

# CITY OF ALBUQUERQUE



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

October 10, 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) **(DEFERRED FROM June 13, 2019 Hearing)**  
Staff Planner: Catalina Lehner

On October 10, 2019 the Environmental Planning Commission (EPC) voted to APPROVE Project 2019-002353/RZ-2019-00021, a Zone Map Amendment (Zone Change), based on the following findings:

### FINDINGS:

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.

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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:

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- 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:

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- 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 arguments 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

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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.

**APPEAL**: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **OCTOBER 25, 2019**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15<sup>th</sup> day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-6-4(U) of the IDO, Administration and Enforcement. A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed. It is not possible to appeal EPC Recommendations to City Council; rather, a formal protest of the EPC's Recommendation can be filed within the 15 day period following the EPC's recommendation.

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

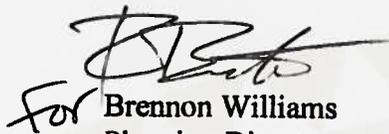
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Sincerely,

  
For Brennon Williams  
Planning Director

**BW/CL**

**cc: 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**  
**Jesica 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**  
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