



PLANNING DEPARTMENT
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OFFICIAL NOTIFICATION OF DECISION

September 12, 2019

Matthew Finkelstein
5431 Eakes Rd NW
Los Ranchos, NM 87107

Project #2019-002670
RZ-2019-00047 – Zone Map Amendment (Zone Change)

LEGAL DESCRIPTION:

The above action for all or a portion of Tract B4A, Academy Acres, Unit 5, zoned MX-T, to MX-H, located at 5700 Harper Dr NE, between Pan American Fwy and Harper Pl NE, containing approximately 3 acres. (E-18)
Staff Planner: Whitney Phelan

PO Box 1293 On September 12, 2019 the Environmental Planning Commission (EPC) voted to **APPROVE** Project# 2019-002670/RZ-2019-00047, a Zone Map Amendment (Zone Change), based on the following findings:

Albuquerque
FINDINGS:

NM 87103

www.cabq.gov

1. This is a request for a Zoning Map Amendment (Zone Change) for Tract B4A, Academy Acres Unit 5 located at 5700 Harper Dr NE and containing approximately 3 acres. The subject site is on the south side of Harper Dr NE between Pan American Fwy and Harper Pl NE and is sometimes referred to as Northpointe Plaza.
2. The subject site is in an area that the Comprehensive Plan designated an Area of Change. The site is also located within the San Mateo Blvd Major Transit Corridor as designated by the Comprehensive Plan.
3. The subject site is zoned MX-T (Mixed-Use Transition Zone); primary land uses include destination medical offices. The applicant is requesting a zone change to MX-H (Mixed-Use High Intensity) in order to redevelop the subject site. The purpose of the MX-H zone is to provide for large-scale destination retail and high-intensity commercial, residential, light industrial, and institutional uses, as well as high-density residential uses, particularly along Transit Corridors and in Urban Centers.
4. The current multi-story office building is nonconforming as to height in MX-T, which allows 35 feet maximum building height. MX-H allows 65 feet building height maximum, which would allow redevelopment of the existing building to include additional square footage at the upper levels to preserve existing parking.

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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 request generally furthers the following, applicable Comprehensive Plan Goal and policy with respect to Centers & Corridors:

- a. Goal 5.1: Centers & Corridors: Grow as a community of strong Centers connected by a multi-modal network of Corridors. Policy 5.1.2: Development Areas: Direct more intense growth in 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, San Mateo Blvd, which is intended to receive more intense growth. The MX-H will allow a variety of commercial, service, and residential uses to develop in an Area of Change, which would support and encourage transit usage.

- b. Policy 5.1.6: Activity Centers: Foster mixed-use centers of activity with a range of services and amenities that support healthy lifestyles and meet the needs of nearby residents and businesses.

The subject site, while not located within the Far North Activity Center boundaries, would add to the Center by increasing the mix of permissive and conditional uses directly adjacent to the completely built out Center. The ability to redevelop the site as the applicant has described above, would add to and not detract from the current development pattern of the Activity Center. The additional uses allowed in MX-H would provide services and amenities to nearby residential and commercial uses.

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

The subject site is located within a designated Major Transit Corridor, San Mateo Blvd. This requested change to MX-H would allow additional uses that would complement high-frequency transit service and pedestrian-oriented development. The property to the north hosts a Presbyterian Urgent Care with patients and staff, the property to the east is developed with multi-family apartments, and the property to the west is a hotel with guests and employees on a regular basis. The proposed uses would create amenities and commercial services that would serve the surrounding development.

7. The request furthers the following, applicable Comprehensive Plan Goal and policy with respect to Complete Communities:
 - a. Goal 5.2: Complete Communities: Foster communities where residents can live, work, learn, shop and play together.

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The request to rezone the subject site to MX-H would allow a greater range of uses than the current zone. The purpose of the MX-H zone district is to provide for large-scale destination retail and high-intensity commercial, residential, light industrial, and institutional uses, as well as high-density residential uses. These additional uses could develop on the subject site and help strengthen the community by providing more opportunities where residents can live, work, learn, shop, 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 to rezone the subject site to MX-H would allow a greater range of uses than the current zone. The purpose of the MX-H zone district is to provide for large-scale destination retail and high-intensity commercial, residential, light industrial, and institutional uses, as well as high-density residential uses, particularly along Transit Corridors and in Urban Centers. The MX-H zone district is intended to allow higher-density infill development in appropriate locations. The redevelopment of the site, with an existing 65' tall building will allow a broad range of services at a high density along a Major Transit Corridor and adjacent to MX-H to the north.

- 8. The request furthers the following, applicable Comprehensive Plan Goal and policy with respect to efficient development patterns:

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.

The request would facilitate redevelopment of the subject site, which is located in an area already served by existing infrastructure and public facilities. Additional growth would be considered infill development due to the subject site's location adjacent to an Activity Center that has been developed since the late 1970's. Infill development is an efficient use of land that supports the public good because it promotes an efficient development pattern.

- 9. The request generally furthers the following, applicable Comprehensive Plan policy with respect to Auto Demand:

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 mixed-use development and infill development, which could generally help reduce the need for automobile travel. Though the development

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would not be in a designated Activity Center as intended, the subject site is located along a Major Transit Corridor, which could encourage more transit usage.

10. The request generally furthers the following, applicable Comprehensive Plan policy with respect to 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, but there is an existing multi-story building on the site. There is no way to evaluate future 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 on the subject site today.

11. The request generally furthers the following, applicable Comprehensive Plan Goal and policy with respect to Urban Design:

- a. **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-H zone allows for a greater variety of business, commercial, and residential uses that would support such a place. Higher-density residential uses are considered a component of placemaking because they support business and may attract talent. MX-T, while allowing some higher intensity forms of low-density residential, also allows single-family dwellings, which would be an inappropriate use given the surrounding zones, adjacency to an Activity Center and location along a Major Transit Corridor.

- b. **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, 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-H zone, which would generally contribute to a robust, resilient, and diverse economy.

12. The applicant has adequately justified the request pursuant to the Integrated Development Ordinance (IDO) Section 6-7(F)(3)-Review and Decision Criteria for Zoning 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 applicable Comprehensive Plan Goals and policies (and other plans if applicable) and does not significantly conflict with them.**

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The applicant has adequately demonstrated, in his policy-based response, that the request would be consistent with the City's health, safety, morals and general welfare.

- B. Criterion B: The subject site is located wholly in an Area of Change, so this criterion does not apply.
- C. Criterion C: A different zone district (MX-H) would generally be more advantageous to the community as a whole than the existing zoning (MX-T), which the applicant's policy analysis has shown to be inappropriate, because the request would help implement applicable Goals and policies that call for directing development to Areas of Change and along designated Transit Corridors. The MX-H zone allows High Density Residential, Taproom or Tasting Room, Restaurant, Grocery Store, and Small and Medium Retail permissively, where MX-T only allows them conditionally or not at all. The additional uses allowed by the MX-H zone would help the intended development density and intensity become a reality in such areas.
- D. Criterion D: The requested zone (MX-H) includes a greater variety of non-residential uses than the existing MX-T zone as well as high density multi-family. The zones differ with respect to permissive commercial uses. In MX-T, only Office, Small Personal and Business Services, and low-density residential uses are allowed permissively. In MX-H, General Retail, Small and General Retail, Medium are allowed. General Retail, Large is a conditional use in MX-H. Other differences between the two zones (mixed-use transition and mixed-use high intensity) are as follows: a bar, artisan manufacturing, light vehicle fueling station, and light vehicle sales and rental, pawn shop, and transit facility are either not allowed or are conditional uses in the MX-T zone but become permissive uses in the MX-H zone. Hospital, catering service, and nightclub are not allowed in MX-T, but are permissive in MX-H. Liquor retail is not allowed in MX-T, but is a permissive use in MX-H. The following uses are often considered harmful to adjacent property, the neighborhood, or the community: bar, light vehicle fueling station, light vehicle sales and rental, pawn shop, nightclub, liquor retail, artisan manufacturing and carwash. As the applicant stated, future development on the subject site would be required to comply with applicable IDO regulations, including Use-Specific Standards and Parking requirements that would protect or help mitigate any affects to the neighboring Multi-Family development.
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.
- E. Criterion E: Requirement 1 applies. The subject site is already currently developed for uses more intense than what are allowed in the current zone. The zone change would also allow the property owner to redevelop the property in a manner that preserved existing parking to accommodate additional uses. If not, the applicant would be required to enter into a Development Agreement with the City to ensure that adequate infrastructure capacity will become available.
- F. Criterion F: The applicant's justification is not completely based on the subject site's location on Carlisle Blvd. NE, a Minor Arterial. Rather, the justification is based on the

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- request furthering a preponderance of applicable Comprehensive Plan Goals and policies as demonstrated in the response to Criterion A.
- G. Criterion G: Economic considerations are a factor, but the applicant's justification is not completely or predominantly based on the cost of land or economic considerations. Rather, the applicant has demonstrated that the request furthers a preponderance of applicable Comprehensive Plan Goals and policies.
- H. Criterion H: The request would not result in a spot zone because it would not apply a different zone (MX-H) to one premises, the property adjacent on the north side of the subject site is zoned MX-H.
13. The applicant's policy analysis adequately demonstrates that the request furthers a preponderance of applicable Goals and policies in the Comprehensive Plan and does not significantly conflict with it. Based on this demonstration, the proposed zone category would be more advantageous to the community than the current zoning. The other criteria of Section 6-7(F)(3) are also adequately addressed.
14. The affected neighborhood organizations are the Academy Acres North Neighborhood Association (NA), and the District 4 Coalition, which were notified as required. Property owners within 100 feet of the subject site were also notified as required.
15. As of this writing, Staff received one letter of support (see attachment). It is from a representative from the Nativo Lodge (zoned MX-L) property abutting the subject site to the west. The letter states that the MX-H zone is appropriate for the scale of the building. It also states that there are a large number of MX-H zoned properties immediate to the north and other close by properties to the south and west, thereby preventing a spot zone. The letter states that approval of the zone change request will allow the property owner to redevelop the property and allow it to evolve into a vibrant and activated property with amenities that will attract tenants and create a sense of community with neighboring properties.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **SEPTEMBER 27, 2019**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

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

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

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Sincerely,


For Brennon Williams
Planning Director

BW/WP

cc: Matt Finkelstein, 5431 Eakes Rd NW, Rio Rancho, NM 87107
Environmental Dynamics, Inc, Attn: Kent Beierle, 142 Truman St. NE, Suite A1, ABQ, NM 87108
Dist. 4 Coalition of NA's, Michael Pridham, 6413 Northland Ave. NE, ABQ, NM 87109
Dist. 4 Coalition of NA's, Daniel Regan, 4109 Chama St. NE, ABQ, NM 87109
Academy Acres North, NA, Irene Minke, 6504 Dungan Ave. NE, ABQ, NM 87109
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