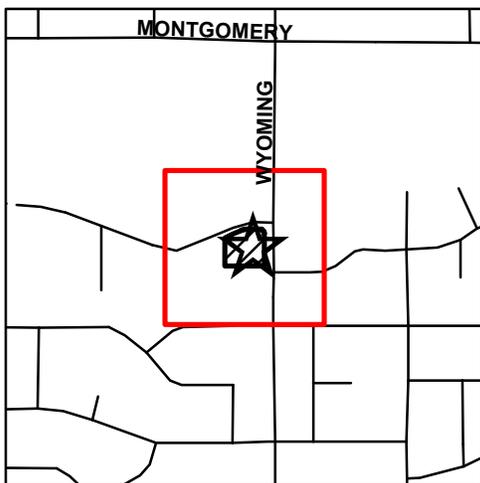
OLD ZONING MAP

Note: Gray shading indicates County.



1 inch = 100 feet

Hearing Date:
6/13/2019
Project Number:
PR-2019-002353
Case Numbers:
RZ-2019-00021
Zone Map Page:
G-19



LAND USE MAP

Note: Gray shading indicates County.

- Key to Land Use Abbreviations**
- LDRES | Low-density Residential
 - MULT | Multi-family
 - COMM | Commercial Retail
 - CMSV | Commercial Services
 - OFC | Office
 - IND | Industrial
 - INSMED | Institutional / Medical
 - ED | Educational
 - APRT | Airport
 - TRANS | Transportation
 - AGRI | Agriculture
 - PARK | Parks and Open Space
 - DRNG | Drainage
 - VAC | Vacant
 - UTIL | Utilities
 - CMTY | Community
 - KAFB | Kirtland Air Force Base



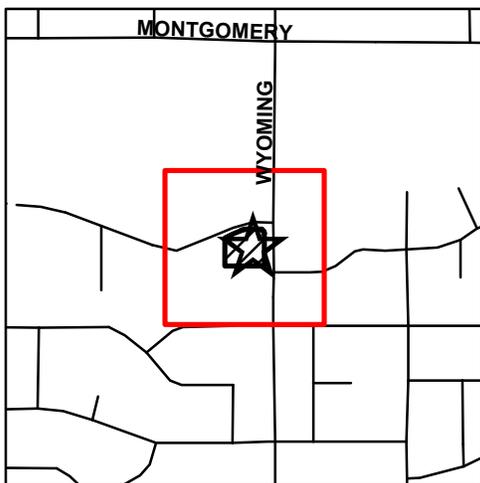
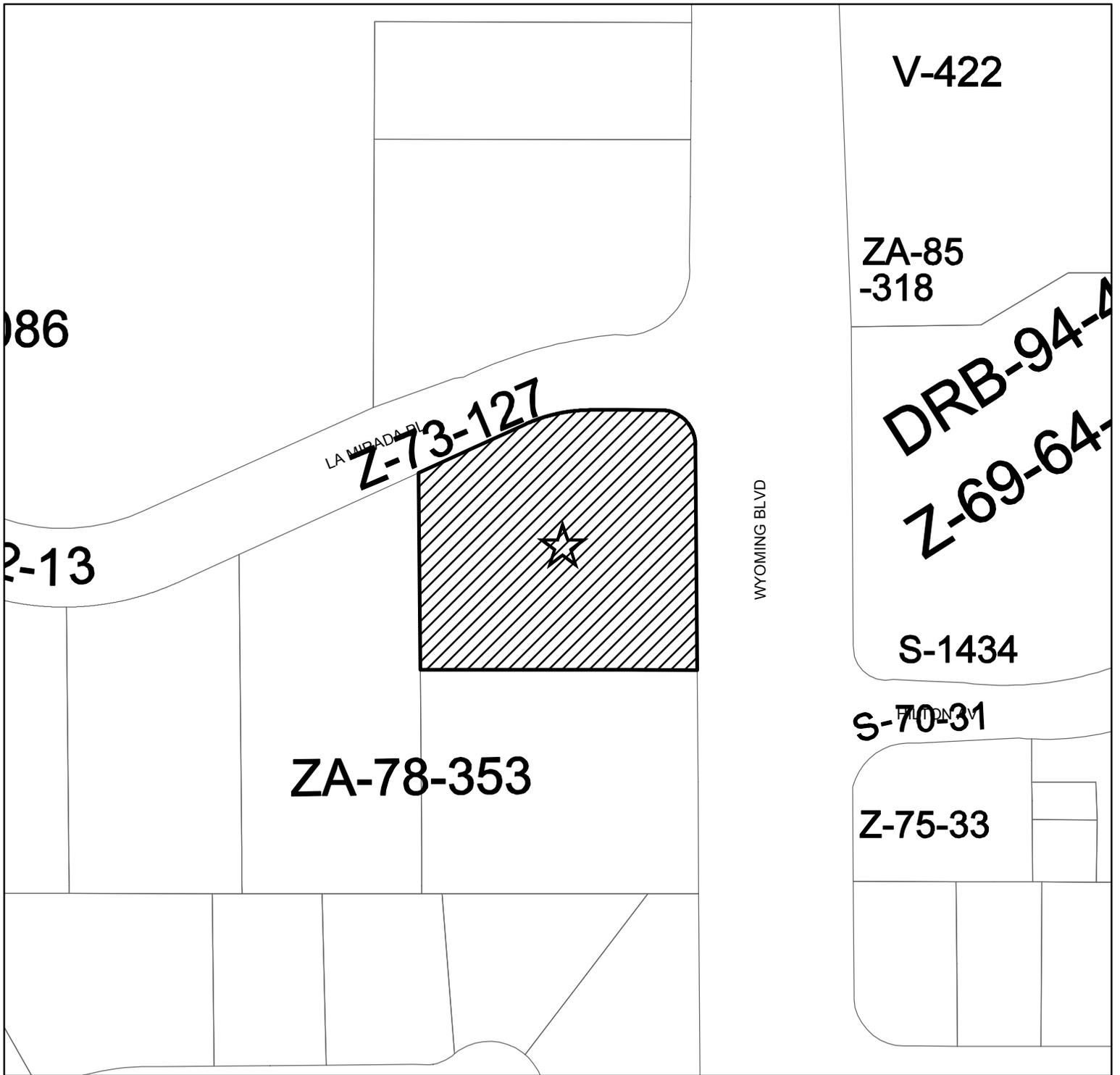
1 inch = 100 feet

Hearing Date:
6/13/2019

Project Number:
PR-2019-002353

Case Numbers:
RZ-2019-00021

Zone Map Page:
G-19



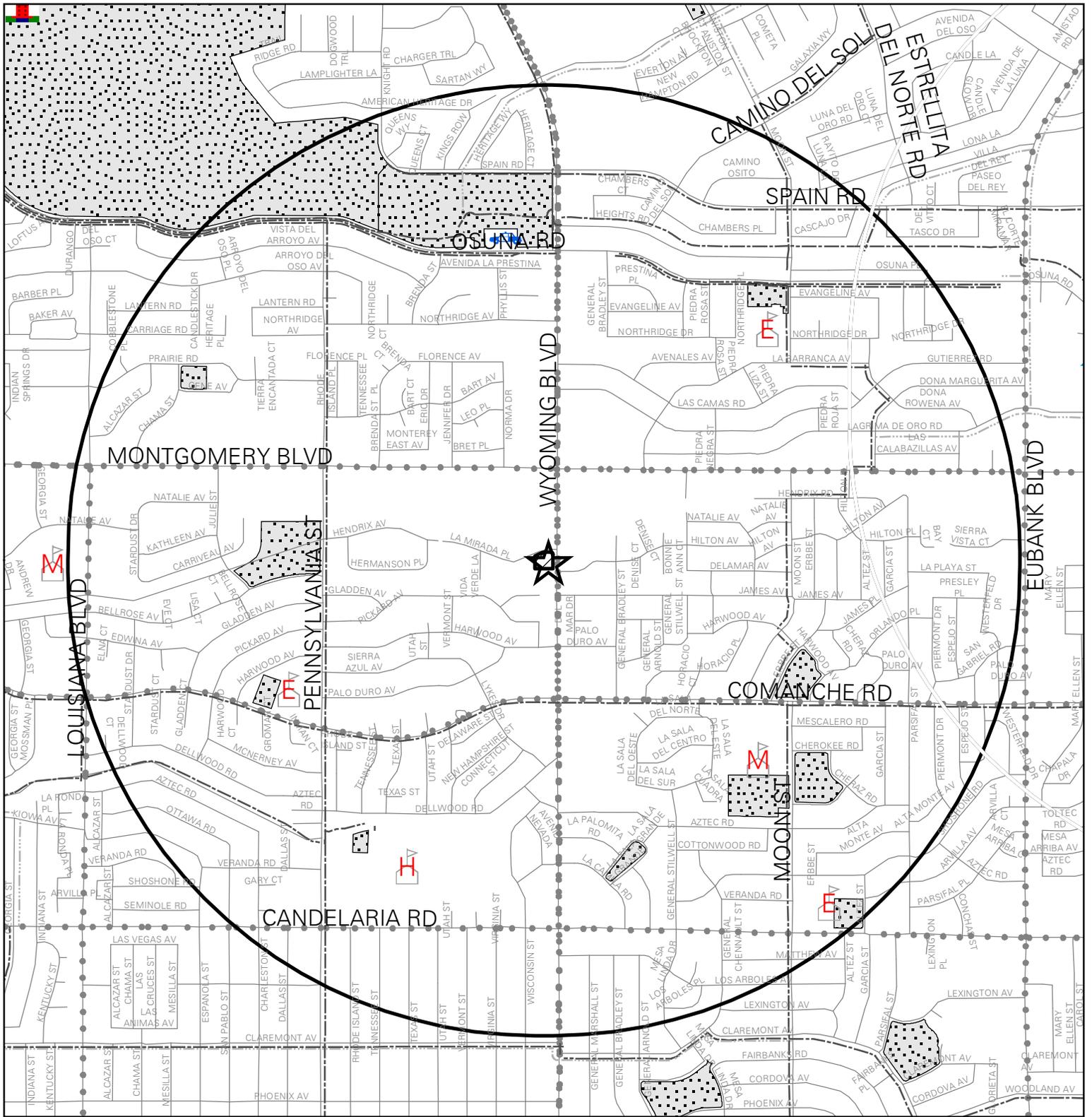
HISTORY MAP

Note: Gray shading indicates County.



1 inch = 100 feet

Hearing Date:
6/13/2019
Project Number:
PR-2019-002353
Case Numbers:
RZ-2019-00021
Zone Map Page:
G-19



Public Facilities Map with One-Mile Buffer



- | | | | |
|--|---|--|---|
|  Community Center |  Fire |  Public Schools |  Landfill Buffer (1000-feet) |
|  Multi-Service Center |  Police |  Proposed Bike Facilities |  Landfill designated by EHD |
|  Senior Center |  Sheriff |  ABQ Bike Facilities |  Undeveloped County Park |
|  Library |  Solid Waste |  ABQ Ride Routes |  Developed City Park |
|  Museum |  Albuquerque City Limits | |  Undeveloped City Park |

Project Number: PR-2019-002353

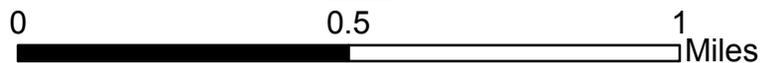


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Attachments

I. INTRODUCTION

Surrounding zoning, plan designations, and land uses:

	Zoning	Comprehensive Plan Area; Applicable Rank II & III Plans	Land Use
Site	MX-T	Area of Change	Vacant building
North	MX-L	Area of Change	Bank
South	MX-T	Area of Change	Office (testing center)
East	R-ML	Area of Change	Church
West	MX-T	Area of Change	Small office suites

Request

The request is for a zone map amendment (zone change) for an approximately 0.85-acre site known as Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision (the “subject site”). The subject site (4201 Wyoming Blvd. NE) is located on the western side of Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE. A building, which was a small bank, exists on the subject site.

The subject site is zoned MX-T, which it received upon adoption of the Integrated Development Ordinance (IDO) as a conversion from the former zoning of SU-1 for Savings and Loan Office. The applicant is requesting a zone change to MX-L (Mixed-Use Low intensity zone) in order to re-develop the subject site with a drive-thru restaurant. Though a restaurant could develop by obtaining a conditional use (no zone change needed), the applicant specifically wants the drive-thru use. Drive-thrus are not allowed in the MX-T zone but are conditionally allowed in the MX-L zone. If the requested zone change is approved, the applicant would still need to get a conditional use approval from the Zoning Hearing Examiner (ZHE).

EPC Role

The EPC is hearing this case because the EPC is required to hear all zone change cases, regardless of site size, in the City. The EPC is the final decision-making body unless the EPC decision is appealed. If so, the Land Use Hearing Officer (LUHO) would hear the appeal and make a recommendation to the City Council. The City Council would then make the final decision. The subject request is a quasi-judicial matter.

Context

The subject site is located at the SW corner of the intersection of Wyoming Blvd. NE and La Mirada Place NE, approximately 800 feet south of Montgomery Blvd. NE. The subject site is part of a group of eight lots (not counting the small lots subdivided for condos), zoned MX-T, which provide a transition between the established neighborhood to the south and the shopping center to the north.

The area is characterized by older style shopping centers fronting Montgomery Blvd. NE that are surrounded by single-family subdivisions on their southern side. The subject sites, and the sites adjacent to it, have mature landscaping, including some very large trees in good condition (see photos attached).

North of the subject site, across La Mirada Place NE, is a bank branch with a lot of parking fronting Wyoming Blvd. NE. East of the subject site, across Wyoming Blvd. NE, is a church. South of the subject site is a small office building, used as a testing center. West of the subject site are two buildings containing small office suites, known as La Mirada Office Park.

The subject site is not located in a designated Activity Center. Wyoming Blvd. NE is designated as a multi-modal corridor.

History

The subject site was part of an annexation in the 1940s of a much larger area of land in the NE Heights, spanning from approximately Louisiana Blvd. to Tramway Blvd. and from Montgomery Blvd. to Central Ave. It appears that the subject site was assigned O-1 Office zoning with a strip of P Parking zoning along Wyoming Blvd.

In August 1973, the Environmental Planning Commission (EPC) heard a request for a zone change from O-1 and P to SU-1 (Z-73-127, see attachments). The EPC voted to approve the request and the subject site was zoned SU-1 for a Savings and Loan Office. The building presently on the subject site was constructed for the Albuquerque Federal Savings and Loan Association, which operated on the subject site for many years.

A Google search reveals that the institution was established in Albuquerque in 1934 and is listed as Inactive as of 1990 (<https://www.usbanklocations.com/abq-bank-a-federal-savings-bank-29127.shtml>). The successor was the Albuquerque Federal Savings Bank, which operated for about a year before it was acquired by Bank of America New Mexico. After that, the subject site was acquired by Bank of Albuquerque.

In January 2011, commercial lending institution BOKF, from Tulsa Oklahoma, acquired Bank of Albuquerque. BOKF did not establish a branch office on the subject site. The bank on the subject site, and its drive-thru, ceased to operate.

Transportation System

The Long Range Roadway System (LRRS) map, produced by the Mid-Region Metropolitan Region Planning Organization (MRMPO), identifies the functional classifications of roadways. Wyoming Blvd. NE is a Principal Arterial and La Mirada Pl. NE is a local street.

Comprehensive Plan Corridor Designation

The subject site fronts Wyoming Blvd. NE, which the Comprehensive Plan designates as a Multi-Modal Corridor. Multi-modal corridors are intended to encourage the redevelopment of aging, auto-oriented commercial strip development to be a more mixed-use, pedestrian-oriented environment that focuses heavily on providing safe, multi-modal transportation options.

Development of these corridors will enhance the environment for pedestrians and transit users, while nearby parallel streets will serve bicycle travel. The density and scale of development behind multi-modal corridors should diminish quickly to minimize impacts on existing neighborhoods and respect established development patterns (see Comprehensive Plan, p. 5-17).

Transit

Two Albuquerque Ride routes run along Wyoming Blvd. NE and serve the subject site. Route #31-Wyoming, runs from early morning to evening and has limited, less frequent service on Saturdays and Sundays. Route #98-Wyoming Commuter, runs during the week, twice in the morning and twice in the afternoons and serves mostly commuters to Kirtland Air Force Base.

Public Facilities/Community Services

Please refer to the Public Facilities Map (see attachment), which shows public facilities and community services located within one mile of the subject site.

II. ANALYSIS of APPLICABLE ORDINANCES, PLANS, AND POLICIES

Integrated Development Ordinance (IDO)

Definitions

Drive-through or Drive-up Facility: Facilities associated with a primary use, including but not limited to banks, financial institutions, restaurants, dry cleaners, and drug stores, but not including car washes or light vehicle fueling, to offer goods and services directly to customers waiting in motor vehicles. See also *Car Wash* and *Light Vehicle Fueling*.

Restaurant: An establishment that serves food and beverages that are consumed on its premises by customers seated at tables and/or counters either inside or outside the building thereon and which may also be engaged in providing customers with take-out service of food and/or non-alcoholic beverages for off-site consumption. Sale of alcoholic beverages is controlled by other provisions in this IDO and the New Mexico State statutes regarding alcoholic drink sales.

Zoning

The subject site is currently zoned MX-T [Mixed-Use Transition Zone District, IDO 14-16-2-4(A)], which was assigned upon adoption of the IDO. The purpose of the MX-T zone district is to provide a transition between residential neighborhoods and more intense commercial areas. Primary land uses include a range of low-density multi-family residential and small-scale office, institutional, and pedestrian-oriented commercial uses. Specific permissive uses are listed in Table 4-2: Allowable Uses, p. 130.

The MX-T zone is roughly the IDO equivalent of the former O-1 Office zone. The subject site was zoned SU-1 for Savings and Loan Office. Only a savings and loan office, as specified in the associated site development plan, was allowed (see also History section of this report). The closest equivalent zone under the former system was O-1, which converted to MX-T upon adoption of the IDO.

The request proposes to change the subject site's zoning to MX-L [Mixed-Use Low Intensity Zone District, IDO 14-16-2-4(B)], which approximates the former Zoning Code's C-1 zone. The purpose of the MX-L zone is to provide for neighborhood-scale convenience shopping needs, primarily at the corners of collector intersections. Primary land uses include non-destination retail and commercial uses, as well as townhouses, low-density multi-family residential dwellings, and civic and institutional uses to serve the surrounding area, with taller, multi-story buildings encouraged in Centers and Corridors. Specific permissive uses are listed in Table 4-2: Allowable Uses, p. 130.

Comparison of MX-T and MX-L

There are some notable differences between the MX-T and the MX-L zones, mainly in the Motor Vehicle Related and the Food, Beverage, and other Indoor Entertainment categories. Car wash and light vehicle fueling and repair are not allowed in the MX-T zone but are permissive in the MX-L zone. Kennel, light vehicle fueling station, and light vehicle sales and rental are not allowed in MX-T but are conditional uses in MX-L.

Several uses that are conditional in the MX-T zone become permissive in the MX-L zone: veterinary hospital, other pet services, restaurant, tap room, other indoor entertainment, club or event facility, and artesian manufacturing. Liquor retail is conditional in MX-T but becomes an accessory use in MX-L. Outdoor storage is not allowed in MX-T but becomes a conditional accessory use in MX-L. The IDO contains use-specific standards for many of these uses in 14-16-4-3, the Use-Specific Standards.

A restaurant is a conditional use in the MX-T zone and could develop on the subject site, without a zone change, by obtaining a conditional use permit through the Zoning Hearing Examiner (ZHE) process.

However, a drive-through or drive-up facility is not allowed in the MX-T zone but becomes a conditional accessory use in the MX-L zone. If the proposed zone change is approved, the applicant would still have to seek a conditional use approval for any future drive-through use, subject to a hearing before the ZHE.

Albuquerque / Bernalillo County Comprehensive Plan

The subject site is located in an area that the 2017 Albuquerque/Bernalillo County Comprehensive Plan has designated an Area of Change. The Goals and policies listed below are cited by the applicant in the zone change justification letter dated May 23, 2019 (see attachment). Staff does not provide analysis or additional citations other than what the applicant provided because, pursuant to the IDO Subsection 6-4(F)(2), the applicant bears the burden of providing a sound justification for the request, based on substantial evidence.

Chapter 4: Community Identity
Policy 4.1.2-Identity and Design

Chapter 5: Land Use

Goal 5.1-Centers & Corridors

Policy 5.1.1- Desired Growth & Policy 5.1.2-Development Areas

Policy 5.1.10- Major Transit Corridors

Goal 5.2-Complete Communities

Policy 5.2.1-Land Uses

Goal 5.3-Efficient Development Patterns

Policy 5.3.1-Infill Development

Goal 5.6- City Development Areas

Policy 5.6.2- Areas of Change

Chapter 6-Transportation

Policy 6.1.3 –Auto Demand

Chapter 7-Urban Design

Policy 7.3.5-Development Quality

Economic Development

Goal 8.1-Placemaking

Policy 8.1.1-Diverse Places

Policy 8.1.2-Resilient Economy

Policy 8.1.3-Economic Base

Integrated Development Ordinance (IDO) 6-7(F)(3)-Review and Decision Criteria for Zone Map Amendments

Requirements

The review and decision criteria outline policies and requirements for deciding zone change applications. The applicant must provide sound justification for the proposed change and demonstrate that several tests have been met. The burden is on the applicant to show why a change should be made pursuant to Subsection 6-4(F)(2).

The applicant must demonstrate that the existing zoning is inappropriate because of one of three findings: 1) there was an error when the existing zone district was applied to the property; or 2) there has been a significant change in neighborhood or community conditions affecting the site; or 3) a different zone district is more advantageous to the community as articulated by the Comprehensive Plan.

Justification & Analysis

The zone change justification letter analyzed here, received on May 23, 2019, is a response to Staff's request for a revised justification in the first deficiency memo dated May 13, 2019 (see attachments). Because the response was insufficient, Staff provided the applicant with a second deficiency memo, dated May 24, 2019. However, the applicant did not respond to the second deficiency memo.

The subject site is currently zoned MX-T (Mixed-Use Transition Zone). The requested zoning is MX-L (Mixed-Use Low Intensity Zone). The reason for the request is to allow re-development of the subject site with a drive-through or drive-up accessory use, for which a conditional use would be required in the MX-L zone.

The applicant believes that the proposed zone map amendment (zone change) meets the zone change decision criteria [14-16-6-7(F)(3)] as elaborated in the justification letter. The citation is from the IDO. The applicant's arguments are in *italics*. Staff analysis follows with the heading "Staff".

- A. A proposed zone change must be found to be 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.

Applicant: 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 Comprehensive Plan as shown below (later in this justification letter). As demonstrated in our policy analysis below, the proposed zone change to MX-L would clearly facilitate the desired goals of the Comp Plan which provides a framework to guide private development land use decisions, and decision-makers as they contemplate new plans affecting the whole community. Also, the IDO design requirements will help ensure that this rehabilitate bank site will be consistent with the health and welfare of the Abq residents.

Specifically, our Application shows that the following comp plan polices demonstrate that the proposed zone map amendment to MX-L is consistent with the health, safety and general welfare of the City based on the following guiding principles:

*Policy 4.1.2-Identity and Design; Goal 5.1-Centers & Corridors;
Policy 5.1.2-Development Areas; Policy 5.1.10-Major Transit Corridor; Goal 5.2-Complete Communities; Policy 5.2.1-Land Uses; Policy 5.3.1-Infill Development; Policy 5.6.2-Areas of Change; Policy 6.1.3-Auto Demand; Goal 8.1-Placemaking; Policy 8.1.1-Diverse Places; Policy 8.1.2-Resilient Economy.*

Additionally the following components also demonstrate the zone change consistency with the health and welfare of the City of Albuquerque:

- ***Strong Neighborhoods*** – *The zone map amendment is consistent with the appropriate mix of land uses in the Subject Site's neighborhood, which includes adequate infrastructure and community facilities to support such development.*
- ***Economic Vitality*** – *The zone map amendment encourages a healthy mix of uses and will create a desirable place to live and work for the surrounding residential communities.*
- ***Sustainability*** – *The Subject Site is currently a +/- 2,424 square foot vacant building that*

would be rehabilitated requiring fewer natural resources to be used during redevelopment.

- **Mobility** – The Subject Site is located in a multi-modal corridor, the proposed zone map amendment would allow for a land use that would complement the existing transportation networks along Wyoming Blvd.
- **Equity** – The proposed development will locate jobs and community services near the surrounding residential communities lowering household transportation costs.
- **Community Health** – The proposed development is consistent with the existing land uses in the immediate area and does not conflict with the community health of the neighborhood.

Staff: Consistency with the City’s health, safety, morals and general welfare is shown by demonstrating that a request furthers applicable Comprehensive Plan Goals and policies (and other plans if applicable) and does not conflict with them. The applicant has not adequately demonstrated that the request would be consistent with the City’s health, safety, morals and general welfare by not fully analyzing and showing conformance with applicable Comprehensive Plan Goals and policies (see Section C, below).

The applicant refers to guiding principles and components. Neither are a part of the analysis required by Criterion A. Criterion A is the most important part of a zone change justification, though all criteria are required to be fulfilled adequately. The applicant has placed a policy analysis in the response to Criterion C rather in the response to Criterion A, which is standard practice.

Applicable citations: Policy 4.1.2-Identity and Design; Policy 5.2.1-Land Uses; Goal 5.3-Efficient Development Patterns; Goal 5.6-City Development Areas; Policy 5.6.2-Areas of Change; Policy 7.3.4-Infill; Policy 7.3.5-Urban Design; Policy 8.1.1-Diverse Places; Policy 8.12-Resilient Economy.

Non-applicable citations: Goal 5.1-Centers and Corridors; Goal 5.2-Complete Communities; Policy 5.1.1-Desired Growth; Policy 5.1.2-Development Areas; Policy 5.1.10-Major Transit Corridors; Policy 5.3.1-Infill Development; Policy 6.1.3-Auto Demand; Goal 8.1-Placemaking; Policy 8.1.3-Economic Base.

The applicant’s citations and analysis are uncannily similar to the policy analysis provided in Project #2019-002043, the Old Kmart site, which the EPC heard in April 2019. These are different sites, so many of the Goals and policies included in the applicant’s justification don’t apply to the request and therefore neither does the analysis.

In many instances, for example the applicant’s response to Policies 5.1.1 and 5.1.10, the applicant changed the zoning requested but did not modify the meaningful part of the previous analysis to make it relevant to the current request. Though encouraged to read other cases as a learning exercise, all applicants are required to justify their specific request using applicable Goals, policies, and corresponding analysis that reflect the conditions and context of the area. The response to Criterion A is insufficient.

B. If the proposed amendment is located wholly or partially in an Area of Consistency (as shown in the ABC Comp Plan, as amended), the applicant has demonstrated that the new zone would clearly reinforce or strengthen the established character of the surrounding Area of Consistency and would not permit development that is significantly different from that character. The applicant must also demonstrate that the existing zoning is inappropriate because it meets any of the following criteria:

- There was typographical or clerical error when the existing zone district was applied to the property.
- There has been a significant change in neighborhood or community conditions affecting the site.
- A different zone district is more advantageous to the community as articulated by the ABC Com Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

Applicant: The subject site is not located in an Area of Consistency.

Staff: The subject site is located wholly in an Area of Change, so this criterion does not apply. The response to Criterion B is sufficient.

C. If the proposed amendment is located wholly in an Area of Change (as shown in the ABC Comp Plan, as amended) and the applicant has demonstrated that the existing zoning is inappropriate because it meets at least one of the following criteria:

1. There was typographical or clerical error when the existing zone district was applied to the property.
2. There has been a significant change in neighborhood or community conditions affecting the site that justifies this request.
3. A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

Applicant: A different zone district is more advantageous to the community based on the goals and policies of the Albuquerque/Bernalillo County Comprehensive Plan. The subject site is located in an area that the 2017 Albuquerque/Bernalillo County Comprehensive Plan designates as Area of Change. Applicable Goals and policies are listed below: Note: the entire list is not repeated here-please see the justification letter, attached).

Staff: The subject site is located in an Area of Change. The applicant chooses #3, that a different zone district is more advantageous to the community, as articulated by the ABC Comp Plan, than the current zoning. However, the applicant has not adequately demonstrated, through the required policy analysis, that the request would be more advantageous to the community as articulated in the Comprehensive Plan. The burden is on

the applicant to identify applicable Goals and policies and provide a pertinent analysis of how the request furthers them, while addressing any conflicts. The response to criterion C is insufficient.

- D. The zone change does not include permissive uses that would be harmful to adjacent property, the neighborhood, or the community, unless the Use-specific Standards in Section 16-16-4-3 associated with that use will adequately mitigate those harmful impacts.

*Applicant: The request meets the criteria of 14-16-6-7(F)(3)(d) because *the subject site is currently zoned MX-T [IDO 14-16-2- 4], which was assigned upon adoption of the IDO. Primary land uses are described in Table 4-2: Allowable Uses, IDO p. 130.*

The request proposes to change the subject site's zoning to MX-L (Mixed-Use Low Intensity Zone District, IDO 14-16-2- 4(B)), which was assigned upon adoption of the IDO. Primary land uses are non-destination retail and commercial uses, townhouses, low-density multi-family residential dwellings, and civic and institutional uses to serve the surrounding area. Specific permissive uses are listed in Table 4-2: Allowable Uses, IDO p. 130. []*

A couple of key differences between the MX-L and the MX-T zones are general retail and drive thru windows are "conditional uses" in the MX-L zone. In the MX-L zone, only General Retail, Small is allowed. In the MX-T zone, General Retail, Small and General Retail, Medium are allowed permissively. The IDO's assignment of MX-T zoning to the subject site made the existing drive thru window a non-conforming use. There are other notable differences between the MX-L and the MX-T zones. A bar, light vehicle fueling station, and light vehicle sales and rental, mortuary, pawn shop, and transit facility are conditional uses in the MX-L zone (and require a hearing before the Zoning Hearing Examiner (ZHE). Hospital, catering service, and nightclub are not allowed in MX-L. Liquor retail is an accessory use in MX-L. []*

The requested MX-L zone does not include permissive uses that would be harmful of adjacent property, the neighborhood, or the community. The zone change would be consistent with the surrounding land uses to the north and south of the Subject Site, and allow a slightly broader variety of community services to be developed on the Subject Site than the existing zoning allows, adding to the healthy mix of uses already present in the neighborhood. It is important to remember that this site was historically a bank with a drive thru window, and the Applicant is simply attempting to re-establish a drive thru window use that existed for years on the Subject Property.

A drive-through is a conditional use in MX-L and therefore, if the Applicant is successful in this Zone Map Amendment then the Applicant will follow up with a conditional use application to the ZHE for a drive thru.

The permissive uses between the MX-L zoning designation and the MX-T zoning designation are very similar. I have outlined the permissive uses in MXM in the following list:

INSERT THE CHART DEMONSTRATING THE DIFFERENCES BETWEEN MX-L and MX-T

The Change in Permissive Uses Will Not be Harmful:

*The Permissive uses in MX-L that could be construed as having possible harmful effects such as a bar, nightclub, fueling station or retail liquor are regulated by local, state and federal requirements and must comply with all New Mexico state laws, including but not limited to any required spacing from other uses or facilities. They are also controlled by Specific-Use Standards found In the IDO to mitigate potential harmful effects on the surrounding area. Future development on the subject site under the MX-M zone would be subject to IDO requirements including Neighborhood Edges (14-16- S-9),the mixed-use zone dimensional standards (Table 5-1-2), buffer landscaping (14-16-5- 6-(E), and building design standards (14-16-4-11) to help ensure appropriate scale and location of development and character of building design. [**]*

*Other City ordinances, such as the Noise Ordinance, and State regulations pertaining to alcohol licensing, for example, would also apply to future uses and serve to mitigate the potentially harmful impacts of such uses on the subject site. [**]*

*The Use Standards in the IDO include precautionary measures such as distance requirements, size restrictions, design standards, screening requirements will give confidence to the neighbors and the EPC that the expanded permissive uses will not be harmful to the neighborhood. [**]*

Staff: The applicant did not provide an adequate discussion of the differences between the existing MX-T zoning and the proposed MX-L zoning, and therefore did not adequately address the issue of potential harm to adjacent property, the neighborhood, or the community. A table is commonly used to do this, since it allows for an easy comparison of the differences between zones and is consistent with the IDO's format.

The first two paragraphs of the applicant's response, indicated with a *, were copied from an old Staff report. The paragraphs in the applicant's response marked with ** were copied from the applicant's response. Both pertain to Project #2019-002043.

Furthermore, there are factual errors in the applicant's response. The IDO's assignment of MX-T zoning to the subject site did not render the drive-thru non-conforming because a drive-thru use ceased operation in approximately 2011 and did not exist at the time of IDO adoption. The applicant has not demonstrated that the proposed zone change would be consistent with the surrounding land uses to the south as claimed. The subject site had functioned as a small bank, permissive in the O-1 zone, for many years and is surrounded by small-scale office uses to the south and west and a church/school to the east.

Certain permissive uses in the MX-L zone, including restaurant, taproom, club, and liquor retail (an accessory use) would become allowed on the subject site and could potentially be harmful to adjacent property, the neighborhood, or the community. The MX-T zoned area created to buffer the neighborhood from the shopping center's more intense commercial uses could begin to erode. The response to Criterion D is insufficient.

E. The City's existing infrastructure and public improvements, including but not limited to its street, trail, and sidewalk systems meet 1 of the following requirements:

1. Have adequate capacity to serve the development made possible by the change of zone.
2. Will have adequate capacity based on improvements for which the City has already approved and budgeted capital funds during the next calendar year.
3. Will have adequate capacity when the applicant fulfills its obligations under the IDO, the DPM, and/or an Infrastructure Improvements Agreement.
4. Will have adequate capacity when the City and the applicant have fulfilled their respective obligations under a City- approved Development Agreement between the City and the applicant.

Applicant: The request meets the criteria of 14-16-6-7(F)(3)(e) because the existing infrastructure and public improvements currently have adequate capacity to serve the proposed development. The Subject Site includes an existing building that was formerly a Bank of Albuquerque branch. The proposed development will not create the need for any additional infrastructure or public improvements.

Staff: Requirement 1 applies. The applicant states that existing infrastructure and public improvements would have adequate capacity to serve development made possible by the proposed zone change. This is likely since the subject site has already been developed. However, if the use change would cause the need for infrastructure improvements, the applicant would be responsible for providing them. The response to Criterion E is sufficient.

F. The applicant's justification for the requested zone change is not completely based on the property's location on a major street.

Applicant: The request meets the criteria of 14-16-6-7(F)(3)(f) because the rationale and justification for the zone change is not based on the property's location on Wyoming Blvd. The zone map amendment is justified pursuant to the goals and policies of the Albuquerque Comp Plan. Additionally, it is noteworthy that this site was historically a bank with a drive thru window, and the Applicant is simply attempting to re-establish a drive thru window use that existed for years on the Subject Property. The site next door (Bank of America) has a drive up ATM service and historically there are many drive thru windows in this trade area (Satellite Coffee, McDonald's, Starbucks, etc.).

Staff: The subject site is located on Wyoming Blvd. NE, a Principal Arterial. The applicant's response is insufficient because the applicant refers to Criteria A, C, and D (which are about Comprehensive Plan Goals and policies), but does not demonstrate that they are met.

Furthermore, there is no provision in Criterion F, or elsewhere in 6-7(F)(3), that allows a historical argument to be used to justify a zone change request. The applicant's statement that the request would attempt "to re-establish a drive thru window use that existed for years" is irrelevant. Re-establish means that the use ceased, which is did—years prior to the

adoption of the IDO. The presence of other drive-thru chain uses in the trade area is also irrelevant. Therefore, the response to Criterion F is insufficient and appears to be based on the subject site's location on Wyoming Blvd. NE.

- G. The applicant's justification is not based completely or predominantly on the cost of land or economic considerations.

Applicant: The request meets the criteria of 14-16-6-7(F) (3) (g) because the cost of the land or economic considerations is not the basis for the Applicant's justification. The rationale is clearly contained in the letter above and is not a result of economic considerations as the predominant reason for the application.

Staff: Economic considerations are a factor. Since the applicant has not adequately demonstrated that the request furthers a preponderance of applicable Comprehensive Plan policies (Criteria A, C, and D), it has not been shown that the justification is not completely or predominantly based on the cost of land or economic considerations. The response to Criterion G is insufficient.

- H. The zone change does not apply a zone district different from surrounding zone districts to one small area or one premises (i.e. create a "spot zone") or to a strip of land along a street (i.e. create a "strip zone") unless the change will clearly facilitate implementation of the ABC Comp Plan, as amended, and at least one of the following applies:

1. The area of the zone change is different from surrounding land because it can function as a transition between adjacent zone districts.
2. The site is not suitable for the uses allowed in any adjacent zone district due to topography, traffic, or special adverse land uses nearby.
3. The nature of structures already on the premises makes it unsuitable for the uses allowed in any adjacent zone district.

Applicant: The request meets the criteria of 14-16-6-7(F)(3)(h) because the properties just north of the Subject Site are zoned MX-L, the proposed zone change of the Subject Site to MX-L will be congruent to existing zoning in the direct vicinity. The proposed development will also be complementary with the surrounding uses. The Applicant is simply attempting to re-establish a drive thru window use that existed for years on the Subject Property. The site next door (Bank of America) has a drive up ATM service and historically there are many drive thru windows in this trade area (Satellite Coffee, McDonald's, Starbucks, etc.).

Staff: It appears that the applicant believes that the request would not result in a spot zone, though this is not expressly stated. There is no provision in Criterion G, or elsewhere in 6-7(F)(3), that allows a historical argument to be used to justify a zone change request. The statement that "the applicant is simply attempting to re-establish a drive thru window use that existed for years" is irrelevant. The response to Criterion H is insufficient because it does not precisely answer the question and relies on extraneous information.

III. AGENCY & NEIGHBORHOOD CONCERNS

Reviewing Agencies

City departments and other interested agencies reviewed this application from 5/6/2019 to 5/22/2019. Few agency comments were received. Long Range Planning Staff note that the site was previously used for a bank branch and that there is MX-T, MX-L, and R-ML zoning in the area.

The Water Utility Authority stated that the subject site is currently receiving service. The Mid-Region Council of Governments (MRMPO) states that Wyoming Blvd. NE is a principal arterial and is projected to be a regional principal arterial. PNM noted that an overhead electric transmission line is located along the east side of the subject site, and that they will need to be contacted regarding new service delivery. Agency comments begin on p. 21.

Neighborhood/Public

The Loma del Rey Neighborhood Association (NA), the District 4 Coalition of NAs, the District 6 Coalition of NAs, and the District 8 Coalition of NAs were required to be notified, which the applicant did (see attachments). The Loma del Rey NA submitted a letter of support, which states that the board voted to support the zone change to allow for a new restaurant on the subject site (see attachment).

Property owners within 100 feet of the subject site were also notified, as required (see attachments). Note that the 100 feet does not include the right-of-way of Wyoming Blvd. NE, so the buffer around the subject site was approximately 215 feet.

IV. CONCLUSION

The request is for a zone change for an approximately 0.85 acre site located on the western side of Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE (4201 Wyoming Blvd. NE) (the “subject site”). A building, which was a savings and loan office, exists on the subject site.

The subject site is zoned MX-T, received upon adoption of the Integrated Development Ordinance (IDO), and is part of a buffer of MX-T zoned properties that separate the shopping center to the north from the established neighborhood to the south. The applicant is requesting a zone change to MX-L (Mixed-Use Low intensity zone) in order to re-develop the subject site with a drive-thru use, most likely a restaurant as stated in the applicant’s letter. Drive-thrus are an accessory use not allowed in the MX-T zone, but are conditionally allowed in the MX-L zone. A conditional use would still be needed if the zone change request is approved.

The affected neighborhood organizations are the Loma del Rey Neighborhood Association (NA), the District 4 Coalition of NAs, the District 6 Coalition of NAs, and the District 8 Coalition of NAs, which was notified as required. Property owners within 100 feet of the subject site were also notified as required. The Loma del Rey NA submitted a letter stating that the board voted to support the zone change to allow for a new restaurant on the subject site.

However, the zone map amendment has not been adequately justified pursuant to the IDO Review and Decision criteria for zone changes 6-7(F)(3). The responses to Sections A, C, D, F, G and H are insufficient. Pursuant to IDO Section 6-4(F)(2), the applicant bears the burden of providing a sound justification.

Staff recommends denial of the zone change request.

FINDINGS - RZ-2019-00021, June 13, 2019- Zone Map Amendment (Zone Change)

1. The request is for a zone map amendment (zone change) for an approximately 0.85 acre site known as Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision (the “subject site”). The subject site is located on the western side of Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE (4201 Wyoming Blvd. NE). A building, which was a bank, exists on the subject site.
2. The subject site is zoned MX-T, which it received upon adoption of the Integrated Development Ordinance (IDO) as a conversion from the former zoning of SU-1 for Savings and Loan Office. The applicant is requesting a zone change to MX-L (Mixed-Use Low intensity zone) in order to re-develop the subject site with a drive-thru use, most likely a restaurant as indicated in the applicant’s letter.
3. A restaurant use could develop on the subject site without a zone change. However, the MX-T zone does not allow drive-thrus, which are an accessory use. Drive-thrus are conditionally allowed in the MX-L zone. Even if this zone change were approved, the applicant would still need to obtain a conditional use for the drive-thru.
4. The subject site is in an area that the Comprehensive Plan has designated an Area of Change. Wyoming Blvd. NE is designated as a Multi-Modal Corridor.
5. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Integrated Development Ordinance (IDO) are incorporated herein by reference and made part of the record for all purposes.
6. The following are notable differences between the MX-T and the MX-L zones. Most are in the Motor Vehicle Related and the Food, Beverage, and other Indoor Entertainment categories.
 - Restaurant, tap room, other indoor entertainment, club or event facility, artesian manufacturing, car wash, light vehicle fueling and repair become permissive uses in MX-L.
 - Light vehicle fueling station, light vehicle sales and rental, and kennel become conditional uses in MX-L.
 - Liquor retail becomes an accessory use in MX-L.
 - Outdoor storage becomes a conditional accessory use in MX-L.
7. The applicant has not adequately justified the request pursuant to the Integrated Development Ordinance (IDO) Section 6-7(F)(3)-Review and Decision Criteria for Zone Map Amendments, as follows:

- A. Criterion A: Consistency with the City's health, safety, morals and general welfare is shown by demonstrating that a request furthers a preponderance of applicable Comprehensive Plan Goals and policies and does not conflict with them. The applicant has not adequately demonstrated that the request would be consistent with the City's health, safety, morals and general welfare by not fully analyzing and showing conformance with applicable Comprehensive Plan Goals and policies. Neither guiding principles nor components apply.

The applicant's citations and analysis are uncannily similar to the policy analysis provided in Project #2019-002043, heard in April 2019. These are different sites, so many of the Goals and policies don't apply to the request and therefore neither does the applicant's analysis. All applicants are required to justify their specific request using applicable Goals, policies, and corresponding pertinent analysis. The response to Criterion A is insufficient.

- B. Criterion B: This criterion does not apply because the subject site is not located in an Area of Consistency, either wholly or in part.
- C. Criterion C: The applicant believes that a different zone district is more advantageous to the community, as articulated by the ABC Comp Plan, than the current zoning. However, the applicant has not adequately demonstrated, through the required policy analysis, that the request would be more advantageous to the community as articulated in the Comprehensive Plan. The burden is on the applicant to identify applicable Goals and policies and provide a pertinent analysis of how the request furthers them, while addressing any conflicts.
- D. Criterion D: The applicant did not provide an adequate discussion of the differences between the existing MX-T zoning and the proposed MX-L zoning, and therefore did not sufficiently address the issue of potential harm to adjacent property, the neighborhood, or the community.

Six paragraphs of the applicant's response were copied from the Staff report for Project #2019-002043.

Furthermore, the applicant's response contains factual errors. The IDO's assignment of MX-T zoning to the subject site did not render the drive-thru non-conforming because a drive-thru use did not exist at the time of IDO adoption. Also, the zone change would not be consistent with the surrounding land uses to the south as claimed. The subject site is surrounded by small-scale office uses to the south and west, and a church/school to the east.

Certain permissive uses in the MX-L zone, including restaurant, taproom, club, and liquor retail (an accessory use) would become allowed on the subject site and could potentially be harmful to adjacent property, the neighborhood, or the community. The MX-T zoned area created to buffer the neighborhood from the shopping center's more intense commercial uses could begin to erode.

- E. Criterion E: Requirement 1 applies. The applicant states that existing infrastructure and public improvements would have adequate capacity to serve development made possible by the proposed zone change.
- F. Criterion F: The response is insufficient because the applicant refers to Criteria A, C, and D (which are about Comprehensive Plan Goals and policies), but has not demonstrated that they are met.
- Furthermore, there is no provision in Criterion F, or elsewhere in 6-7(F)(3), that allows a historical argument to be used to justify a zone change request. The applicant's statement that the request would attempt "to re-establish a drive thru window use that existed for years" is irrelevant; that use ceased to operate prior to adoption of the IDO. The presence of other drive-thru uses in the area, on other sites, is also irrelevant and makes the applicant's response appear to rely on the subject site's location on Wyoming Blvd. NE.
- G. Criterion G: Economic considerations are a factor. Since the applicant has not adequately demonstrated that the request furthers a preponderance of applicable Comprehensive Plan policies (Criteria A and C), or responded sufficiently to Criterion F, the applicant has not shown that the justification is not completely or predominantly based on the cost of land or economic considerations.
- H. Criterion H: The applicant does not state that the request would not result in a spot zone. There is no provision in Criterion G, or elsewhere in 6-7(F)(3), that allows a historical argument to be used to justify a zone change request. The statement that "the applicant is simply attempting to re-establish a drive thru window use that existed for years" is irrelevant. The response does not sufficiently answer the question and relies on extraneous information.
8. The zone map amendment is not adequately justified pursuant to the IDO Review and Decision criteria for zone changes 6-7(F)(3). The responses to Sections A, C, D, F, G and H are insufficient. The policy analysis does not sufficiently demonstrate that the request furthers a preponderance of applicable Goals and policies and does not conflict with them (Sections A and C). The applicant did not adequately address the issue of potential harm to adjacent property, the neighborhood, or the community (Section D). The responses to Sections F, G, and H do not demonstrate that the applicant has fulfilled the requirements.
9. Pursuant to IDO Section 6-4(F)(2), the applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence. The applicant has not done this.
10. The affected neighborhood organizations are the Loma del Rey Neighborhood Association (NA), the District 4 Coalition of NAs, the District 6 Coalition of NAs, and the District 8 Coalition of NAs, which was notified as required. Property owners within 100 feet of the subject site were also notified as required. The Loma del Rey NA submitted a letter of

support, which states that the board voted to support the zone change to allow for a new restaurant on the subject site.

11. As of this writing, Staff has received a letter of support from the Loma del Rey NA. The letter states that the board voted to support the zone change to allow for a new restaurant on the subject site.

RECOMMENDATION - RZ-2019-00021, June 13, 2019

DENIAL of Project #: 2019-002353, Case #: 2019-00021, a zone change from MX-T to MX-L, for Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision, an approximately 0.85 acre site located on Wyoming Blvd. NE, between Montgomery Blvd. NE and Comanche Rd. NE (4201 Wyoming Blvd. NE), based on the preceding Findings.

Catalina Lehner

**Catalina Lehner, AICP
Senior Planner**

Notice of Decision cc list:

Land Development 8, LLC, Joshua Skarsgard, 8220 San Pedro NE, #500, ABQ, NM 87113
Jessica Armijo, Loma Del Rey NA, 3701 Erbbe St., NE, ABQ, NM 87111
Brian Eagan, Loma Del Rey NA, 8416 Hilton Av., NE #48, ABQ, NM 87111
Donald Couchman, Dist. 8 Coalition of NAs, 6441 Concordia Rd NE, ABQ, NM 87111
Mary Kurkjian, Dist. 8 Coalition of NAs, 13709 Canada del Oso Pl., NE, ABQ, NM 87111
Daniel Regan, Dist. 4 Coalition of NAs, 4109 Chama St. NE, ABQ, NM 87109
Michael Pridham, Dist. 4 Coalition of NAs, 6413 Northland Av., NE, ABQ, NM 87109
Lynne Martin, Dist. 7 Coalition of NAs, 1531 Espejo NE, ABQ, NM 87112
David Haughawout, Dist. 7 Coalition of NAs, 2824 Chama St. NE, ABQ, NM 87110
Alan Varela, avarela@cabq.gov

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Zoning Enforcement

Office of Neighborhood Coordination

Long Range Planning

The site is located at 4201 Wyoming Blvd NE and has a lot size of just under 1 acre. An existing structure on the property is 2,424 square feet. Previously, the site was used for commercial purposes as a Bank of Albuquerque branch. The applicant is proposing a restaurant with drive-thru pick up and/or commercial retail using the existing drive-thru window from the bank. The site is currently zoned MX-T. There is MX-T to the west and south, MX-L zoning to the north, and R-ML to the east. The site is located within an Area of Change but is not within a Center or Corridor area.

MX-L would allow the requested drive-through use conditionally with approval by the Zoning Hearing Examiner per IDO Subsection 14-16-4-3(F)(4). The purpose of the MX-L zone district is to “provide for neighborhood-scale convenience shopping needs, primarily at the corners of collector intersections.”

ABC Comprehensive Plan Policy 5.2.1 Land Uses: *Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.*

a) Encourage development and redevelopment that brings goods, services, and amenities within walking and biking distance of neighborhoods and promotes good access for all residents.

CITY ENGINEER

Transportation Development

No objection to the request.

Hydrology Development

New Mexico Department of Transportation (NMDOT)

NMDOT has no comments at this time.

DEPARTMENT of MUNICIPAL DEVELOPMENT

Transportation Planning

No comments.

Traffic Engineering Operations (Department of Municipal Development)

Street Maintenance (Department of Municipal Development)

RECOMMENDED CONDITIONS FROM THE CITY ENGINEER: none.

WATER UTILITY AUTHORITY

Utility Services

1. RZ-2019-00025 – Zone Map Amendment (Zone Change)
 - Identification: UPC – 101906051439910915
 - a. No adverse comment to the proposed Zone Change
 - b. The site is currently receiving service.

ENVIRONMENTAL HEALTH DEPARTMENT

Air Quality Division

Environmental Services Division

PARKS AND RECREATION

Planning and Design

Open Space Division

City Forester

POLICE DEPARTMENT/Planning

No CEPTED comments on the zone changes.

SOLID WASTE MANAGEMENT DEPARTMENT

Refuse Division

No comment.

FIRE DEPARTMENT/Planning

TRANSIT DEPARTMENT

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY

ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY

Reviewed, no objections.

ALBUQUERQUE PUBLIC SCHOOLS

No adverse impacts.

MID-REGION COUNCIL OF GOVERNMENTS

MRMPO has no adverse comments. For informational purposes:

- Wyoming Blvd NE is functionally classified as a principal arterial currently, and projected to be a regional principal arterial in the Long Range Roadway System.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

PUBLIC SERVICE COMPANY OF NEW MEXICO

1. An existing overhead electric transmission line is located along the east side of the subject property on Wyoming Blvd. NE. It is the applicant's obligation to abide by any conditions or terms of those easements and required clearances.
2. It will be necessary to contact the PNM New Service Delivery Department to coordinate electric service regarding this project. Contact:

Andrew Gurule, PNM Service Center
4201 Edith Boulevard NE, Albuquerque, NM 87107
Phone: (505) 241-0589



Figure 1: Looking south while standing on the subject site.

Figure 2: Looking east while standing on the subject site.



Figure 3: Looking north while standing on La Mirada Place.



Figure 4: Looking west while standing on the subject site.

Figure 5: Looking west at the existing building's eastern elevation, while standing on Wyoming Blvd. NE.



Figure 6: Looking north at the existing building's southern elevation. Note the mature trees on the subject site.

Figure 7: Looking south at the existing building's northern elevation.



Figure 8: The small-suites office park south of the subject site, on La Mirada Pl. NE.

HISTORY

OFFICIAL NOTICE

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
Box 1293, Albuquerque, NM 87103

Date: 9-20-74

CERTIFICATION OF ZONING

File Z-73-127

Date of Final Action: 8-21-73

Location: Portion of Lots 13 & 14, La Mirada
Subdivision

M-M Co.
420 Simms Bldg.
City 87102

The Environmental Planning Commission ruled favorably on your request to amend the zone map as it applies to the above cited property.

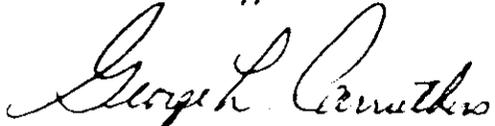
- The possible appeal period having expired, the zoning on the above cited property is now changed to SU-1 (Special Use for a Savings & Loan Office) subject to compliance with all conditions of approval imposed by the Planning Commission.
- The possible appeal period has expired, but the zoning on the above cited property is NOT CHANGED to
until the following requirements are met, as specified in the decision of the Commission:

If such requirements are not met within six months after the date final City approval is voted, the approval is void; however, the Planning Director or his designated representative may extend this time limit up to an additional six months.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of the zoning is secured. Approval of this case does not constitute approval of plans for a building permit. You should take two copies of your plans to the Building & Inspection Division of the City to initiate a building permit.

cc: Zoning Administration
Drafting Room

Sincerely,



George L. Carruthers
Principal Planner
For the Planning Director

Z CERTIFICATION

PLANNING DEPARTMENT
CITY OF ALBUQUERQUE

P. O. Box 1293
Zip Code: 87103
Telephone 842-7422

Date: 8-30-73
File: 2-73-127

Mr. Vance Mauney
520 Simms Bldg.
City 87102

The Planning Commission made this recommendation at its meeting of August 21, 1973

- Findings:
1. The proposed zoning is compatible with the surrounding land use.
 2. The traffic pattern on the site plan is to be revised to the satisfaction of the Traffic Engineer prior to obtaining signatures on the development plan.
 3. Submission of a drainage plan satisfactory to the City Engineer and ANAFC/ filing of a land division plat delineating the subject parcels from the remainder of Tracts 13 & 14, and securing all required signatures on the development plan are required prior to issuance of building permits.

THEREFORE, BE IT RESOLVED THAT 2-73-127, subject to compliance with items 2 & 3 above, be approved, changing the zoning from P-1 & O-1 to SU-1 (Special Use for a Savings & Loan Office). Should you wish to appeal this decision, you may do so by _____ in the manner described below:

c. **Appeals** — Appeal of a decision by the Planning Commission may be submitted in writing to the City Commission.

If a written protest is signed by the owners of twenty percent (20%) or more, either of the area of the lots or lands included in such proposed change, or of those immediately adjacent within one hundred (100) feet of the area proposed for change, disregarding public ways, such change to the Zone Map shall require the concurring vote of at least four (4) members of the City Commission.

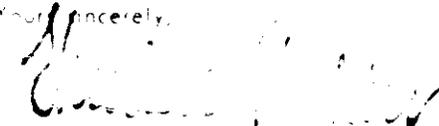
(1) Written notice of appeal shall be filed with the Planning Director.

(2) Public notice of any appeal shall be given by legal advertisement in the manner prescribed for a change to the text of this ordinance. The Planning Director shall give written notice of any appeal together with notice of hearing date to the applicant, a representative of opponents, if any, and the appellant. The appeal shall be presented to the City Commission within three (3) months after the date of filing. Once the appeal is presented to the City Commission any request for delay in hearing the appeal shall be acted upon at a regular City Commission meeting.

~~If the application has been recommended for approval, it will be heard by the City Commission after proper notice.~~

TP:new

cc: M-M Co., 420 Simms Bldg., City 87102

Yours sincerely,

Theodore Pochter
Planner

ZONING

Please refer to the Integrated Development Ordinance (IDO)
for specifics regarding the MX-T and MX-L zones

APPLICATION INFORMATION



Please check the appropriate box and refer to supplemental forms for submittal requirements. All fees must be paid at the time of application.

Administrative Decisions	Decisions Requiring a Public Meeting or Hearing	Policy Decisions
<input type="checkbox"/> Archaeological Certificate (Form P3)	<input type="checkbox"/> Site Plan – EPC including any Variances – EPC (Form P1)	<input type="checkbox"/> Adoption or Amendment of Comprehensive Plan or Facility Plan (Form Z)
<input type="checkbox"/> Historic Certificate of Appropriateness – Minor (Form L)	<input type="checkbox"/> Master Development Plan (Form P1)	<input type="checkbox"/> Adoption or Amendment of Historic Designation (Form L)
<input type="checkbox"/> Alternative Signage Plan (Form P3)	<input type="checkbox"/> Historic Certificate of Appropriateness – Major (Form L)	<input type="checkbox"/> Amendment of IDO Text (Form Z)
<input type="checkbox"/> Minor Amendment to Site Plan (Form P3)	<input type="checkbox"/> Demolition Outside of HPO (Form L)	<input type="checkbox"/> Annexation of Land (Form Z)
<input type="checkbox"/> WTF Approval (Form W1)	<input type="checkbox"/> Historic Design Standards and Guidelines (Form L)	<input checked="" type="checkbox"/> Amendment to Zoning Map – EPC (Form Z)
	<input type="checkbox"/> Wireless Telecommunications Facility Waiver (Form W2)	<input type="checkbox"/> Amendment to Zoning Map – Council (Form Z)
		Appeals
		<input type="checkbox"/> Decision by EPC, LC, ZHE, or City Staff (Form A)

APPLICATION INFORMATION

Applicant: Land Development 8 LLC	Phone: 505-262-2323
Address: 8220 San Pedro NE Ste 500	Email:
City: Albuquerque	State: NM
Professional/Agent (if any): Joshua Skarsgard	Zip: 87113
Address: 8220 San Pedro NE Ste. 500	Phone: 505-803-3758
City: Albuquerque	Email: josh@retailsouthwest.com
Proprietary Interest in Site: Owner	State: NM
	Zip: 87113
	List all owners: Land Development 8 LLC ? Red Shamrock 2 LLC

BRIEF DESCRIPTION OF REQUEST

Zone map amendment from Mx-T to Mx-L

SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)

Lot or Tract No.: Lot 3	Block:	Unit:
Subdivision/Addition: La Mirada Subdivision	MRGCD Map No.:	UPC Code: 101906051439910915
Zone Atlas Page(s): G-19	Existing Zoning: Mx-T	Proposed Zoning: Mx-L
# of Existing Lots: 1	# of Proposed Lots: 1	Total Area of Site (acres): 0.8070

LOCATION OF PROPERTY BY STREETS

Site Address/Street: 4201 Wyoming NE Between: Montgomery Blvd. NE and: Comanche Rd. NE

CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)

Signature:	Date: 4/24/19
Printed Name: Joshua Skarsgard	<input type="checkbox"/> Applicant or <input checked="" type="checkbox"/> Agent

FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees	Case Numbers	Action	Fees
PR-2019-00021	ZMA	\$485.00			
Meeting/Hearing Date: June 13, 2019			Fee Total: \$485.00		
Staff Signature:			Date: 4-25-19		Project # PR-2019-002353

Form Z: Policy Decisions

Please refer to the EPC hearing schedule for public hearing dates and deadlines. Your attendance is required.

A single PDF file of the complete application including all plans and documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD.

- INFORMATION REQUIRED FOR ALL POLICY DECISIONS (Except where noted)**
 - Interpreter Needed for Hearing? **NO** if yes, indicate language: _____
 - Proof of Pre-Application Meeting with City staff per IDO Section 14-16-6-4(B)
 - Letter of authorization from the property owner if application is submitted by an agent
 - Traffic Impact Study (TIS) form (not required for Amendment to IDO Text)
 - Zone Atlas map with the entire site/plan amendment area clearly outlined and labeled (not required for Amendment to IDO Text) NOTE: For Annexation of Land, the Zone Atlas must show that the site is contiguous to City limits.
- ADOPTION OR AMENDMENT OF COMPREHENSIVE PLAN**
- ADOPTION OR AMENDMENT OF FACILITY PLAN**
 - ___ Plan, or part of plan, to be amended with changes noted and marked
 - ___ Letter describing, explaining, and justifying the request per the criteria in IDO Sections 14-16-6-7(A)(3) or 14-16-6-7(B)(3), as applicable
 - ___ Required notices with content per IDO Section 14-16-6-4(K)(6)
 - ___ Office of Neighborhood Coordination notice inquiry response, notifying letter, and proof of first class mailing
 - ___ Proof of emailed notice to affected Neighborhood Association representatives
 - ___ Buffer map and list of property owners within 100 feet (excluding public rights-of-way), notifying letter, and proof of first class mailing
- AMENDMENT TO IDO TEXT**
 - ___ Section(s) of the Integrated Development Ordinance to be amended with changes noted and marked
 - ___ Justification letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-7(D)(3)
 - ___ Required notices with content per IDO Section 14-16-6-4(K)(6)
 - ___ Office of Neighborhood Coordination notice inquiry response, notifying letter, and proof of first class mailing
 - ___ Buffer map and list of property owners within 100 feet (excluding public rights-of-way), notifying letter, and proof of first class mailing
- ZONING MAP AMENDMENT – EPC**
- ZONING MAP AMENDMENT – COUNCIL**
 - NA** Proof of Neighborhood Meeting per IDO Section 14-16-6-4(C) *none requested*
 - Letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-7(F)(3) or Section 14-16-6-7(G)(3), as applicable
 - Required notices with content per IDO Section 14-16-6-4(K)(6)
 - Office of Neighborhood Coordination notice inquiry response, notifying letter, and proof of first class mailing
 - Proof of emailed notice to affected Neighborhood Association representatives
 - Buffer map and list of property owners within 100 feet (excluding public rights-of-way), notifying letter, and proof of first class mailing
 - Sign Posting Agreement
- ANNEXATION OF LAND**
 - ___ Application for Zoning Map Amendment *Establishment of zoning must be applied for simultaneously with Annexation of Land.*
 - ___ Petition for Annexation Form and necessary attachments
 - ___ Letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-7(E)(3)
 - ___ Board of County Commissioners (BCC) Notice of Decision

<i>I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting or hearing, if required, or otherwise processed until it is complete.</i>	
Signature:	Date: 4/24/19
Printed Name: Joshua Skarsgard	<input type="checkbox"/> Applicant or <input checked="" type="checkbox"/> Agent
FOR OFFICIAL USE ONLY	
Project Number: PR-2019-002353	Case Numbers: R2-2019-00021
Staff Signature:	
Date: 4-25-19	

CITY OF ALBUQUERQUE

TRAFFIC IMPACT STUDY (TIS) FORM

APPLICANT: Joshua Skarsgard DATE OF REQUEST: 4/17/19 ZONE ATLAS PAGE(S): G-19-2

CURRENT: ZONING MX-T LEGAL DESCRIPTION: LOT OR TRACT # 3 BLOCK # _____
PARCEL SIZE (AC/SQ. FT.) ± 0.86 ac. SUBDIVISION NAME La Mirada

REQUESTED CITY ACTION(S):
ANNEXATION [] SITE DEVELOPMENT PLAN:
ZONE CHANGE From MX-T To NR-C SUBDIVISION* [] AMENDMENT []
SECTOR, AREA, FAC, COMP PLAN [] BUILDING PERMIT [] ACCESS PERMIT []
AMENDMENT (Map/Text) BUILDING PURPOSES [] OTHER []
*Includes platting actions

PROPOSED DEVELOPMENT: NO CONSTRUCTION/DEVELOPMENT [] # OF UNITS: 1
NEW CONSTRUCTION [] BUILDING SIZE: ± 2,424 (sq. ft.)
EXPANSION OF EXISTING DEVELOPMENT Restaurant

Note: changes made to development proposals / assumptions, from the information provided above, will result in a new TIS determination.

APPLICANT OR REPRESENTATIVE [Signature] DATE 4/16/19
(To be signed upon completion of processing by the Traffic Engineer)

Planning Department, Development & Building Services Division, Transportation Development Section -
2ND Floor West, 600 2ND St. NW, Plaza del Sol Building, City, 87102, phone 924-3994

TRAFFIC IMPACT STUDY (TIS) REQUIRED: YES [] NO BORDERLINE []

THRESHOLDS MET? YES [] NO MITIGATING REASONS FOR NOT REQUIRING TIS: PREVIOUSLY STUDIED: []
Notes: TIS not required for zone change. A new TIS form will be required when this goes into development.

If a TIS is required: a scoping meeting (as outlined in the development process manual) must be held to define the level of analysis needed and the parameters of the study. Any subsequent changes to the development proposal identified above may require an update or new TIS.

[Signature] 4/23/19
TRAFFIC ENGINEER DATE

Required TIS must be completed prior to applying to the EPC and/or the DRB. Arrangements must be made prior to submittal if a variance to this procedure is requested and noted on this form, otherwise the application may not be accepted or deferred if the arrangements are not complied with.

TIS -SUBMITTED 1/1/ _____
-FINALIZED 1/1/ _____
TRAFFIC ENGINEER DATE

April 25, 2019

City of Albuquerque
Care of: Chairman of the EPC
Environmental Planning Commission
600 2nd Street, NW
Albuquerque, NM 87102

RE: EPC submittal for Zone Map Amendment from MX-T to MX-L – 4201 Wyoming Blvd. NE Albuquerque, NM 87111

Dear Environmental Planning Commission:

Please be advised that Josh Skarsgard, as Agent, represents the landowner, Land Development 8, LLC and Red Shamrock 2, LLC (jointly "**Applicant**") regarding this application for a Zone Map Amendment from MX-T to MX-L ("**Application**") on the real property located at 4201 Wyoming Blvd. NE Albuquerque, NM 87111, further described as:

Lot numbered Three (3) of La Mirada Subdivision, as the same is shown and designated the plat entitled "Amended Summary Plat: Lots 3, 4, 6, 8, 9, 10, 13 & 14 and a Part of Lot 7, La Mirada Subdivision, Albuquerque, New Mexico," filed in the office of the County Clerk of Bernalillo County, New Mexico, on March 20, 1981, in Plat Book C18, Page 32. Said parcel lying situate within Section 6, Township 10 North, Range 4 East of the New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico ("**Subject Site**").

Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision. ("**Legal Description**")

I. History of the Subject Site and Location of the Subject Site.

The Subject Site is 0.8070 acres with a +/-2,424 square foot building. This building was formerly a Bank of Albuquerque branch with drive up facilities (Drive Thru Window). We don't know exactly how long it has been a bank, but we have information to suggest that it has been a bank since at least 2009. It is located a few blocks south of the Montgomery Blvd. and Wyoming Blvd. intersection at 4201 Wyoming Blvd. NE. The proposed use on the Subject Site is retail commercial space and/or a restaurant with drive thru pickup window. The current IDO MX-T zoning adopted by the City of Albuquerque did not allow a drive thru window (even though the current use on the property was a drive thru window). Therefore, we are essentially asking for a zone map amendment request to obtain a land use that existed prior to the adoption of the IDO.

II. Summary of the Zone Map Amendment Request

Current Zoning: The subject site is currently zoned MX-T. It was previously zoned SU-1 prior to the adoption of Albuquerque's Integrated Development Ordinance ("IDO").

Proposed Zoning: The application for zone map amendment is from the existing MX-T to MX-L.

III. Compliance with IDO Section 14-16-6-7(F)(3)

IDO Section 14-16-6-7(F)(3) "Review and Decision Criteria" requires that an Applicant of a zone map amendment offer sufficient justification for the Application by providing a detailed response to all of the policies contained within that section. In compliance, Joshua Skarsgard, as Agent on behalf of the Applicant, provides the following responses to IDO Section 14-16-6-7(F)(3):

14-16-6-7(F)(3)(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.

Applicant Response: 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 Comprehensive Plan as shown below (later in this justification letter). As demonstrated in our policy analysis below, the proposed zone change to MX-L would clearly facilitate the desired goals of the Comp Plan which provides a framework to guide private development land use decisions, and decision-makers as they contemplate new plans affecting the whole community. Also, the IDO design requirements will help ensure that this rehabilitate bank site will be consistent with the health and welfare of the Abq residents.

Specifically, our Application shows that the following comp plan polices demonstrate that the proposed zone map amendment to MX-L is consistent with the health, safety and general welfare of the City based on the following guiding principles:

*Policy 4.1.2-Identity and Design;
Goal 5.1-Centers & Corridors;
Policy 5.1.2-Development Areas;
Policy 5.1.10-Major Transit Corridor;
Goal 5.2- Complete Communities;
Policy 5.2.1-Land Uses;
Policy 5.3.1-Infill Development;
Policy 5.6.2-Areas of Change;
Policy 6.1.3-Auto Demand;
Goal 8.1-Placemaking;
Policy 8.1.1- Diverse Places;
Policy 8.1.2-Resilient Economy.*

Additionally the following components also demonstrate the zone change consistency with the health and welfare of the City of Albuquerque:

- **Strong Neighborhoods** – The zone map amendment is consistent with the appropriate mix of land uses in the Subject Site's neighborhood, which includes adequate infrastructure and community facilities to support such development.
- **Economic Vitality** – The zone map amendment encourages a healthy mix of uses and will create a desirable place to live and work for the surrounding residential communities.
- **Sustainability** –The Subject Site is currently a +/- 2,424 square foot vacant building that would be rehabilitated requiring fewer natural resources to be used during redevelopment.

- **Mobility** – The Subject Site is located in a multi-modal corridor, the proposed zone map amendment would allow for a land use that would complement the existing transportation networks along Wyoming Blvd.
- **Equity** – The proposed development will locate jobs and community services near the surrounding residential communities lowering household transportation costs.
- **Community Health** – The proposed development is consistent with the existing land uses in the immediate area and does not conflict with the community health of the neighborhood.

14-16-6-7(F)(3)(b): *If the proposed amendment is located wholly or partially in an Area of Consistency (as shown in the ABC Comp Plan, as amended), the applicant has demonstrated that the new zone would clearly reinforce or strengthen the established character or the surrounding Area of Consistency and would not permit development that is significantly different from that character. The applicant must also demonstrate that the existing zoning is inappropriate because it meets any of the following criteria:*

1. *There was a typographical or clerical error when the existing zone district was applied to the property.*
2. *There has been a significant change in neighborhood or community conditions affecting the site.*
3. *A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).*

Applicant Response: The Subject Site is not located in an Area of Consistency.

14-16-6-7(F)(3)(c): *If the proposed amendment is located wholly or partially in an Area of Change (as shown in the ABC Comp Plan, as amended), the applicant has demonstrated that the existing zoning is inappropriate because it meets at least one of the following criteria:*

1. *There was a typographical or clerical error when the existing zone district was applied to the property.*
2. *There has been a significant change in neighborhood or community conditions affecting the site that justifies this request.*
3. *A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).*

Applicant Response: A different zone district is more advantageous to the community based on the goals and policies of the Albuquerque/Bernalillo County Comprehensive Plan. The subject site is located in an area that the 2017 Albuquerque/Bernalillo County Comprehensive Plan designates as Area of Change. Applicable Goals and policies are listed below:

Policy 4.1.2 - Identity and Design: Protect the identity and cohesiveness of neighborhoods by ensuring the appropriate scale and location of development, mix of uses, and character of building design.

The request would facilitate re-development of the subject site under the MX-L zone in an Area of Change and along a Major Transit Corridor where development is intended. Any future site plans would be subject to IDO requirements established specifically to protect the identity and cohesiveness of adjacent neighborhoods, which are intended to remain

stable: Neighborhood Edges (14-16-5-9), buffer landscaping (14-16-5-6-(E)), mixed-use zone dimensional standards (Table 5-1-2), and building design standards (14-16-4-11). These requirements help ensure appropriate scale and location of development and character of building design. The request furthers Policy 4.1.4- Identity and Design.

Chapter 5: Land Use Goal 5.1-Centers & Corridors: Grow as a community of strong Centers connected by a multimodal network of Corridors.

The subject site is located close to the Activity Center at Wyoming and Montgomery and is connected to these areas via the Major Transit Corridor, Wyoming Blvd. The request would foster redevelopment of the subject site, which would help the community grow in general, though the growth would be adjacent to a designated Activity Centers and not in them as desired. The request partially furthers Goal 5.1- Centers & Corridors.

Policy 5.1.1- Desired Growth: Capture regional growth in Centers and Corridors to help shape the built environment into a sustainable development pattern.

The subject site's location immediately adjacent to the Wyoming and Montgomery intersection gives it visibility and access directly from both the Montgomery Major Transit Corridor and the Wyoming Blvd. Major Transit Corridor. This could help future development capture regional growth along the Major Transit Corridor of Montgomery Blvd which could generally contribute to shaping a sustainable development pattern. The request generally furthers Policy

5.1.1- Desired Growth. Policy 5.1.2-Development Areas: Direct more intense growth to Centers and Corridors and use Development Areas to establish and maintain appropriate density and scale of development within areas that should be more stable.

The subject site is located along a designated Major Transit Corridor, Montgomery Blvd and Wyoming Blvd. which is intended to receive more intense growth. The MX-L zone would allow a variety of commercial, service, and residential uses to develop in an Area of Change, which would support and encourage transit usage. The surrounding residential areas (an Area of Consistency) would remain stable be protected by the Neighborhood Edge provisions of the IDO (14-16-5-9), which include screening, buffering, and building height regulations that would help maintain an appropriate density and scale of development in the non-growth area. The request furthers Policy 5.1.2-Development Areas.

Policy 5.1.10- Major Transit Corridors: Foster corridors that prioritize high-frequency transit service with pedestrian-oriented development.

The request would facilitate development of uses under the MX-L zone. Though similar to the MX-T zone, the MX-L zone is intended to provide moderate intensity retail uses and a conditional use application for the existing drive thru window of the bank. More intense uses (especially drive thru window rehabilitation of the bank building) are generally desirable along Major Transit Corridors because they would result in more people using transit and walking along the corridor. The request furthers Policy 5.1.10-Major Transit Corridors.

Goal 5.2 - Complete Communities: Foster communities where residents can live, work, learn, shop, and play together.

The request to rezone the subject site to MX-L would allow a greater range of uses that the market desires on this intersection of Wyoming and Montgomery. Although the MX-T has a larger variety of uses (including housing), the purpose of the MX-L zone is to provide a smaller variety of moderate-intensity retail, commercial, institutional, which would facilitate re-development of the subject site and help foster sense of community. New commercial use (rehabilitated bank and drive thru window) could develop on the subject site and help strengthen the community by providing more opportunities where residents can work, learn, shop, and play together. The request partially furthers Goal 5.2-Complete Communities.

Policy 5.2.1-Land Uses: Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.

The request would facilitate redevelopment of the subject site under the MX-L zone, which allows a variety of commercial, civic, and institutional uses that could add to the mix of uses in this Area of Change. Future uses would generally help contribute to a healthy, sustainable, and distinct community because they would bring additional opportunities (services, food and coffee, jobs, etc.) to the area and help contribute to its distinct character. The subject site's location along a Major Transit Corridor (both Wyoming Blvd and the nearby Montgomery Blvd) would help transit users, pedestrians, bicyclists, and residents from the surrounding neighborhoods to have convenient access to the uses. The request furthers Policy 5.2.1-Land Uses.

Policy 5.3.1-Infill Development: Support additional growth in areas with existing infrastructure and public facilities.

The request would facilitate redevelopment of the subject site as a closed down bank with drive thru window, which is located in an area already served by existing infrastructure and public facilities. The additional growth would be considered infill development due to the subject site's location in an established urban area that has been developed since approximately the 1950s. The request furthers Policy 5.3.1-Infill Development.

Goal 5.6- City Development Areas: Encourage and direct growth to Areas of Change where it is expected and desired and ensure that development in and near Areas of Consistency reinforces the character and intensity of the surrounding area.

The subject site (Former Bank of Albuquerque with a drive thru window) is designated an Area of Change and the surrounding, established neighborhoods are designated an Area of Consistency. The request would encourage and direct growth to an Area of Change, as desired by the Comprehensive Plan. Focusing growth in this location would also help direct pressure for development away from the surrounding neighborhoods, which are intended to remain stable in order to reinforce their character and maintain the low-intensity of the surrounding area. The request generally furthers Goal 5.6-City Development Areas.

Policy 5.6.2- Areas of Change: Direct growth and more intense development to Centers, Corridors, industrial and business parks, and Metropolitan Redevelopment Areas where change is encouraged.

The subject site is located in an Area of Change, along a designated Major Transit Corridor (Montgomery Blvd to the south and Wyoming Blvd. in front of the subject site), where the Comprehensive Plan intends and encourages change to happen. The request would direct growth and more intense development to the subject site and accommodate it along a Major Transit Corridor, while directing growth away from the surrounding neighborhoods located in an Area of Consistency. The request furthers Policy 5.6.2- Areas of Change.

Chapter 6-Transportation Policy 6.1.3-Auto Demand: Reduce the need for automobile travel by increasing mixed-use development, infill development within Centers, and travel demand management (TDM) programs.

The request could increase shopping and dining to an infill development, which could generally help reduce the need for automobile travel away from this Montgomery and Wyoming Blvd. corridor. Though the development would not be in a designated Activity Center as intended, the subject site is located along a Major Transit Corridor (Wyoming Blvd) that links two designated Activity Centers to the south and north of the Subject Site, which could encourage more transit usage. The request partially furthers Policy 6.1.3.

Chapter 7-Urban Design Policy 7.3.5 -Development Quality: Encourage innovative and high quality design in all development.

The request is for a zone change, which does not include building elevations. The Applicant does not exactly what the final land use will be, but it will likely be retail, banking of dining (with a drive thru). There is no way to evaluate design at this stage, though the applicable IDO design standards (see 4.1.2-Identity and Design) would ensure higher quality design than what exists today. Therefore, the request partially furthers Policy 7.3.5- Development Quality.

Chapter 8- Economic Development Goal 8.1-Placemaking: Create places where business and talent will stay and thrive.

The request could facilitate development of a place where business and talent will stay and thrive because the MX-L zone allows for a greater variety of business, commercial, and restaurant uses that would support such a place. Higher-density residential uses is not the goal of this zone change so the housing will not be applied to this Subject Site. The Applicant believes that rehabilitating a closed bank will create place where new jobs and new talent can thrive. The request partially furthers Goal 8.1 Placemaking.

Policy 8.1.1 –Diverse Places: Foster a range of interesting places and contexts with different development intensities, densities, uses, and building scale to encourage economic development opportunities.

In general, the request could help foster a range of interesting places and contexts in the area when you consider as part of a larger re-development taking place behind the subject site with the closed HASTINGS and large boxes that will be rehabilitated. A wider variety of uses (bank, retail, dining with drive thru window, etc.) could develop under the MX-L zone, and therefore could encourage economic development opportunities with different intensities, densities, and building scales as compared to the existing commercial and single-family residential uses in the area. The request generally furthers Policy 8.1.1 – Diverse Places.

Policy 8.1.2 -Resilient Economy: Encourage economic development efforts that improve quality of life for new and existing residents and foster a robust, resilient, and diverse economy.

The request would encourage and facilitate redevelopment of the subject site from a closed bank to new uses (retail, dining with drive thru), an economic development effort, which would generally contribute to improved quality of life for existing and new area residents. Redeveloping the subject site would clean it up and therefore improve quality of life. A wider variety of commercial, civic, and institutional uses would be possible under the MX-L zone, which would generally contribute to a robust, resilient, and diverse economy. The request generally furthers Policy 8.1.2-Resilient Economy.

Policy 8.1.3 -Economic Base: Strengthen and diversify the economic base to help reduce reliance non-government spending.

Typically, economic base jobs are jobs in manufacturing and production. They provide a “base” to the economy that generates and supports retail and service jobs. The request would result in MX-L zoning on a smaller one acre site. Some permissive uses in the MX-L zone (not allowed in the MX-T zone) could provide some non-service and better paying jobs. However, the goal of this redevelopment is to later file for a Conditional Use application to preserve the drive thru window that was existing on the site prior to the IDP adoption. The goal is to create jobs in the redevelopment of the site. These new jobs would generally help strengthen and diversify the economy and reduce reliance on government spending, though they are not true economic base jobs. The request partially furthers Policy 8.1.3 -Economic Base.

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 request would promote re-development of the subject site, which is an infill site because it’s located in an area of the City that has been developed since approximately the 1950s. Existing infrastructure and public facilities are already in place to serve the subject site; infill development is an efficient use of land that supports the public good because it promotes an efficient development pattern. The request furthers Goal 5.3- Efficient Development Patterns.

ABC Comp Plan Policy 5.6.2 Areas of Change. The Subject Site is in an Area of Change. The proposed development would be complementary with the existing land uses in the area, create new jobs, and take advantage of this neighborhood located by highly connected street grid and already well served by infrastructure and transit.

The Subject Site is surrounded on ALL SIDES by commercial uses. The zone change will not have negative impacts on surrounding residential areas with respect to noise, stormwater runoff, contaminants, lighting, air quality, or traffic because they are not located near the Subject Site to be impacted by the redevelopment and operation retail space or a restaurant.

Retail and/or restaurant use would be a great addition to the neighborhood and be a nice benefit by rehabilitating an aging building with a fresh, visually appealing look. The Applicant believes that this location for retail/restaurant respects the neighborhood values.

14-16-6-7(F)(3)(d): *The zone change does not include permissive uses that would be harmful of adjacent property, the neighborhood, or the community, unless the Use-specific Standards in Section 16-16-4-3 associated with that use will adequately mitigate those harmful impacts.*

Applicant Response: The request meets the criteria of 14-16-6-7(F)(3)(d) because the subject site is currently zoned **MX-T** [IDO 14-16-2- 4], which was assigned upon adoption of the IDO. Primary land uses are described in Table 4-2: Allowable Uses, IDO p. 130.

The request proposes to change the subject site's zoning to **MX-L** (Mixed-Use Low Intensity Zone District, IDO 14-16-2- 4(B)), which was assigned upon adoption of the IDO. Primary land uses are non-destination retail and commercial uses, townhouses, low-density multi-family residential dwellings, and civic and institutional uses to serve the surrounding area. Specific permissive uses are listed in Table 4-2: Allowable Uses, IDO p. 130.

A couple of key differences between the MX-L and the MX-T zones are general retail and drive thru windows are "conditional uses" in the MX-L zone. In the MX-L zone, only General Retail, Small is allowed. In the MX-T zone, General Retail, Small and General Retail, Medium are allowed permissively. The IDO's assignment of MX-T zoning to the subject site made the existing drive thru window a non-conforming use. There are other notable differences between the MX-L and the MX-T zones. A bar, light vehicle fueling station, and light vehicle sales and rental, mortuary, pawn shop, and transit facility are conditional uses in the MX-L zone (and require a hearing before the Zoning Hearing Examiner (ZHE)). Hospital, catering service, and nightclub are not allowed in MX-L. Liquor retail is an accessory use in MX-L.

The requested MX-L zone does not include permissive uses that would be harmful of adjacent property, the neighborhood, or the community. The zone change would be consistent with the surrounding land uses to the north and south of the Subject Site, and allow a slightly broader variety of community services to be developed on the Subject Site than the existing zoning allows, adding to the healthy mix of uses already present in the neighborhood. It is important to remember that this site was historically a bank with a drive thru window, and the Applicant is simply attempting to re-establish a drive thru window use that existed for years on the Subject Property.

A drive-through is a conditional use in MX-L and therefore, if the Applicant is successful in this Zone Map Amendment then the Applicant will follow up with a conditional use application to the ZHE for a drive thru.

The permissive uses between the MX-L zoning designation and the MX-T zoning designation are very similar. I have outlined the permissive uses in MXM in the following list:

INSERT THE CHART DEMONSTRATING THE DIFFERENCES BETWEEN MX-L and MX-T

The Change in Permissive Uses Will Not be Harmful:

The Permissive uses in MX-L that could be construed as having possible harmful effects such as a bar, nightclub, fueling station or retail liquor are regulated by local, state and federal requirements and must comply with all New Mexico state laws, including but not limited to any required spacing from other uses or facilities. They are also controlled by Specific-Use Standards found In the IDO to mitigate potential harmful effects on the surrounding area. Future development on the subject site under the MX-M zone would be subject to IDO requirements

including Neighborhood Edges (14-16- S-9), the mixed-use zone dimensional standards (Table 5-1-2), buffer landscaping (14-16-5- 6-(E), and building design standards (14-16-4-11) to help ensure appropriate scale and location of development and character of building design.

Other City ordinances, such as the Noise Ordinance, and State regulations pertaining to alcohol licensing, for example, would also apply to future uses and serve to mitigate the potentially harmful impacts of such uses on the subject site.

The Use Standards in the IDO include precautionary measures such as distance requirements, size restrictions, design standards, screening requirements will give confidence to the neighbors and the EPC that the expanded permissive uses will not be harmful to the neighborhood.

14-16-6-7(F)(3)(e): *The City's existing infrastructure and public improvements, including but not limited to its street, trail, and sidewalk systems meet one of the following requirements:*

1. *Have adequate capacity to serve the development made possible by the change of zone.*
2. *Will have adequate capacity based on improvements for which the City has already approved and budgeted capital funds during the next calendar year.*
3. *Will have adequate capacity when the applicant fulfills its obligation under the IDO, the DPM, and/or an Infrastructure Improvements Agreement.*
4. *Will have adequate capacity when the City and the applicant have fulfilled their respective obligations under a City-approved Development Agreement between the City and the applicant.*

Applicant Response: The request meets the criteria of 14-16-6-7(F)(3)(e) because the existing infrastructure and public improvements currently have adequate capacity to serve the proposed development. The Subject Site includes an existing building that was formerly a Bank of Albuquerque branch. The proposed development will not create the need for any additional infrastructure or public improvements.

14-16-6-7(F)(3)(f): *The applicant's justification for the requested zone change is not completely based on the property's location on a major street.*

Applicant Response: The request meets the criteria of 14-16-6-7(F)(3)(f) because the rationale and justification for the zone change is not based on the property's location on Wyoming Blvd. The zone map amendment is justified pursuant to the goals and policies of the Albuquerque Comp Plan. Additionally, it is noteworthy that this site was historically a bank with a drive thru window, and the Applicant is simply attempting to re-establish a drive thru window use that existed for years on the Subject Property. The site next door (Bank of America) has a drive up ATM service and historically there are many drive thru windows in this trade area (Satellite Coffee, McDonald's, Starbucks, etc.).

14-16-6-7(F)(3)(g): *The applicant's justification is not based completely or predominately on the cost of land or economic considerations.*

Applicant Response: The request meets the criteria of 14-16-6-7(F) (3) (g) because the cost of the land or economic considerations is not the basis for the Applicant's justification. The rationale is clearly contained in the letter above and is not a result of economic considerations as the predominant reason for the application.

14-16-6-7(F)(3)(h): *The zone change does not apply a zone district different from surrounding zone districts to one small area, one premises (i.e. create a "spot zone") or to a strip of land along*

a street (i.e. create a "strip zone") unless the change will clearly facilitate implementation of the ABC Comp Plan, as amended, and at least one of the following applies:

- 1. The area of the zone change is different from surrounding land because it can function as a transition between adjacent zone districts.*
- 2. The site is not suitable for the uses allowed in any adjacent zone district due to topography, traffic, or special adverse land uses nearby.*
- 3. The nature of structures already on the premises makes it unsuitable of the uses allowed in any adjacent zone district.*

Applicant Response: The request meets the criteria of 14-16-6-7(F)(3)(h) because the properties just north of the Subject Site are zoned MX-L, the proposed zone change of the Subject Site to MX-L will be congruent to existing zoning in the direct vicinity. The proposed development will also be complementary with the surrounding uses. The Applicant is simply attempting to re-establish a drive thru window use that existed for years on the Subject Property. The site next door (Bank of America) has a drive up ATM service and historically there are many drive thru windows in this trade area (Satellite Coffee, McDonald's, Starbucks, etc.).

We appreciate the opportunity to submit for a zone map amendment. Thank you for your consideration to this request.

Sincerely,

Joshua J. Skarsgard, Agent

PRE-APPLICATION REVIEW TEAM (PRT) MEETING NOTES

PA# 19-090 Date: 03-26-2019 Time: 1:00pm

Address: 4201 Wyoming NE

AGENCY REPRESENTATIVES AT MEETING:

Planning: Cheryl

Code Enforcement: _____

Fire Marshall: _____

Transportation: _____

Other: _____

PRT DISCUSSIONS ARE FOR INFORMATIONAL PURPOSES ONLY!

THEY ARE NON-BINDING AND DO NOT CONSTITUTE ANY KIND OF APPROVAL.

Additional research may be necessary to determine the exact type of application and/or process needed. Factors unknown at this time and/or thought of as minor could become significant as the case progresses.

REQUEST: _____

SITE INFORMATION:

Zone: MX-T Size: 0.8354 acres

Use: commercial Overlay Zone: n/a

Comp Plan: Change

Associated Plans: _____

MPOS / Sensitive Lands / MR Area / CPO: no/no/no/no

Parking / Landscaping / Street Trees: _____

Use Specific Standards: N/A

Dimensional Standards: N/A

*Neighborhood Organization/s: District 7 Coalition / SHS to south

**This is preliminary information only. Neighborhood Organization information is only accurate when obtained from the Office of Neighborhood Coordination (ONC) at www.cobq.gov/neighborhoods/resources.*

PROCESS:

Review and Approval Body: EPC for zone change Is this PRT a requirement? _____

Type of Action: Zone Change

Notification: _____

PRE-APPLICATION REVIEW TEAM (PRT) MEETING NOTES

PA# 19-090 Date: 03-26-2019 Time: 1:00pm

Address: 4201 Wyoming NE

NOTES:

- Could try for NR-C, but would be spot zone & difficult to justify
- Please Review EPC Zone Change Renewal Decision Criteria per 6.7 F p. 427 6.6A p. 385
- Could try for MX-L, and then Conditional Use Permit for Drive-through
this seems most viable option but 2 processes
- Could try for MX-M because some MX-M cathy-corner, however many more uses to justify
- ^{would} We need to know when ~~last~~ drive-through was last in operation - burden on applicant
- Allowable Use Table 4.2
- If use is within 24 months of May 17, 2018 may be able to do Voluntary Zone Conversion
- MX-L -
- MX-M - more difficult
- Past IDO Voluntary Zone Conversion

STAFF INFORMATION

May 24, 2019

TO: Josh Skarsgard, Land Development 8, LLC
FROM: Catalina Lehner, Senior Planner
City of Albuquerque Planning Department
TEL: (505) 924-3935
RE: **Project #2019-002353, RZ-2019-00021, La Mirada Zone Change**

I re-reviewed version 2 (v.2) of the proposed zone map amendment (zone change) request. Some questions remain outstanding.

Many of the suggestions to bring the justification up to the standards expected of all applicants were not incorporated, though they were described in the first deficiency memo, dated May 13, 2019. Unaddressed, or insufficiently addressed, items from the first deficiency memo are highlighted.

Please provide the following:

⇒ A revised zone change justification letter pursuant to the zone change criteria (one copy) by:

12 pm on Thursday, May 30, 2019.

Note: If you have difficulty with this deadline, please let me know.

1) Introduction:

- A. Please use the date the letter is written, NOT the old April 25, 2019 date. This helps for tracking versions.
- B. The paragraph regarding history of the subject site is misleading. There is no “current use” on the subject site; this use ceased to operate, apparently a long time ago. Please remove the word “current”, as this will confuse the EPC.
- C. Same with the last sentence regarding “essentially asking for a zone change to get a use that existed prior to the IDO”. This will also create confusion. Remove sentence. The EPC will want to know why you didn’t apply for a zone conversion.
- C. How long did the most recent use on the property exist? When did it cease to operate?

2) Process: please refer to the May 13, 2019 letter.

3) Notification & Neighborhood Issues: please refer to the May 13, 2019 letter.

4) Project Letter:

- A. There really is no project letter with this request. Some of that type of information is found under I. I would change this section to “I. Project Background” and expand it to address several items (see B, below).

- B. Please discuss the following: intention of the project-i.e. why a zone change is claimed to be needed. What do you want to develop and why? What was the use of the property on May 17, 2018?
- C. Could the subject site have qualified for a voluntary zone conversion? Why or why not? If so, why did you not pursue the easier (and free) path?
- D. It can be argued that the MX-L zone is appropriate for the subject site, since MX-T was assigned based on the zoning conversion rules adopted by the City Council. Why shouldn't the property be zoned MX-T?

5) Zone Map Amendment (zone change)- General:

- A. A zone change justification is all about the requirements of the zone change criteria in the IDO at 6-7(F)(3) and how the applicant can demonstrate that the request fulfills them.

The merits of the project and neighborhood support are not included in the criteria. Therefore, these belong in the project letter and not in the justification.

- B. The task is to choose **applicable Goals and policies** from the Comprehensive Plan and show how the request furthers them. How does the request relate to the Goal or policy and make it a reality?

Guiding principles, objectives, and text are not included in the requirement so no need to address them.

- C. Responding the A-H of the zone change criteria is both a legal exercise and a planning exercise. It is critical to “hit the nail on the head” conceptually and in terms of form. This can be done by:

- i. responding to each requirement in the customary way (see examples).
- ii. using conclusory statements such as “because_____”.
- iii. re-phrasing the requirement itself in the response, and
- iv. choosing an option when needed to respond to a requirement (ex. Criterion B, E, and H).

- D. Please use the GIS map tool previously mentioned to identify if the subject site is an Area of Change or Area of Consistency, and if it is located in a designated Center or along a designated Corridor.

6) Zone Map Amendment (zone change)- Concepts & Research: please refer to the May 13, 2019 letter.

7) Zone Map Amendment (zone change)- Section by Section:

Please address and incorporate the following to provide a strengthened response to the IDO zone change criteria.

- A. **Criterion A (re-do in entirety):** Criterion A is like the old subsection C of R270-1980. This is where a fully-developed policy analysis goes to support the request. The requirement reads “a

preponderance of applicable **Goals and policies**". Therefore, do not cite guiding principles, objectives, or text as they are not included in the requirement.

Copy each cited Goal and policy verbatim from the Comp plan. Then respond after each. Please see how policy analysis is done as a standard procedure.

- Add citations of Goals and policies- full text.
- Add your responses, in accordance with the above, after each citation.
- Take the policy analysis outline provided in the response to Criterion C and bring it into Criterion A, as a starting point.
- Question: Is the subject site in a designated Activity Center or along a designated Corridor?
- Devil's advocate: redevelopment of the subject site could occur without the zone change.
- Be sure to include a conclusory statement regarding the entirety of Criterion A.

B. Criterion B: OK.

C. Criterion C (re-do): Please place the policy analysis in the response to Criterion A, as explained previously.

It's very obvious that the policy analysis was copied, pretty much verbatim, from the analysis pertaining to another project. Your task is to select Goals and policies that are relevant to your request. Some of the Goals and policies copied over do not apply. There has not been sufficient thought, on your part, regarding the Goals and policies selected. Without a nexus, your case isn't proven.

Questions: how is the request for more intense growth? How would it facilitate "regional growth" or base jobs?

D. Criterion D (re-do): To properly answer this test requires a discussion of the permissive uses in the proposed zone. Please list them and discuss each, with emphasis on whether or not they would be harmful to adjacent property, the neighborhood, or the community.

Please see examples of how this is done using a table or columns.

Again, this is copied information clearly taken from another case. Some of the statements do not make sense in the context of the current case.

DELETE the sentence "It's important to remember that the site was historically a bank with a drive-thru window". This is NOT important or relevant to the zone change criteria. There is no criterion for a historical argument.

E. Criterion E: OK

F. Criterion F (strengthen): Is Wyoming Blvd. a major street? What is its designation? This needs to be included in the response (look it up on AGIS). Delete the third and fourth sentences regarding history because they are not relevant to this criterion.

- G. Criterion G (clarify and strengthen): It appears that the cost of land or economic considerations are the reasons for the proposed zone change. If not these, then what are the reasons? Say what it is, not that the “rationale is clearly contained in the letter above”. What is this rationale?
- H. Criterion H (re-do): The question needs to be expressly re-stated in the response to ensure that it is answered. Does the zone change apply a zone district different from surrounding zone districts to one small area, to one premise or to a strip of land along a street? Use these words and then explain why or why not.

Delete the third and fourth sentences in the response, as they are not relevant to the requirement in Criterion H. It doesn't matter what's happening on other properties; the zone change is ONLY about the subject site.

May 13, 2019

TO: Josh Skarsgard, Land Development 8, LLC
FROM: Catalina Lehner, Senior Planner
City of Albuquerque Planning Department
TEL: (505) 924-3935
RE: **Project #2019-002353, RZ-2019-00021**, La Mirada Zone Change

I've completed a first review of the proposed zone map amendment (zone change) request. I have some questions and suggestions that will help strengthen the justification. I am available to answer questions about the process and requirements. Please provide the following:

⇒ A revised zone change justification letter pursuant to the zone change criteria (one copy) by:

12 pm on Wednesday, May 22, 2019.

Note: If you have difficulty with this deadline, please let me know.

1) Introduction:

- A. Though I've done my best for this review, additional items may arise as the case progresses. If so, I will inform you immediately.
- B. This is what I have for the legal description: Lot 3, Summary Plat of Lots 3, 4, 6, 8, 9, 10, 13 and 14, La Mirada Subdivision. Is this correct?
- C. How long did the most recent use on the property exist? When did it cease to operate?
- D. Please tell me about the letter of authorization.

2) Process:

- A. Information regarding the EPC process, including the calendar and current Staff reports, can be found at:
<http://www.cabq.gov/planning/boards-commissions/environmental-planning-commission>
- B. Timelines and EPC calendar: the EPC public hearing for June is the 13th. Final staff reports will be available one week prior, on June 6th.
- C. A pre-application review team (PRT) meeting is required. I found the PRT notes in the file.
- D. Agency comments will be distributed around Wednesday, May 22nd. I will email you a copy of the comments and will forward any late comments to you.
- E. A Traffic Impact Study (TIS) will be required at a future date if the subject site re-develops.

3) Notification & Neighborhood Issues:

Notification requirements for a zone change are found in Table 6-1-1 (IDO, p. 328) and are explained in Section 6-4(K), Public Notice (IDO, p. 345).

- A. The required notification consists of an emailed letter to neighborhood representatives indicated by the ONC and a mailed letter (first-class) to property owners within 100 feet of the subject site. Why were certified letters sent to NA representatives?
- B. A separate offer for a meeting (pre-application facilitated meeting) was sent via email on April 2nd, but it looks like it only went to one neighborhood representative. Please clarify.
- C. Do you anticipate that a facilitated meeting will be requested? Are you aware of any concerns?
- D. Have any neighborhood representatives or members of the public contacted you so far? As of this writing, no one has contacted me.

4) Project Letter:

- A. There really is no project letter with this request. Some of that type of information is found under I. I would change this section to “I. Project Background” and expand it to address several items (see B, below).
- B. Please discuss the following: intention of the project-i.e. why a zone change is claimed to be needed. What do you want to develop and why? What was the use of the property on May 17, 2018?
- C. Could the subject site have qualified for a voluntary zone conversion? Why or why not? If so, why did you not pursue the easier (and free) path?
- D. It can be argued that the MX-L zone is appropriate for the subject site, since MX-T was assigned based on the zoning conversion rules adopted by the City Council. Why shouldn't the property be zoned MX-T?

5) Zone Map Amendment (zone change)- General:

- A. A zone change justification is all about the requirements of the zone change criteria in the IDO at 6-7(F)(3) and how the applicant can demonstrate that the request fulfills them.

The merits of the project and neighborhood support are not included in the criteria. Therefore, these belong in the project letter and not in the justification.

- B. The task is to choose applicable Goals and policies from the Comprehensive Plan and show how the request furthers them. How does the request relate to the Goal or policy and make it a reality?

Guiding principles, objectives, and text are not included in the requirement so no need to address them.

- C. Responding the A-H of the zone change criteria is both a legal exercise and a planning exercise. It is critical to “hit the nail on the head” conceptually and in terms of form. This can be done by:

- i. responding to each requirement in the customary way (see examples).
- ii. using conclusory statements such as “because _____”.
- iii. re-phrasing the requirement itself in the response, and

iv. choosing an option when needed to respond to a requirement (ex. Criterion B, E, and H).

- D. Please use the GIS map tool previously mentioned to identify if the subject site is an Area of Change or Area of Consistency, and if it is located in a designated Center or along a designated Corridor.

6) Zone Map Amendment (zone change)- Concepts & Research:

- A. A thorough, substantiated, and well-thought out zone change justification essay is expected of all applicants.

Please review recent zone change cases and see how other applicants have presented their justifications (though of course, each case is different). Old EPC cases are publically available online at: <http://www.cabq.gov/planning/boards-commissions/environmental-planning-commission/epc-agendas-reports-minutes>

The links are listed by hearing date. Each contains a Staff report and attachments. The applicant's justification essay, which is evaluated in the associated Staff report, is found in the attachments.

- B. It would be beneficial to study a recent zone change case and note how the criteria were responded to. Please pay careful attention to how Staff does a policy analysis, because the same is expected of applicants. Here is a link to a Staff report where approval is recommended:

http://documents.cabq.gov/planning/environmental-planning-commission/April2019/Agenda%203_2019-002043%20Old%20Kmart%20ZC.pdf

The Staff reports explain in detail regarding why the responses are sufficient or insufficient, so please read the analysis in each and incorporate this understanding into your own justification.

7) Zone Map Amendment (zone change)- Section by Section:

Please address and incorporate the following to provide a strengthened response to the IDO zone change criteria.

- A. Criterion A (re-do in entirety): Criterion A is like the old subsection C of R270-1980. This is where a fully-developed policy analysis goes to support the request. The requirement reads "a preponderance of applicable **Goals and policies**". Therefore, do not cite guiding principles, objectives, or text as they are not included in the requirement.

Copy each cited Goal and policy verbatim from the Comp plan. Then respond after each. Please see how policy analysis is done as a standard procedure.

Like responding to a legal requirement, the words of the Goal or policy cited need to be incorporated into your responses; otherwise, they are not sufficiently tied together and the link is not strong and your case is not proven.

- Add citations of Goals and policies- full text.
- Add your responses, in accordance with the above, after each citation.
- Take the policy analysis outline provided in the response to Criterion C and bring it into Criterion A, as a starting point.

- The responses in Criterion C, which will move to Criterion A, are deficient because they do not cite each Goal and policy verbatim, and the responses don't "hit the nail on the head" with respect to the words and meaning of each citation. In other words, insufficient nexus. Without a nexus, your case isn't proven.
- Q: Is the subject site in a designated Activity Center or along a designated Corridor?
- Devil's advocate: redevelopment of the subject site could occur without the zone change.
- Tip: do not choose Goals and policies that have to do with site design, because a site development plan is not a part of the request, unless you can tie them to IDO requirements in some way.
- Be sure to include a conclusory statement regarding the entirety of Criterion A.

B. Criterion B: OK.

C. Criterion C (re-do): Please place the policy analysis in the response to Criterion A, as explained previously. The response to Criterion C is insufficient because the policy analysis does not provide verbatim citations, lacks adequate citations of both Goals and policies, does not contain a meaningful connection between each citation and the request, and therefore does not demonstrate that a different zoning category would be more advantageous to the community.

D. Criterion D (re-do): To properly answer this test requires a discussion of the permissive uses in the proposed zone. Please list them and discuss each, with emphasis on whether or not they would be harmful to adjacent property, the neighborhood, or the community.

Please see examples of how this is done using a table or columns. The discussion should not only address permissive uses in the MX-L zone, but should explain the differences between the existing and proposed zones as a meaningful way to address the question of harm that could result from the request.

E. Criterion E: OK

F. Criterion F (strengthen): Re-state the requirement in the response, using each word. Is Wyoming Blvd. a major street? What is its designation? This needs to be included in the response.

G. Criterion G (clarify and strengthen): Re-state the requirement in the response. It appears that the cost of land or economic considerations are the reasons for the proposed zone change. If not these, then what are the reasons?

If economic reasons was not the determining factor, and the request qualifies for a City-sponsored zone conversion, then it seems that would be the more logical pathway (and it would be free).

H. Criterion H (re-do): The question needs to be expressly re-stated in the response to ensure that it is answered. Does the zone change apply a zone district different from surrounding zone districts to one small area, to one premise or to a strip of land along a street? Use these words and then explain why or why not.

Delete the second and third sentences in the response, as they are not relevant to the requirement in Criterion H. This is project letter stuff that doesn't help in the justification.

NEIGHBORHOOD INFORMATION

Trish Kvern

- typical -

From: Trish Kvern
Sent: Wednesday, April 24, 2019 1:37 PM
To: jmarmijo@hotmail.com
Subject: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice
Attachments: Location Map.pdf; Zone Atlas.pdf

April 24, 2019

Loma Del Rey NA
Jessica Armijo
3701 Erbbe Street NE
Albuquerque, NM 87111
jmarmijo@hotmail.com

RE: Public Notice of proposed Zone Map Amendment for 4201 Wyoming Blvd. NE

Dear Ms. Armijo,

In accordance with the procedures of the City of Albuquerque's Integrated Development Ordinance (IDO) **Subsection 14-16-6-4(K)(2) Mailed Public Notice**, we are notifying you as a representative of an affect Neighborhood Association that Joshua J. Skarsgard, as agent, on behalf of Land Development 8, LLC and Red Shamrock 2, LLC will be submitting an application(s) for Zone Map Amendment to be reviewed and decided by the Environmental Planning Commission. The application(s) is proposing a zone map amendment from MX-T to MX-L.

1. Property Owner – Land Development 8, LLC and Red Shamrock 2, LLC
2. Agent – Joshua J. Skarsgard
3. Subject Property Address – 4201 Wyoming Blvd. NE Albuquerque, NM 87111
4. Location Description – South corner of Wyoming Blvd. and La Mirada Pl. (see attached location map)
5. Zone Atlas Page – G-19 (see attached)
6. Legal Description - *Lot numbered Three (3) of Lo Mirada Subdivisian, as the same is shown and designated the plat entitled "Amended Summary Plat: Lots 3, 4, 6, 8, 9, 10, 13 & 14 and a Part of Lot 7, La Mirada Subdivision, Albuquerque, New Mexico," filed in the office of the County Clerk of Bernalilla County, New Mexico, on March 20, 1981, in Plat Book C18, Page 32. Said parcel lying situate within Section 6, Township 10 North, Range 4 East of the New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico.*
7. Area of Property – 0.8070 acres
8. IDO Zone District - Transition
9. Current Use – Vacant 2,424 square foot former Bank of Albuquerque building
10. More detailed Description of the Request/Project – Zone map amendment from MX-T to MX-L to allow for a retail and or restaurant use with the possibility of a drive-thru upon conditional use allowance.

The anticipated public hearing for this request will be on June 13, 2019 at 8:30 a.m. in the Hearing Room (Basement Level) of Plaza Del Sol, 600 2nd St NW, Albuquerque, NM 87102. You can check the agenda for the relevant decision-making body online here: <https://www.cabq.gov/planning/boards-commissions> or call the Planning Department at 505-924-3860.

NOTE: Anyone may request and the City may require an applicant to attend a City-sponsored facilitated meeting with Neighborhood Associations, based on the complexity and potential impacts of a proposed project [IDO Section 14-16-6-

4(D)]. To request a Facilitated Meeting regarding this project, contact the Planning Department at devhelp@cabq.gov or 505-924-3955. To view and download the Facilitated Meetings Criteria, visit <http://www.cabq.gov/planning/urban-design-development/facilitated-meetings-for-proposed-development>.

Please contact me with any questions or concerns at 505-998-9093 or via josh@retailsouthwest.com.

Useful Links

Integrated Development Ordinance (IDO):

<http://documents.cabq.gov/planning/IDO/IDO-Effective-2018-05-17.pdf>

IDO Interactive Map

<https://tinyurl.com/IDOzoningmap>

City of Albuquerque Planning Department

<https://www.cabq.gov/planning>

Zone Atlas Pages for Download

<http://data.cabq.gov/business/zoneatlas/>

Sincerely,

Joshua J. Skarsgard

Attachments: Location Map
Zone Map Atlas page G-19

Trish Kvern

Development Director



8220 San Pedro NE Suite 500 / Albuquerque, NM 87113 / Office 505.262.2323 / Fax 505.998.9080
Direct 505.998.9093 / www.retailsouthwest.com

Trish Kvern

From: postmaster@outlook.com
To: jmarmijo@hotmail.com
Sent: Wednesday, April 24, 2019 1:37 PM
Subject: Delivered: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice

Your message has been delivered to the following recipients:

jmarmijo@hotmail.com (jmarmijo@hotmail.com)

Subject: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice



4201 Wyoming
Blvd. NE - Zone ...

Trish Kvern

From: Microsoft Outlook
To: eagan.brian@gmail.com
Sent: Wednesday, April 24, 2019 1:41 PM
Subject: Relayed: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

eagan.brian@gmail.com (eagan.brian@gmail.com)

Subject: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice



4201 Wyoming
Blvd. NE - Zone ...

Trish Kvern

From: Microsoft Outlook
To: dhc@zianet.com
Sent: Wednesday, April 24, 2019 1:44 PM
Subject: Relayed: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

dhc@zianet.com (dhc@zianet.com)

Subject: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice



4201 Wyoming
Blvd. NE - Zone ...

Trish Kvern

From: Microsoft Outlook
To: mary.kurkjian@gmail.com
Sent: Wednesday, April 24, 2019 1:46 PM
Subject: Relayed: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

mary.kurkjian@gmail.com (mary.kurkjian@gmail.com)

Subject: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice



4201 Wyoming
Blvd. NE - Zone ...

Trish Kvern

From: Microsoft Outlook
To: dlreganabq@gmail.com
Sent: Wednesday, April 24, 2019 1:47 PM
Subject: Relayed: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

dlreganabq@gmail.com (dlreganabq@gmail.com)

Subject: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice



4201 Wyoming
Blvd. NE - Zone ...

Trish Kvern

From: Microsoft Outlook
To: Michael Pridham
Sent: Wednesday, April 24, 2019 1:50 PM
Subject: Relayed: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

Michael Pridham (michael@drpridham.com)

Subject: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice



4201 Wyoming
Blvd. NE - Zone ...

Trish Kvern

From: Microsoft Outlook
To: lmartin900@aol.com
Sent: Wednesday, April 24, 2019 1:51 PM
Subject: Relayed: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

lmartin900@aol.com (lmartin900@aol.com)

Subject: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice



4201 Wyoming
Blvd. NE - Zone ...

Trish Kvern

From: Microsoft Outlook
To: davidh2420@comcast.net
Sent: Wednesday, April 24, 2019 1:53 PM
Subject: Relayed: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

davidh2420@comcast.net (davidh2420@comcast.net)

Subject: 4201 Wyoming Blvd. NE - Zone Map Amendment Notice



4201 Wyoming
Blvd. NE - Zone ...

TYPICAL - certified letter sent to neighborhood contacts (not required).

April 24, 2019

Loma Del Rey NA
Jessica Armijo
3701 Errbe St. NE
Albuquerque, NM 87111

**RE: Public Notice of proposed Zone Map Amendment
for 4201 Wyoming Blvd. NE**

Dear Neighborhood Association Representative,

In accordance with the procedures of the City of Albuquerque's Integrated Development Ordinance (IDO) **Subsection 14-16-6-4(K)(2) Mailed Public Notice**, we are notifying you as a nearby Property Owner that Joshua J. Skarsgard, as agent, on behalf of Land Development 8, LLC and Red Shamrock 2, LLC, will be submitting an application(s) for Zone Map Amendment to be reviewed and decided by the Environmental Planning Commission. The application(s) is proposing a zone map amendment from MX-T to MX-L.

1. Property Owner – Land Development 8, LLC and Red Shamrock 2, LLC
2. Agent – Joshua J. Skarsgard
3. Subject Property Address – 4201 Wyoming Blvd. NE Albuquerque, NM 87111
4. Location Description – South corner of Wyoming Blvd. and La Mirada Pl. (see attached location map)
5. Zone Atlas Page – G-19 (attached)
6. Legal Description - *Lot numbered Three (3) of La Mirada Subdivision, as the same is shown and designated the plat entitled "Amended Summary Plat: Lots 3, 4, 6, 8, 9, 10, 13 & 14 and a Part of Lot 7, La Mirada Subdivision, Albuquerque, New Mexico," filed in the office of the County Clerk of Bernalillo County, New Mexico, on March 20, 1981, in Plat Book C18, Page 32. Said parcel lying situate within Section 6, Township 10 North, Range 4 East of the New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico.*
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8. IDO Zone District - Transition
9. Current Use – Vacant 2,424 square foot former Bank of Albuquerque building
10. More detailed Description of the Request/Project – Zone map amendment from MX-T to MX-L to allow for a retail and or restaurant use with the possibility of a drive-thru upon conditional use allowance.

The anticipated public hearing for this request will be on June 13, 2019 at 8:30 a.m. in the Hearing Room (Basement Level) of Plaza Del Sol, 600 2nd St NW, Albuquerque, NM 87102. You can check the agenda for

the relevant decision-making body online here: <https://www.cabq.gov/planning/boards-commissions> or call the Planning Department at 505-924-3860.

NOTE: Anyone may request and the City may require an applicant to attend a City-sponsored facilitated meeting with Neighborhood Associations, based on the complexity and potential impacts of a proposed project [IDO Section 14-16-6-4(D)]. To request a Facilitated Meeting regarding this project, contact the Planning Department at devhelp@cabq.gov or 505-924-3955. To view and download the Facilitated Meetings Criteria, visit <http://www.cabq.gov/planning/urban-design-development/facilitated-meetings-for-proposed-development>.

Please contact me with any questions or concerns at 505-998-9093 or via josh@retailsouthwest.com.

Useful Links

Integrated Development Ordinance (IDO):

<http://documents.cabq.gov/planning/IDO/IDD-Effective-2018-05-17.pdf>

IDO Interactive Map

<https://tinyurl.com/IDOzoningmap>

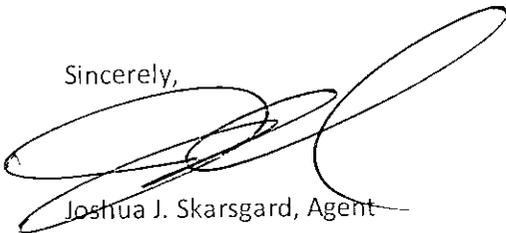
City of Albuquerque Planning Department

<https://www.cabq.gov/planning>

Zone Atlas Pages for Download

<http://data.cabq.gov/business/zoneatlas/>

Sincerely,

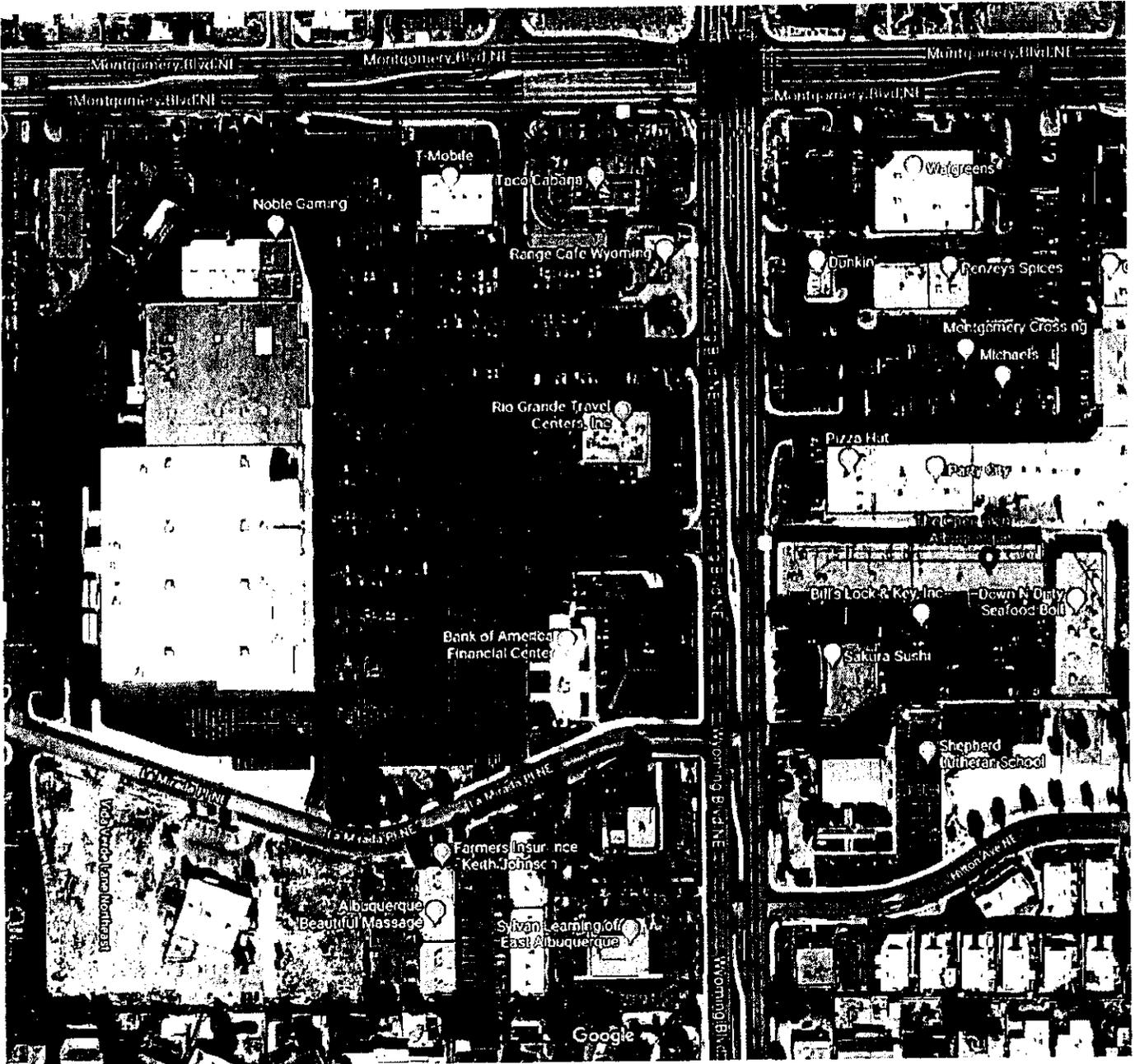


Joshua J. Skarsgard, Agent

Attachments: Location Map

Zone Map Atlas page G-19

Location Map



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 Return Receipt (electronic) \$0.00
 Certified Mail Restricted Delivery \$0.00
 Adult Signature Required \$0.00
 Adult Signature Restricted Delivery \$0.00

Postage \$0.70
\$ 0.70
Total Postage and Fees \$7.00
\$ 7.00 \$6.85

04/25/2019

Sent To Michael Pridham
Street and Apt. No., or PO Box No.
6413 Northland Ave NE
City, State, ZIP+4®
ABQ NM 87109

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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 Certified Mail Restricted Delivery \$0.00
 Adult Signature Required \$0.00
 Adult Signature Restricted Delivery \$0.00

Postage \$0.70
\$ 0.70
Total Postage and Fees \$7.00
\$ 7.00 \$6.85

04/25/2019

Sent To Lynne Martin
Street and Apt. No., or PO Box No.
1531 Espejo NE
City, State, ZIP+4®
ABQ NM 87112

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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 Adult Signature Required \$0.00
 Adult Signature Restricted Delivery \$0.00

Postage \$0.70
\$ 0.70
Total Postage and Fees \$7.00
\$ 7.00 \$6.85

04/25/2019

Sent To Donald Couchman
Street and Apt. No., or PO Box No.
6441 Concordia Rd. NE
City, State, ZIP+4®
ABQ NM 87111

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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 Adult Signature Required \$0.00
 Adult Signature Restricted Delivery \$0.00

Postage \$0.70
\$ 0.70
Total Postage and Fees \$7.00
\$ 7.00 \$6.85

04/25/2019

Sent To Daniel Regan
Street and Apt. No., or PO Box No.
4109 Chama St. NE
City, State, ZIP+4®
ABQ NM 87109

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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 Adult Signature Required \$0.00
 Adult Signature Restricted Delivery \$0.00

Postage \$0.70
\$ 0.70
Total Postage and Fees \$7.00
\$ 7.00 \$6.85

04/25/2019

Sent To Brian Eagan
Street and Apt. No., or PO Box No.
8416 Hilton Ave NE
City, State, ZIP+4®
ABQ NM 87111

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 Adult Signature Required \$0.00
 Adult Signature Restricted Delivery \$0.00

Postage \$0.70
\$ 0.70
Total Postage and Fees \$7.00
\$ 7.00 \$6.85

04/25/2019

Sent To Mary Kurjian
Street and Apt. No., or PO Box No.
13709 Canada del Oso Place NE
City, State, ZIP+4®
ABQ NM 87111

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 3090 0000 2146 0144

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ALBUQUERQUE, NM 87111

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\$	3.50
Extra Services & Fees (check box, add fees as appropriate)	\$2.80
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$2.80
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.55
\$	0.70
Total Postage and Fees	\$6.85
\$	7.00

0109 08
sdsn
Postmark
APR 25 2019
ALBUQUERQUE, NM 87111
04/25/2019

Sent To Jessica Armijo
Street and Apt. No., or PO Box No. 3701 Embury St. NE
City, State, ZIP+4® ABO NM 87111

7018 3090 0000 2146 0076

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\$	3.50
Extra Services & Fees (check box, add fees as appropriate)	\$2.80
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$2.80
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.55
\$	0.70
Total Postage and Fees	\$6.85
\$	7.00

0109 08
Postmark Here
APR 25 2019
ALBUQUERQUE, NM 87111
04/25/2019

Sent To David Haughwout
Street and Apt. No., or PO Box No. 2824 Chama St. NE
City, State, ZIP+4® ABO NM 87110

From: [Michael Pridham](#)
To: [Trish Kvern](#)
Subject: Re: Neighborhood Association Meeting Request
Date: Tuesday, April 02, 2019 1:12:52 PM

Thank you Trish!

I appreciate the information and at this point, we do not have a need for a meeting. I will let you know if anything changes.

On Tue, Apr 2, 2019 at 12:26 PM Trish Kvern <trish@retailsouthwest.com> wrote:

Dear Mr. Pridham,

In accordance with the procedures of the City of Albuquerque's Integrated Development Ordinance (IDO) **Subsection 14-16-6-4(C) Neighborhood Meeting**, we are providing you an opportunity to discuss a Zone Map Amendment proposed in or near your neighborhood before we submit an application. This would be an informal meeting where Joshua J. Skarsgard, as agent, on behalf of Land Development 8, LLC, a New Mexico limited liability company, as the property owner, would present the proposal, and we could discuss any ideas or concerns you may have.

Contact Information

Trish Kvern - Direct: (505) 998-9093 Email: trish@retailsouthwest.com

Project or Development Proposal

4201 Wyoming Blvd. NE

Albuquerque, NM 87111

(former Bank of Albuquerque building – Zone Atlas page and survey showing property attached)

Joshua J. Skarsgard, as agent, for Land Development 8, LLC, a New Mexico limited liability company, as the property owner

Zone Map Amendment from MX-T to MX-I, with drive thru

We are proposing to amend the zoning of this property to allow for a quick service restaurant use with a drive-thru.

Per the IDO, you have 15 days from April 2, 2019, to respond, by either 1) requesting a meeting or 2) declining the meeting. If you do not respond within 15 days, you are waiving the opportunity for a Neighborhood Meeting, and we can submit our application anytime thereafter. We would like to submit our application on May 30, 2019. The meeting must be scheduled for a date within 30 consecutive days of the meeting request being accepted by the Neighborhood Association.

If you would like to meet, please let us if any of the following dates/time work for a meeting in the **first floor conference room of the Paseo Nuevo Office Complex located at 8220 San Pedro Dr. NE Albuquerque, New Mexico 87113:**

April 17, 2019 6:00 p.m.

April 29, 2019 6:00 p.m.

May 8, 2019 6:00 p.m.

This email is being sent to the following Neighborhood Associations: Loma Del Rel NA, District 8 Coalition of Neighborhood Associations, District 4 Coalition of Neighborhood Associations, and District 7 Coalition of Neighborhood Associations. If acceptable, we would like to have one meeting for all effected associations that are wish to meet, to attend.

Before submitting our application, we will send Mailed and/or Emailed Public Notice as required by IDO Table 6-1-1 to make you aware of the public hearing at which the project will be reviewed and decided by the City.

The following is what we are currently proposing for this development: We are proposing to amend the zoning of this property to allow for a quick service restaurant use with a drive-thru. The exact user of this location has not yet been determined.

Useful Links

Integrated Development Ordinance (IDO):

<http://documents.cabq.gov/planning/IDO/IDO-Effective-2018-05-17.pdf>

IDO Interactive Map

<https://tinyurl.com/IDOzoningmap>

Cc: Loma Del Rel NA
District 8 Coalition of Neighborhood Associations
District 4 Coalition of Neighborhood Associations
District 7 Coalition of Neighborhood Associations

Trish Kvern

Development Director



8220 San Pedro NE Suite 500 Albuquerque, NM 87113 Office 505.262.2323 Fax 505.998.9080

Direct 505.998.9093 www.retailsouthwest.com

--

Michael Pridham, DC-APC, NRCME, CKTI
Equilibrium Wellness Center
3901 Georgia St. NE Building F

Albuquerque, NM. 87110
#505.872.1900
fax#505.503.1398

[Facebook.com/EquilibriumChiropracticAlbuquerque](https://www.facebook.com/EquilibriumChiropracticAlbuquerque)

DrPridham.com

Lehner, Catalina L.

From: Josh Skarsgard <josh@retailsouthwest.com>
Sent: Tuesday, May 28, 2019 3:53 PM
To: Lehner, Catalina L.; Trish Kvern
Subject: FW: Loma Del Rey neighborhood association, letter of support: application for zoning change, vacant former Bank of ABQ, 4201 Wyoming Blvd NE at La Mirada Place NE - from Zone MX-T to MX-L, to allow for new restaurant
Attachments: Public Notice of public hearing on proposed Zone Map Amendment for 4201 Wyoming Blvd NE.pdf

Good Afternoon Catalina:

The Loma Del Rey NA letter of support is attached below for the file (and the Staff Report). Thanks for your help! Josh

From: Brian Eagan [mailto:eagan.brian@gmail.com]
Sent: Thursday, May 02, 2019 7:38 PM
To: Josh Skarsgard <josh@retailsouthwest.com>
Subject: Loma Del Rey neighborhood association, letter of support: application for zoning change, vacant former Bank of ABQ, 4201 Wyoming Blvd NE at La Mirada Place NE - from Zone MX-T to MX-L, to allow for new restaurant

Dear Josh Skarsgard,

I have good news. This is a letter of support for the proposed application for changing zoning for the land at 4201 Wyoming Boulevard Northeast, Albuquerque, New Mexico. The board of directors for Loma Del Rey neighborhood association voted 7-0 in the favor of the proposal. We wish you success at the environmental Planning Commission. Please let me know if you want me to come testify in person at the hearing to support the proposed zoning change.

Sincerely,

Brian Eagan

----- Forwarded message -----

From: Brian Eagan <cagan.brian@gmail.com>
Date: Wed, May 1, 2019, 5:27 PM
Subject: Loma Del Rey neighborhood association, Please vote yes or no: application for zoning change, vacant former Bank of ABQ, 4201 Wyoming Blvd NE at La Mirada Place NE - from Zone MX-T to MX-L, to allow for new restaurant
To: Carol Orona <oronacarol@hotmail.com>, David T. Gilpin <David@accountingnm.com>, Armijo Jessica <jinarmijo@hotmail.com>, William Burk <billburk@qwestoffice.net>, Langer Carol <dazderaz@gmail.com>, Judy Abbott <jlaart3@comcast.net>, Stefani Quintana <stefaniquintana@gmail.com>, Sharon Wells <sharonwells9613@gmail.com>

Dear Members of the Board of Directors,

please reply all to vote yes or no:

on application for zoning change, vacant former Bank of Albuquerque building, 4201 Wyoming Blvd NE at La Mirada Place NE - from Zone MX-T to MX-L, to allow for a new restaurant to move in and make use of the drive up window lanes.

Please see attached PDF file, to view notice of hearing, location map (showing the development site), and city zoning atlas map.

Public Notice of Public Hearing
City of Albuquerque
Environmental Planning Commission (EPC)
June 13, 2019
at 8:30 a.m
Plaza Del Sol Bldg
600 2nd St NW, basement level
Albuquerque, NM

EPC to vote on possible approval of zoning change, to change from Zone MX-T to MX-L, to allow for new restaurant. I move approval of the proposal and I am voting yes.

If you have any questions, please let me know. If needed, we can schedule a special meeting of the Board of Directors in May 2019 to consult with:

Mr. Joshua J. Skarsgard, Esq.
Real Estate Developer
Retail Southwest Inc.

about his proposal. The owner, Land Development 8 LLC purchased the land. His is the agent of the owner.

Sincerely,

Brian A. Eagan, President
Loma Del Rey Neighborhood Association
3620 Wyoming Blvd NE, Suite 130
Albuquerque, NM 87111
505-480-8894 cell
cagan.brian@gmail.com

=====
This message has been analyzed by Deep Discovery Email Inspector.



4201 Wyoming Blvd. NE

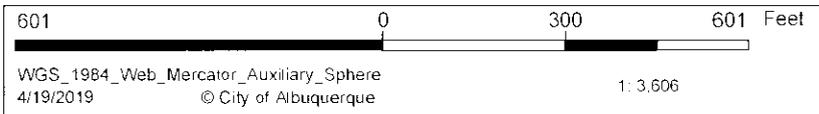


Legend

- Bernalillo County Parcels
- Municipal Limits**
 - Corrales
 - Edgewood
 - Los Ranchos
 - Rio Rancho
 - Tijeras
 - UNINCORPORATED
- World Street Map

Notes

Buffer: 215ft.
 ROW: Wyoming Blvd. NE 115ft.



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THIS MAP IS NOT TO BE USED FOR NAVIGATION

April 24, 2019

Daughters of Charity of Canossa
5625 Isleta Blvd. SW
Albuquerque, NM 87105

**RE: Public Notice of proposed Zone Map Amendment
for 4201 Wyoming Blvd. NE**

Dear Daughters of Charity of Canossa,

In accordance with the procedures of the City of Albuquerque's Integrated Development Ordinance (IDO) **Subsection 14-16-6-4(K)(2) Mailed Public Notice**, we are notifying you as a nearby Property Owner that Joshua J. Skarsgard, as agent, on behalf of Land Development 8, LLC and Red Shamrock 2, LLC, will be submitting an application(s) for Zone Map Amendment to be reviewed and decided by the Environmental Planning Commission. The application(s) is proposing a zone map amendment from MX-T to MX-L.

1. Property Owner – Land Development 8, LLC and Red Shamrock 2, LLC
2. Agent – Joshua J. Skarsgard
3. Subject Property Address – 4201 Wyoming Blvd. NE Albuquerque, NM 87111
4. Location Description – South corner of Wyoming Blvd. and La Mirada Pl. (see attached location map)
5. Zone Atlas Page – G-19 (attached)
6. Legal Description - *Lot numbered Three (3) of La Mirada Subdivision, as the same is shown and designated the plat entitled "Amended Summary Plat: Lots 3, 4, 6, 8, 9, 10, 13 & 14 and a Part of Lot 7, La Mirada Subdivision, Albuquerque, New Mexico," filed in the office of the County Clerk of Bernalillo County, New Mexico, on March 20, 1981, in Plat Book C18, Page 32. Said parcel lying situate within Section 6, Township 10 North, Range 4 East of the New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico.*
7. Area of Property – 0.8070 acres
8. IDO Zone District - Transition
9. Current Use – Vacant 2,424 square foot former Bank of Albuquerque building
10. More detailed Description of the Request/Project – Zone map amendment from MX-T to MX-L to allow for a retail and or restaurant use with the possibility of a drive-thru upon conditional use allowance.

The anticipated public hearing for this request will be on June 13, 2019 at 8:30 a.m. in the Hearing Room (Basement Level) of Plaza Del Sol, 600 2nd St NW, Albuquerque, NM 87102. You can check the agenda for

the relevant decision-making body online here: <https://www.cabq.gov/planning/boards-commissions> or call the Planning Department at 505-924-3860.

NOTE: Anyone may request and the City may require an applicant to attend a City-sponsored facilitated meeting with Neighborhood Associations, based on the complexity and potential impacts of a proposed project [IDO Section 14-16-6-4(D)]. To request a Facilitated Meeting regarding this project, contact the Planning Department at devhelp@cabq.gov or 505-924-3955. To view and download the Facilitated Meetings Criteria, visit <http://www.cabq.gov/planning/urban-design-development/facilitated-meetings-for-proposed-development>.

Please contact me with any questions or concerns at 505-998-9093 or via josh@retailsouthwest.com.

Useful Links

Integrated Development Ordinance (IDO):

<http://documents.cabq.gov/planning/IDO/IDO-Effective-2018-05-17.pdf>

IDO Interactive Map

<https://tinyurl.com/IDOzoningmap>

City of Albuquerque Planning Department

<https://www.cabq.gov/planning>

Zone Atlas Pages for Download

<http://data.cabq.gov/business/zoneatlas/>

Sincerely,

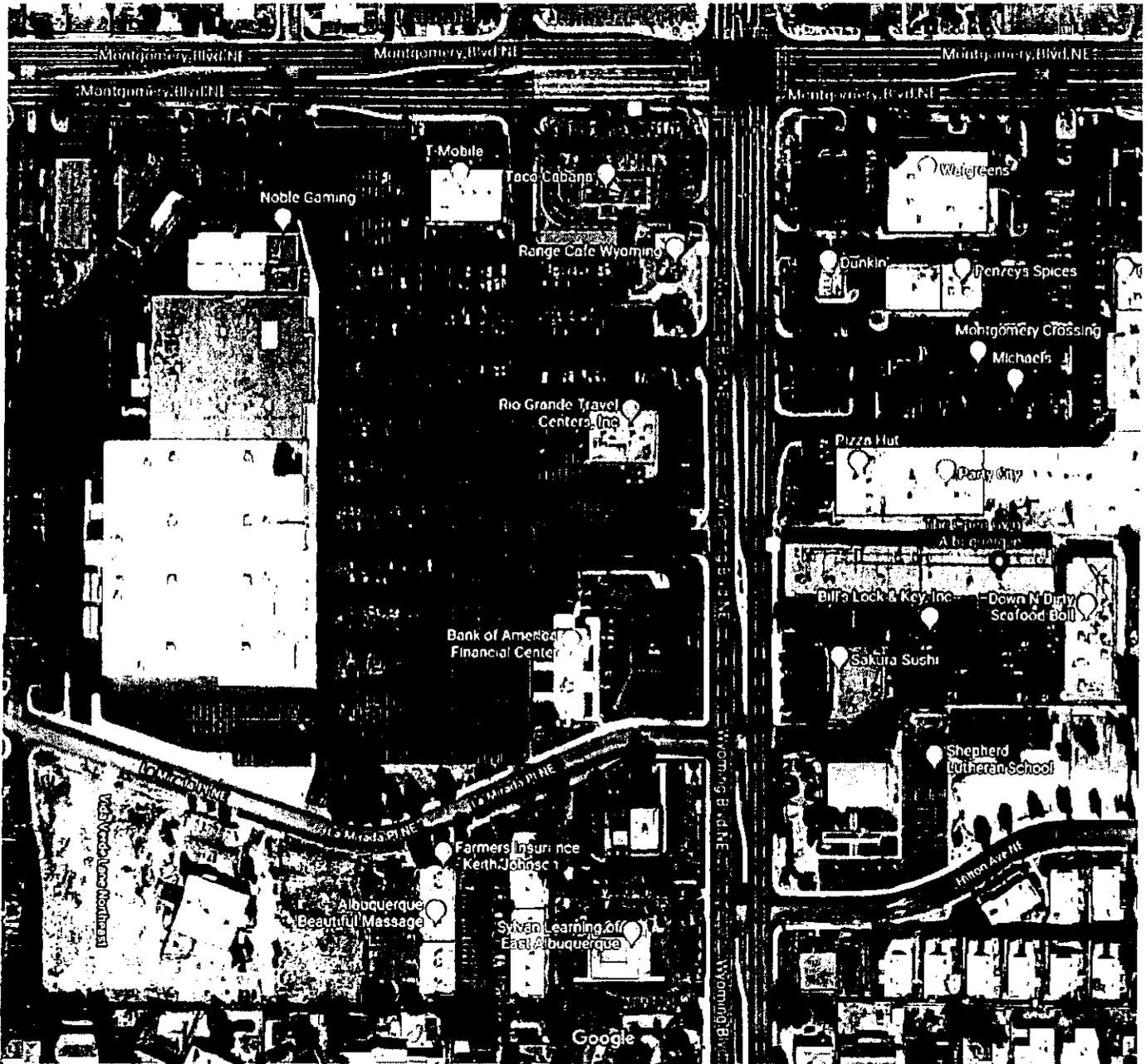
A handwritten signature in black ink, appearing to read "Joshua J. Skarsgard". The signature is stylized with loops and a long horizontal stroke at the end.

Joshua J. Skarsgard, Agent

Attachments: Location Map

Zone Map Atlas page G-19

Location Map



DAUGHTERS OF CHARITY OF CANOSSA
5625 ISLETA BLVD SW
ALBUQUERQUE NM 87105-6623 ✓

DUNCAN THOMAS RAY & LORNA L
8217 PICKARD CT NE
ALBUQUERQUE NM 87110-1556 ✓

WALLACE SHARON B
207 S THIRD ST
GALLUP NM 87301-6314 ✓

LAND DEVELOPMENT 8 LLC & RED
SHAMROCK 2 LLC ✓
8220 SAN PEDRO BLVD NE SUITE 500
ALBUQUERQUE NM 87113-2476 ✓

G & L INVESTMENT CO INC ✓
317 6TH ST NW
ALBUQUERQUE NM 87102 ✓

LOS ALTOS CENTER LLC ✓
6121 INDIAN SCHOOL RD NE SUITE 218
ALBUQUERQUE NM 87110 ✓

BURNETT WILLIAM D & JOANNE H RVT
8221 PICKARD CT NE
ALBUQUERQUE NM 87110-1556

BANK OF AMERICA ATTN: CORP REAL
ESTATE ASSESSMENTS ✓
101 N TYRON ST
CHARLOTTE NC 28246-0100 ✓

ESQUIBEL ALBERT R & ISABEL ✓
8225 PICKARD CT NE
ALBUQUERQUE NM 87110-1556 ✓

WI EVANGELICAL LUTHERAN SYNOD
3900 WYOMING BLVD NE ✓
ALBUQUERQUE NM 87111 ✓

M & M CO ✓
8220 LA MIRADA RD NE SUITE 700 ✓
ALBUQUERQUE NM 87109-1659 ✓

HARRISON ALBERT P & ROSEY S ✓
3717 DELMAR DR NE ✓
ALBUQUERQUE NM 87111 ✓

W & M CO ✓
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