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**Project-2020-003911,**  
**VA-2020-00144, VA-2021-00073**

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Mayor Timothy M. Keller

# CITY OF ALBUQUERQUE

Albuquerque, New Mexico

## Planning Department

### INTER-OFFICE MEMORANDUM

April 9, 2021

**TO:** Cynthia Borrego, President, City Council

**FROM:** Brennon Williams, Planning Director *BWilliams*

**SUBJECT:** AC-21-4, Project-2020-003911, VA-2020-00143, VA-2021-00072:  
Modulus Architects, agents for Jose Alfredo and Ailda Martinez, appeals the Zoning Hearing Examiners decision to deny a request for conditional use approval to allow for a light vehicle fueling station adjacent to a residential zone district for a parcel legally described as Lot Commercial Tract, Block 5, Los Altos Subdivision, located at an unaddressed parcel on Bridge Blvd. SW, (near the NW corner of Bridge Blvd. & Tower Rd. SW), zoned MX-M Mixed-Use Medium Intensity [Section 14-16-4-3(D)(17)(i) of the Integrated Development Ordinance]

### OVERVIEW

The Applicant, Modulus Architects on behalf of Jose Alfredo and Ailda Martinez, filed a request for conditional use approval to allow for a light vehicle fueling station adjacent to a residential zone district at the subject site. The request was scheduled and heard at the July 21, 2020, Zoning Hearing Examiner (ZHE) public hearing.

In the Notice of Decision issued August 5, 2020, the ZHE found that the matter should be continued to allow the Applicant and the public to timely submit additional evidence.

The matter was later heard at the August 18, 2020, public hearing and on September 2, 2020, the ZHE approved the request with conditions.

On September 17, 2020, the decision was appealed by the Los Altos Civic Association, and on October 29, 2020, the Land Use Hearing Officer (LUHO) heard the appeal and recommended that the City Council uphold the ZHE's decision and conditions, thereby denying the Appellant's appeal.

On December 7, 2020, the City Council heard the LUHO's recommendation and on December 16, 2020, issued a Notice of Decision to remand these matters to ZHE to address and enter findings on the IDO requirement that the light vehicle fueling use would not increase non-residential activity



within 300 feet of the adjacent residential zone districts between the hours of 8:00 pm – 6:00 am, as well as reevaluate the enforceability of the conditions of approval limiting liquor sales, and limiting the conditional use permit approval to a single operator.

On January 19, 2021, the matter was heard again by the ZHE. The resulting Notice of Decision, dated February 2, 2021, outlined the ZHE's determination that the application should be continued to allow the Applicant and the public to present evidence and legal argument regarding whether the ZHE's conditions of approval to be considered on remand may infringe upon the State of New Mexico's preemption of the field of the regulation of alcoholic beverage sales.

On February 16, 2021, the matter was again heard by the ZHE and his March 2, 2021, Notice of Decision determined that because the proposed conditions of approval would be required to mitigate the negative impacts of the requested use and because those conditions of approval would impermissibly infringe upon the State of New Mexico's preemption of the field of the regulation of alcoholic beverage sales, the Application should be denied.

On March 17, 2021, the Applicant's agent, Saucedo Chavez PC, appealed the ZHE's denial.

## **BASIS FOR APPEAL**

Section 14-16-6-4(V)(4) outlines the applicable criteria for the appeal in determining whether the Zoning Hearing Examiner erred in their decision:

### **6-4(V)(4) Criteria for Decision**

The criteria for review of an appeal shall be whether the decision-making body or the prior appeal body made one of the following mistakes:

- 6-4(V)(4)(a) The decision-making body or the prior appeal body acted fraudulently, arbitrarily, or capriciously.
- 6-4(V)(4)(b) The decision being appealed is not supported by substantial evidence.
- 6-4(V)(4)(c) The decision-making body or the prior appeal body erred in applying the requirements of this IDO (or a plan, policy, or regulation referenced in the review and decision-making criteria for the type of decision being appealed).

## **STAFF RESPONSE**

The reason for the appeal, excerpted from Appellant's letter, is listed below, with a bulleted, italicized response from the Planner for the ZHE. Please see the Appellant's letter and submittal packet for additional details.

**The ZHE erred in determining that the Applicant's own decision to limit the sale of alcohol to ensure compliance with the requirements of IDO section 14-6-6(A)(3) equates to an infringement of the State of New Mexico's preemption in the field of regulation of alcoholic beverage sales.**



- *The City Council remanded the case back to the ZHE to evaluate the enforceability of the conditions of approval limiting liquor sales.*
- *An applicant may volunteer limitations to obtain approval but it is incumbent on the ZHE to reduce those limitations to conditions of approval.*
- *The IDO empowers the ZHE to create conditions of approval to mitigate adverse impacts which then carry the force of law.*
- *The ZHE reasoned that because of the “Miniatures Case” (Lee Investments Inc., et al., v. City of Albuquerque, Case No, D-202-CV-2008-02996; Memorandum Opinion and Order dated May 22, 2008), and New Mexico Attorney General Opinion 80-23 (June 13, 1980), the conditions necessary for mitigation would be unenforceable by the City.*

/ Lorena Patten-Quintana /  
 Lorena Patten-Quintana, ZHE Planner  
 Office of the Zoning Hearing Examiner  
 City of Albuquerque Planning Department



# AC-21-4

Final Audit Report

2021-04-12

Created:	2021-04-12
By:	Lucinda Montoya (lucindamontoya@cabq.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAViA11nJUsgWH4tctmvTb4s4Q_8WE4YB

## "AC-21-4" History



Document created by Lucinda Montoya (lucindamontoya@cabq.gov)

2021-04-12 - 5:04:41 PM GMT- IP address: 73.98.36.191



Document emailed to BN Williams (bnwilliams@cabq.gov) for signature

2021-04-12 - 5:04:55 PM GMT



Document e-signed by BN Williams (bnwilliams@cabq.gov)

Signature Date: 2021-04-12 - 5:05:35 PM GMT - Time Source: server- IP address: 143.120.133.65



Agreement completed.

2021-04-12 - 5:05:35 PM GMT







CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district for Commercial Tract, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(17)(i)]

Special Exception No:..... **VA-2020-00143**  
Project No: ..... **Project#2020-003911**  
Hearing Date: ..... 02-16-21  
Closing of Public Record: ..... 02-16-21  
Date of Decision: ..... 03-02-21

On the 16th day of February, 2021, Modulus Architects, agent for property owner Jose Alfredo and Ailda Martinez (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district (“Application”) upon the real property located at 99999 Bridge Blvd SW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district.
2. The ZHE incorporates all findings of its Notification of Decision dated September 2, 2020, and its Notification of Decision dated February 2, 2021, as if fully set forth in this Notification of Decision, except as expressly stated differently in this Notification of Decision. If any conflict exists between the prior Notifications of Decision and this Notification of Decision, then this Notification of Decision prevails.
3. This matter came before the ZHE on continuance from the January 19, 2021 ZHE hearing, at which the ZHE received testimony and evidence on the Application addressing solely the non-increase non-residential activity.
4. The ZHE Notification of Decision dated February 2, 2021 continued this case to the ZHE’s February 16, 2021 hearing, to allow Applicant, appellants, and the public with the opportunity to address questions regarding state preemption of municipal conditions on liquor licenses and sales posed by *Baker, et al., v. City of Albuquerque* (also cited as *Lee Investments Inc., et al., v. City of Albuquerque*), Case No. D-202-2008-02996, Memorandum Opinion and Order, May 22, 2008 (decided under prior statute) (attached to the ZHE Notification of Decision dated February 2, 2021, as EXHIBIT A) (herein the “Miniatures Case”); and New Mexico Attorney General Opinion 80-23, June 13, 1980 (decided under prior statute) (available at <https://nmonesource.com/nmos/ag/en/14713/1/document.do>) (discussing impermissible municipal restriction on hours or mode of operation of New Mexico liquor license as condition to granting licensee waiver) (herein, the “AG Opinion”).



5. Other than Applicant's agent's testimony at the February 16, 2021 ZHE hearing that the Miniatures Case and the AG Opinion speak for themselves, the ZHE received no additional evidence, testimony or argument on the state preemption issue.
6. One resident of the neighborhood in the vicinity of the Subject Property appeared at the February 16, 2021 ZHE hearing and spoke against the Application for reasons already considered by the ZHE.
7. The ZHE finds that, on balance, Applicant would have met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3)(e), which requires that the proposed conditional use "*will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am,*" only if liquor retail use is restricted to prohibit liquor sales between the hours of 8:00 pm and 6:00 am.
8. However, as also discussed in the ZHE Notification of Decision in the companion case VA-2020-00144 dated February 2, 2021, the ZHE finds that the proposed liquor retail conditions of approval would impermissibly infringe upon the State of New Mexico's preemption of the field of the regulation of alcoholic beverage sales. *See* the Miniatures Case and the AG Opinion.
9. Essentially, the State has occupied the domain of regulation of liquor sales such that municipalities may act only as specifically authorized by statute. Here, the proposed conditions of approval are not specifically authorized by statute.
10. As stated in the Miniatures Case at page 8, while "local government has the power to approve or disapprove the location of the [liquor] licensed premises under [state statute]; the Legislature has not given municipalities the power to impose limitations, restrictions or conditions on a [liquor] license."
11. The proposed conditions of approval seek to impose "limitations, restrictions, or conditions" on a liquor license, and therefore those conditions of approval would be outside municipal authority to impose.
12. Because the proposed conditions of approval would be required to mitigate the negative impacts of the requested use, and because those conditions of approval would impermissibly infringe upon the State of New Mexico's preemption of the field of the regulation of alcoholic beverage sales, the ZHE finds that this Application should be denied.

#### DECISION:

DENIAL of a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district.

#### APPEAL:

If you wish to appeal this decision, you must do so by March 17, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when



you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



---

Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
ZHE File  
Zoning Enforcement  
Angela Williamson, [awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
Gerard Garcia, 5916 Rio Vista DR SW, 87121  
Bruce Stauder, 2909 Rio Vista Ct SW, 87105  
Patti Stauder, 2909 Rio Vista Ct SW, 87105  
Carmen Atencio, 1256 Cortez DR SW, 87121  
Dan Goering, 2802 Los Altos PL NW, 87105  
Diane Beserra, [dlbeserra@icloud.com](mailto:dlbeserra@icloud.com)  
Jennifer Kepesh, 1261 Cortez DR SW, 87105  
Victor Prado, 1261 Cortez DR SW, 87121  
Kelly Cockrell, [ninedogs@gmail.com](mailto:ninedogs@gmail.com)  
Athena La Roux, [athenalaroux@gmail.com](mailto:athenalaroux@gmail.com)





CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for liquor sale within 500 feet of residential for Lot B, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(36)(c)]

Special Exception No:..... **VA-2020-00144**  
Project No: ..... **Project#2020-003911**  
Hearing Date: ..... 02-16-21  
Closing of Public Record: ..... 02-16-21  
Date of Decision: ..... 03-02-21

On the 16th day of February, 2021, Modulus Architects, agent for property owner Jose Alfredo and Ailda Martinez (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for liquor sale within 500 feet of residential (“Application”) upon the real property located at 99999 Bridge Blvd SW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

**FINDINGS:**

1. Applicant is requesting a conditional use to allow for liquor sale within 500 feet of residential.
2. The ZHE incorporates all findings of its Notification of Decision dated September 2, 2020, and its Notification of Decision dated February 2, 2021, as if fully set forth in this Notification of Decision, except as expressly stated differently in this Notification of Decision. If any conflict exists between the prior Notifications of Decision and this Notification of Decision, then this Notification of Decision prevails.
3. This matter came before the ZHE on continuance from the January 19, 2021 ZHE hearing, at which the ZHE received testimony and evidence on the Application addressing solely the enforceability of the conditions of approval limiting liquor sales, and limiting the conditional use approval to a single operator.
4. The ZHE Notification of Decision dated February 2, 2021 continued this case to the ZHE’s February 16, 2021 hearing, to allow Applicant, appellants, and the public with the opportunity to address questions regarding state preemption of municipal conditions on liquor licenses and sales posed by *Baker, et al., v. City of Albuquerque* (also cited as *Lee Investments Inc., et al., v. City of Albuquerque*), Case No. D-202-2008-02996, Memorandum Opinion and Order, May 22, 2008 (decided under prior statute) (attached to the ZHE Notification of Decision dated February 2, 2021, as EXHIBIT A) (herein the “Miniatures Case”); and New Mexico Attorney General Opinion 80-23, June 13, 1980 (decided under prior statute) (available at <https://nmonesource.com/nmos/ag/en/14713/1/document.do>) (discussing impermissible municipal restriction on hours or mode of operation of New Mexico liquor license as condition to granting licensee waiver) (herein, the “AG Opinion”).



5. Other than Applicant's agent's testimony at the February 16, 2021 ZHE hearing that the Miniatures Case and the AG Opinion speak for themselves, no additional evidence, testimony or argument was presented on the state preemption issue.
6. One resident of the neighborhood in the vicinity of the Subject Property appeared at the February 16, 2021 ZHE hearing and spoke against the Application for reasons already considered by the ZHE.
7. The ZHE finds that, on balance and in light of the ZHE's other findings, Applicant would have met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3) only if conditions of approval were instituted to restrict liquor retail use by prohibiting liquor sales between the hours of 8:00 p.m. and 6:00 a.m., and also prohibiting sale of any intoxicating spirit and limit alcohol sales to only beer and wine.
8. However, as also discussed in the ZHE Notification of Decision in the companion case VA-2020-00143 dated February 2, 2021, the ZHE finds that these proposed liquor retail conditions of approval would impermissibly infringe upon the State of New Mexico's preemption of the field of the regulation of alcoholic beverage sales. *See* the Miniatures Case and the AG Opinion.
9. Essentially, the State has occupied the domain of regulation of liquor sales such that municipalities may act only as specifically authorized by statute. Here, the proposed conditions of approval are not specifically authorized by statute.
10. As stated in the Miniatures Case at page 8, while "local government has the power to approve or disapprove the location of the [liquor] licensed premises under [state statute]; the Legislature has not given municipalities the power to impose limitations, restrictions or conditions on a [liquor] license."
11. The proposed conditions of approval seek to impose "limitations, restrictions, or conditions" on a liquor license, and therefore those conditions of approval would be outside municipal authority to impose.
12. Because the proposed conditions of approval would be required to mitigate the negative impacts of the requested use, and because those conditions of approval would impermissibly infringe upon the State of New Mexico's preemption of the field of the regulation of alcoholic beverage sales, the ZHE finds that this Application should be denied.

#### DECISION:

DENIAL of a conditional use to allow for liquor sale within 500 feet of residential.

#### APPEAL:

If you wish to appeal this decision, you must do so by March 17, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional



use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



---

Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
Angela Williamson, [awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
Gerard Garcia, 5916 Rio Vista DR SW, 87121  
Bruce Stauder, 2909 Rio Vista Ct SW, 87105  
Patti Stauder, 2909 Rio Vista Ct SW, 87105  
Carmen Atencio, 1256 Cortez DR SW, 87121  
Dan Goering, 2802 Los Altos PL NW, 87105  
Diane Beserra, [dlbeserra@icloud.com](mailto:dlbeserra@icloud.com)  
Jennifer Kepesh, 1261 Cortez DR SW, 87105  
Victor Prado, 1261 Cortez DR SW, 87121  
Kelly Cockrell, [ninedogs@gmail.com](mailto:ninedogs@gmail.com)  
Athena La Roux, [athenalaroux@gmail.com](mailto:athenalaroux@gmail.com)





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 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)
		<b>Appeals</b>
		<input checked="" type="checkbox"/> Decision by EPC, LC, ZHE, or City Staff (Form A)

### APPLICATION INFORMATION

Applicant: Jose Alfredo and Ailda Martinez		Phone: 505-610-4147
Address: 3500 Bareback PL SW		Email: zapateriapedrito@hotmail.com
City: Albuquerque	State: NM	Zip: 87105
Professional/Agent (if any): Modulus Architects, Inc. Angela Williamson / SaucedoChavez, P.C.		Phone: 505-338-1499
Address: 100 Sun Ave. NE Ste. 600		Email: awilliamson@modulusarchitects.com
City: Albuquerque	State: NM	Zip: 87109
Proprietary Interest in Site: Owner	List <u>all</u> owners:	

### BRIEF DESCRIPTION OF REQUEST

Appeal of denial of VA-2020-00143 dated March 2, 2021 and
Appeal of denial of VA-2020-00144 dated March 2, 2021

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

Lot or Tract No.: Commercial Tract B	Block: 5	Unit:
Subdivision/Addition: Los Altos	MRGCD Map No.:	UPC Code: 101105624937420702
Zone Atlas Page(s): L-11-Z	Existing Zoning: MX-M	Proposed Zoning:
# of Existing Lots:	# of Proposed Lots:	Total Area of Site (acres):

### LOCATION OF PROPERTY BY STREETS

Site Address/Street: 99999 Bridge Blvd. SW	Between:	and:
--	----------	------

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

Project #2020-003911, VA-2020-00143, VA-2020-00144	
Signature: <i>Christopher T. Saucedo</i>	Date: 3-17-2021
Printed Name: Christopher T. Saucedo (SaucedoChavez, P.C.)	<input type="checkbox"/> Applicant or <input checked="" type="checkbox"/> Agent

### FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees	Case Numbers	Action	Fees
Meeting/Hearing Date:			Fee Total:		
Staff Signature:		Date:	Project #		



## FORM A: Appeals

**Complete applications for appeals will only be accepted within 15 consecutive days, excluding holidays, after the decision being appealed was made.**

- ☐ APPEAL OF A DECISION OF CITY PLANNING STAFF (HISTORIC PRESERVATION PLANNER) ON A HISTORIC CERTIFICATE OF APPROPRIATENESS – MINOR TO THE LANDMARKS COMMISSION (LC)
- ☐ APPEAL OF A DECISION OF CITY PLANNING STAFF ON AN IMPACT FEE ASSESSMENT TO THE ENVIRONMENTAL PLANNING COMMISSION (EPC)
- ☒ APPEAL TO CITY COUNCIL THROUGH THE LAND USE HEARING OFFICER (LUHO)

\_\_\_ Interpreter Needed for Hearing? \_\_\_ if yes, indicate language: \_\_\_\_\_

X A Single PDF file of the complete application including all documents being submitted must be emailed to [PLNDRS@cabq.gov](mailto: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. PDF shall be organized with the Development Review Application and this Form A at the front followed by the remaining documents in the order provided on this form.

X Project number of the case being appealed, if applicable: 2020-003911

X Application number of the case being appealed, if applicable: VA-2020-00143 and VA-2020-00144

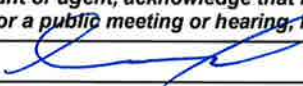

X Type of decision being appealed: ZHE Denial of Variance

X Letter of authorization from the appellant if appeal is submitted by an agent

X Appellant's basis of standing in accordance with IDO Section 14-16-6-4(V)(2)

X Reason for the appeal identifying the section of the IDO, other City regulation, or condition attached to a decision that has not been interpreted or applied correctly, and further addressing the criteria in IDO Section 14-16-6-4(V)(4)

X Copy of the Official Notice of Decision regarding the matter being appealed

<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: <u>3-17-2021</u>
Printed Name: <u>Daniel Apodaca (Santobachavez, P.C.)</u>	<input type="checkbox"/> Applicant or <input checked="" type="checkbox"/> Agent
<b>FOR OFFICIAL USE ONLY</b>	
Case Numbers:	Project Number:
Staff Signature:	
Date:	



Jennifer Bridges  
Vice President Asset Development  
870-875-7602  
jennifer.bridges@murphyusa.com



March 16, 2021

City of Albuquerque  
Mr. Steven M. Chavez, Esq.  
Land Use Hearing Officer  
600 2<sup>nd</sup> St. NW  
Albuquerque, NM 87102

**Re: Agent Authorization Notice-Project #2020-003911**

To Whom It May Concern,

Murphy Oil USA, Inc., hereby authorize SaucedoChavez, P.C. to act as agent on matters pertaining to any and all submittals to the City of Albuquerque regarding the above referenced Project. SaucedoChavez, P.C. will serve as our agent alongside Angela Williamson, CEO with Modulus Architects, Inc.

This authorization is valid until further written notice from Murphy Oil, or SaucedoChavez, P.C.

Sincerely,

DocuSigned by:  
  
6291C866B20D493...

Jennifer Bridges  
VP, Asset Development

JB/lh



Zoning Hearing Examiner  
City of Albuquerque  
600 2<sup>nd</sup> Street NW  
Albuquerque, NM 87102


**Re: Agent Authorization Notice – BRIDGE BLVD SW ALBUQUERQUE NM 87121**

To Whom It May Concern,

Martinez Jose Alfredo & Ailda, hereby authorizes Angela Williamson, CEO with Modulus Architects, Inc., to perform as the Agent of Record with the City of Albuquerque. This Agent Authorization is for the property located at: BRIDGE BLVD SW ALBUQUERQUE NM 87121 and legally described as: A TRACT OF LAND LYING WEST OF & ADJ TO TRS A & B LOS ALTOSADDN BLK 5 EXC LOT 12 & THE WESTERLY 26.2 FT OF LOT 13CONT 29475 SF M/L

This authorization is valid until further written notice from Martinez Jose Alfredo & Ailda or Angela Williamson, CEO with Modulus Architects, Inc. (Agent). Please direct all correspondence and communication to our Agent for the purpose of this request for a Conditional Use Permit.

Sincerely,

  
Martinez Jose Alfredo & Ailda  
108 Gore Ave SE  
Albuquerque NM 87105



Zoning Hearing Examiner  
City of Albuquerque  
600 2<sup>nd</sup> Street NW  
Albuquerque, NM 87102

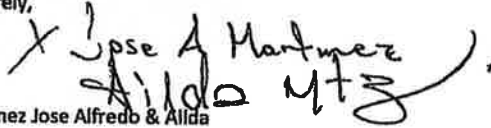
**Re: Agent Authorization Notice – 1021 OLD COORS DR SW ALBUQUERQUE NM 87121**

To Whom It May Concern,

Martinez Jose Alfredo & Ailda, hereby authorizes Angela Williamson, CEO with Modulus Architects, Inc., to perform as the Agent of Record with the City of Albuquerque. This Agent Authorization is for the property located at: 1021 OLD COORS DR SW ALBUQUERQUE NM 87121 and legally described as: TRACT "B" BLK 5 LAND DIVISION PLAT LOS ALTOS SUBD (LOT 14 & PORT LOT 13 & PORT COMMERCIAL RACT BLK 5) CONT 0.6510 AC.

This authorization is valid until further written notice from Martinez Jose Alfredo & Ailda or Angela Williamson, CEO with Modulus Architects, Inc. (Agent). Please direct all correspondence and communication to our Agent for the purpose of this request for a Conditional Use Permit.

Sincerely,

Handwritten signature of Jose A. Martinez and Ailda MTG. The signature is written in black ink and includes the names "Jose A. Martinez" and "Ailda MTG" with a large, stylized flourish.

Martinez Jose Alfredo & Ailda  
3500 Bareback PL SW  
Albuquerque NM 87105





**SaucedoChavez, P.C.**

Christopher T. Saucedo  
[csaucedo@saucedochavez.com](mailto:csaucedo@saucedochavez.com)

March 15, 2021

Mr. Steven M. Chavez, Esq.  
Land Use Hearing Officer  
Albuquerque City Council  
P.O. Box 1293, Room 9087  
Albuquerque, New Mexico 87103

**Re: Project # 2020-003911: Appeal of VA-2020-00143 and VA-2020-00144-Denial March 2, 2021**

Dear Mr. Chavez:

The ZHE erred in determining that the Applicant's own decision to limit the sale of alcohol to ensure compliance with the requirements of IDO section 14-16-6-6(A)(3) equates to an infringement of the State of New Mexico's preemption in the field of regulation of alcoholic beverage sales.

Please allow this letter to serve as an application to appeal the Zoning Hearing Examiner's ("ZHE") March 2, 2021, denials of requested variances. This firm represents Jose Alfredo and Ailda Martinez ("Appellants") with respect to their request for two variances: 1) the request for a conditional use to allow for a light vehicle fueling station adjacent to a residential zone; and 2) the request for a conditional use to allow for liquor sales within 500 feet of a residential zone. The real property in question is located at 99999 Bridge Blvd. SW. Please consider this appeal to be timely filed as it was submitted prior to 5:00 P.M. on March 17, 2021, when the fifteen day appeal deadline is set to expire. The ZHE's Notification of Decision for special exception number VA-2020-00143 is attached as **Exhibit A**. The ZHE's Notification of Decision for special exception number VA-2020-0144 is attached as **Exhibit B**. Appellants have standing pursuant to 14-16-6-4(V)(2)(a)(1) to bring this appeal as they are the property owners of record at the 99999 Bridge Blvd. SW location.

### **Background**

Appellants own the property located at 99999 Bridge Blvd. S.W., which is zoned as a MX-M, Mixed-use-Moderate Intensity Zone District. It is the Appellants' intention to develop the property into a Murphy Oil light vehicle fueling station.

On December 16, 2020, this matter was remanded by the City Council to the ZHE "to re-evaluate the enforceability of the conditions of approval limiting liquor sales" specifically to allow the ZHE to address and enter findings related to IDO section 14-16-6-6(A)(3), and to determine

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whether the requested conditional use variances would have any impact on non-residential activity within 300 feet of the adjacent residential zone between the hours of 8:00 p.m. and 6:00 a.m. *See* Notification of Decision dated February 2, 2021 attached as **Exhibit C**; *see also* Notice of Decision of City Counsel dated December 16, 2020 attached as **Exhibit D**. A hearing by the ZHE was heard on January 19, 2021 in which the ZHE received testimony and evidence related to the IDO inquiry from the City Council. At that January 19, 2021 hearing, applicants, through their agent, testified in support of the application and no other party presented testimony. As part of their defense of the application, applicants clarified that their gas pumps would not be open 24-hours and further noted that they would voluntarily limit alcohol sales from 8:00 p.m. to 6:00 a.m. to further ensure that there would not be an increase in nonresidential activity during those times.

The January 19, 2021 hearing was continued so that all parties could present evidence related to a potential legal issue of whether municipal restrictions as to the type and hour and sale of alcoholic beverages would encroach upon the state of New Mexico's preemption in the field of regulating alcohol beverage sales pursuant to the Liquor Control Act. On February 16, 2021, the ZHE heard further testimony related to the preemption issue. On March 2, 2021, the ZHE issued the two Notifications of Decision, in which it determined that based on the "Miniatures Case" (*Lee Investments Inc., et al., v. City of Albuquerque*, Case No. D-202-CV-2008-02996; Memorandum Opinion and Order dated May 22, 2008), and New Mexico Attorney General Opinion 80-23 (June 13, 1980), and ultimately concluded that the proposed conditions would "impermissibly infringe upon the State of New Mexico's preemption of the field of regulation of alcohol beverage sales." *See* Exhibits A, B ¶12. As more fully explained below, Appellants appeal that determination on the grounds that the proposed limitation of alcohol sales by applicants is not a City imposed regulation of alcohol beverage sales. Thus, there are no concerns of preemption by the State of New Mexico.

In issuing the denials in the two Notifications of Decisions (Exhibits A & B), the ZHE was rightfully concerned with whether the conditions in question would infringe on the State of New Mexico's ability to regulate and control the sale of alcoholic beverages. Though Appellants believe that as a matter of law a municipality has the right to limit the times in which alcoholic beverages can be sold without infringing on the State's ability to control the sale of liquor pursuant to the Liquor Control Act, such a determination does not need to be made in order to approve the application. Instead, this appeal focuses on the lack of conditions put on Appellant's liquor license by the City, leaving the question of preemption moot.

In reaching his conclusion, the ZHE's legal analysis relies upon the findings of a Memorandum Opinion and Order in the "Miniatures Case" and the New Mexico Attorney General Opinion 80-23. Both the Miniatures Case and the AG Opinion 80-23 questioned whether more restrictive municipal ordinance related to the sale of liquor would infringe upon the State's ability to control liquor sales. Specifically, the Miniatures Case looked at whether a 2005 Albuquerque zoning code that prohibited the sale of certain liquor within 500 feet of specific sites was preempted by the Liquor Control Act. AG Opinion 80-23 questioned whether a city council or board of county commissioners could enforce a limitation on the requirement under the Liquor Control Act that liquor not be sold within 300 feet of a school or church. In both the Miniatures Case, and the AG



Opinion the focus of the analysis centered around issues that the City's Ordinances conflicted with the Liquor Control Act, and were thus preempted. In the present matter, the City's Ordinance in question (IDO section 14-16-6-6(A)(3)) provides for review and decision criteria to determine if an application for conditional use should be accepted. Relevant to this matter, IDO Section 14-16-6-6(A)(3)(e) questions whether a project site will increase non-residential activity between the hours of 8:00 P.M. and 6:00 A.M.. Nothing within IDO Section 14-16-6-6(A)(3) limits the sale of alcohol, or otherwise attempts to expand or limit restrictions under the Liquor Control Act. Instead, in the present matter, in order to limit foot traffic and meet the requirement of the IDO, Appellants, as autonomous business owners, determined that they would not sell alcohol during the hours of 8:00 P.M. and 6:00 A.M. to limit foot traffic. Although Appellants could have chosen an alternative method of limiting foot traffic (such as closing gas or closing the store generally), they determined, as a business decision, that the limitation of sale of alcohol during the hours in question would achieve the goal under 14-16-6-6(A)(3). Thus, it is not the City's ordinance that is limiting the sale of alcohol, it is the applicant's own decision that is limiting the sale. Applicants find no language in the Liquor Control Act that requires a license holder to remain open during all possible hours in which alcohol could be sold.

As noted in the Notifications of Determination, "Applicant would have met its burden of providing evidence to satisfy the IDO section 14-16-6-6(A)(3)(e)...only if liquor retail use is restricted to prohibit liquor sales between the hours of 8:00 P.M. and 6:00 A.M. Exhibit A, ¶ 7. Because the ZHE improperly determined that Applicants' own limitation related to the sale of liquor infringes on the State's ability to control liquor under the Liquor Control Act, there is no justifiable reason under law in which the applications in question should be denied. Appellants, therefor, respectfully request that the LUHO override the ZHE's decision and allow for the conditional use permits requested.

Very truly yours,

**SaucedoChavez, P.C.**

/s/ Christopher T. Saucedo,  
Christopher T. Saucedo





CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

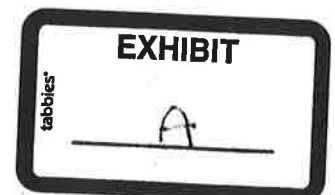
Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district for Commercial Tract, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(17)(i)]

Special Exception No:..... **VA-2020-00143**  
Project No: ..... **Project#2020-003911**  
Hearing Date: ..... 02-16-21  
Closing of Public Record: ..... 02-16-21  
Date of Decision: ..... 03-02-21

On the 16th day of February, 2021, Modulus Architects, agent for property owner Jose Alfredo and Ailda Martinez ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district ("Application") upon the real property located at 99999 Bridge Blvd SW ("Subject Property"). Below are the ZHE's finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district.
2. The ZHE incorporates all findings of its Notification of Decision dated September 2, 2020, and its Notification of Decision dated February 2, 2021, as if fully set forth in this Notification of Decision, except as expressly stated differently in this Notification of Decision. If any conflict exists between the prior Notifications of Decision and this Notification of Decision, then this Notification of Decision prevails.
3. This matter came before the ZHE on continuance from the January 19, 2021 ZHE hearing, at which the ZHE received testimony and evidence on the Application addressing solely the non-increase non-residential activity.
4. The ZHE Notification of Decision dated February 2, 2021 continued this case to the ZHE's February 16, 2021 hearing, to allow Applicant, appellants, and the public with the opportunity to address questions regarding state preemption of municipal conditions on liquor licenses and sales posed by *Baker, et al., v. City of Albuquerque* (also cited as *Lee Investments Inc., et al., v. City of Albuquerque*), Case No. D-202-2008-02996, Memorandum Opinion and Order, May 22, 2008 (decided under prior statute) (attached to the ZHE Notification of Decision dated February 2, 2021, as EXHIBIT A) (herein the "Miniatures Case"); and New Mexico Attorney General Opinion 80-23, June 13, 1980 (decided under prior statute) (available at <https://nmosource.com/nmos/ag/en/14713/1/document.do>) (discussing impermissible municipal restriction on hours or mode of operation of New Mexico liquor license as condition to granting licensee waiver) (herein, the "AG Opinion").





5. Other than Applicant's agent's testimony at the February 16, 2021 ZHE hearing that the Miniatures Case and the AG Opinion speak for themselves, the ZHE received no additional evidence, testimony or argument on the state preemption issue.
6. One resident of the neighborhood in the vicinity of the Subject Property appeared at the February 16, 2021 ZHE hearing and spoke against the Application for reasons already considered by the ZHE.
7. The ZHE finds that, on balance, Applicant would have met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3)(e), which requires that the proposed conditional use "*will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am,*" only if liquor retail use is restricted to prohibit liquor sales between the hours of 8:00 pm and 6:00 am.
8. However, as also discussed in the ZHE Notification of Decision in the companion case VA-2020-00144 dated February 2, 2021, the ZHE finds that the proposed liquor retail conditions of approval would impermissibly infringe upon the State of New Mexico's preemption of the field of the regulation of alcoholic beverage sales. *See* the Miniatures Case and the AG Opinion.
9. Essentially, the State has occupied the domain of regulation of liquor sales such that municipalities may act only as specifically authorized by statute. Here, the proposed conditions of approval are not specifically authorized by statute.
10. As stated in the Miniatures Case at page 8, while "local government has the power to approve or disapprove the location of the [liquor] licensed premises under [state statute]; the Legislature has not given municipalities the power to impose limitations, restrictions or conditions on a [liquor] license."
11. The proposed conditions of approval seek to impose "limitations, restrictions, or conditions" on a liquor license, and therefore those conditions of approval would be outside municipal authority to impose.
12. Because the proposed conditions of approval would be required to mitigate the negative impacts of the requested use, and because those conditions of approval would impermissibly infringe upon the State of New Mexico's preemption of the field of the regulation of alcoholic beverage sales, the ZHE finds that this Application should be denied.

#### DECISION:

DENIAL of a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district.

#### APPEAL:

If you wish to appeal this decision, you must do so by March 17, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when



you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



---

Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
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Zoning Enforcement  
Angela Williamson, [awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
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CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
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NOTIFICATION OF DECISION

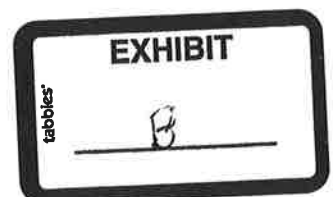
Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for liquor sale within 500 feet of residential for Lot B, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(36)(c)]

Special Exception No:..... **VA-2020-00144**  
Project No: ..... **Project#2020-003911**  
Hearing Date: ..... 02-16-21  
Closing of Public Record: ..... 02-16-21  
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On the 16th day of February, 2021, Modulus Architects, agent for property owner Jose Alfredo and Ailda Martinez ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a conditional use to allow for liquor sale within 500 feet of residential ("Application") upon the real property located at 99999 Bridge Blvd SW ("Subject Property"). Below are the ZHE's finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow for liquor sale within 500 feet of residential.
2. The ZHE incorporates all findings of its Notification of Decision dated September 2, 2020, and its Notification of Decision dated February 2, 2021, as if fully set forth in this Notification of Decision, except as expressly stated differently in this Notification of Decision. If any conflict exists between the prior Notifications of Decision and this Notification of Decision, then this Notification of Decision prevails.
3. This matter came before the ZHE on continuance from the January 19, 2021 ZHE hearing, at which the ZHE received testimony and evidence on the Application addressing solely the enforceability of the conditions of approval limiting liquor sales, and limiting the conditional use approval to a single operator.
4. The ZHE Notification of Decision dated February 2, 2021 continued this case to the ZHE's February 16, 2021 hearing, to allow Applicant, appellants, and the public with the opportunity to address questions regarding state preemption of municipal conditions on liquor licenses and sales posed by *Baker, et al., v. City of Albuquerque* (also cited as *Lee Investments Inc., et al., v. City of Albuquerque*), Case No. D-202-2008-02996, Memorandum Opinion and Order, May 22, 2008 (decided under prior statute) (attached to the ZHE Notification of Decision dated February 2, 2021, as EXHIBIT A) (herein the "Miniatures Case"); and New Mexico Attorney General Opinion 80-23, June 13, 1980 (decided under prior statute) (available at <https://nmosource.com/nmos/ag/en/14713/1/document.do>) (discussing impermissible municipal restriction on hours or mode of operation of New Mexico liquor license as condition to granting licensee waiver) (herein, the "AG Opinion").





5. Other than Applicant's agent's testimony at the February 16, 2021 ZHE hearing that the Miniatures Case and the AG Opinion speak for themselves, no additional evidence, testimony or argument was presented on the state preemption issue.
6. One resident of the neighborhood in the vicinity of the Subject Property appeared at the February 16, 2021 ZHE hearing and spoke against the Application for reasons already considered by the ZHE.
7. The ZHE finds that, on balance and in light of the ZHE's other findings, Applicant would have met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3) only if conditions of approval were instituted to restrict liquor retail use by prohibiting liquor sales between the hours of 8:00 p.m. and 6:00 a.m., and also prohibiting sale of any intoxicating spirit and limit alcohol sales to only beer and wine.
8. However, as also discussed in the ZHE Notification of Decision in the companion case VA-2020-00143 dated February 2, 2021, the ZHE finds that these proposed liquor retail conditions of approval would impermissibly infringe upon the State of New Mexico's preemption of the field of the regulation of alcoholic beverage sales. *See* the Miniatures Case and the AG Opinion.
9. Essentially, the State has occupied the domain of regulation of liquor sales such that municipalities may act only as specifically authorized by statute. Here, the proposed conditions of approval are not specifically authorized by statute.
10. As stated in the Miniatures Case at page 8, while "local government has the power to approve or disapprove the location of the [liquor] licensed premises under [state statute]; the Legislature has not given municipalities the power to impose limitations, restrictions or conditions on a [liquor] license."
11. The proposed conditions of approval seek to impose "limitations, restrictions, or conditions" on a liquor license, and therefore those conditions of approval would be outside municipal authority to impose.
12. Because the proposed conditions of approval would be required to mitigate the negative impacts of the requested use, and because those conditions of approval would impermissibly infringe upon the State of New Mexico's preemption of the field of the regulation of alcoholic beverage sales, the ZHE finds that this Application should be denied.

#### DECISION:

DENIAL of a conditional use to allow for liquor sale within 500 feet of residential.

#### APPEAL:

If you wish to appeal this decision, you must do so by March 17, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional



use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



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Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File

Zoning Enforcement

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CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district for Commercial Tract, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(17)(i)]

Special Exception No:..... **VA-2020-00143**  
Project No:..... **Project#2020-003911**  
Hearing Date:..... 01-19-21  
Closing of Public Record: ..... 01-19-21  
Date of Decision: ..... 02-02-21

On the 19th day of January, 2021, Modulus Architects, agent for property owner Jose Alfredo and Ailda Martinez (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district (“Application”) upon the real property located at 99999 Bridge Blvd SW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

**FINDINGS:**

1. Applicant is requesting a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district.
2. This matter came before the ZHE on remand by the City Council, pursuant to the Notice of Decision issued by the City Council in Case No. DAC-20-10, December 16, 2020 (the “Remand Order”).
3. The Remand Order states that the City Council voted to remand this case to the ZHE for the ZHE to address and enter findings on the IDO requirement that the requested light vehicle fueling use not increase non-residential activity within 300 feet of the adjacent residential zone districts between the hours of 8:00 p.m. and 6:00 a.m.
4. At the January 19, 2021 ZHE hearing, the ZHE received testimony and evidence on the Application, addressing solely the non-increase non-residential activity stated in finding 3, above.
5. The ZHE incorporates all findings of its Notification of Decision dated September 2, 2020, as if fully set forth in this Notification of Decision, except as expressly stated differently in this Notification of Decision. If any conflict exists between the Notification of Decision dated September 2, 2020 and this Notification of Decision, then this Notification of Decision prevails.
6. After the Remand Order and up until the January 19, 2020 ZHE hearing, the ZHE received no written evidence from applicant, opponents, or any other party addressing the Application.





7. Agent appeared at the January 19, 2020 ZHE hearing and testified in support of the Application.
8. No other party presented testimony at the January 19, 2020 ZHE hearing.
9. Applicant stated that this request will not increase non-residential activity within 300 feet of a lot in any Residential zone district between the hours of 8:00 PM and 6:00 AM, for the following reasons:
  - a. The property to the north, east and south are commercially zoned properties with commercial operations.
  - b. The proposed Murphy gas station is not a destination location, rather, consumers are only “passerby” traffic. As such, the proposed light fueling station would not increase the activity that is already active and present at this location.
  - c. Calculations by the Mid Region Council of Governments Current estimate that daily traffic volumes on Bridge Blvd. are currently 23,900 cars traveling past this site daily, and on Old Coors more than 16,200 cars traveling past this site daily.
  - d. Applicant clarified that the proposed store and pumps would not be open 24 hours a day, but rather would be limited to hours of operation of 5AM – Midnight.
  - e. Although alcohol sales may create a destination location, prohibiting alcohol sales between the hours of 8:00 pm and 6:00 am would further ensure there would be no significant increase in nonresidential activity during those times.
10. On balance, Applicant will have met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3)(d), which requires that the proposed conditional use “*will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am,*” if liquor retail use is restricted to prohibit liquor sales between the hours of 8:00 pm and 6:00 am.
11. However, as discussed in more detail in the ZHE Notification of Decision in the companion case VA-2020-00144 dated February 2, 2021, questions have arisen regarding whether municipal restriction of the type and hours of sale of alcoholic beverages, as expressed in the ZHE conditions of approval to be considered on remand, may infringe upon the State of New Mexico’s preemption of the field of the regulation of alcoholic beverage sales.
12. The ZHE finds that this Application should be continued, to allow Applicant and the public to present evidence and legal argument regarding whether the ZHE conditions of approval to be considered on remand may infringe upon the State of New Mexico’s preemption of the field of the regulation of alcoholic beverage sales.

#### DECISION:

CONTINUANCE of the Application to be heard at the ZHE hearing at 9:00 a.m. on February 16, 2021.

#### APPEAL:

If you wish to appeal this decision, you must do so by February 17, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.



Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



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NOTIFICATION OF DECISION

Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for liquor sale within 500 feet of residential for Lot B, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(36)(c)]

Special Exception No:..... **VA-2020-00144**  
Project No: ..... **Project#2020-003911**  
Hearing Date: ..... 01-19-21  
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**FINDINGS:**

1. Applicant is requesting a conditional use to allow for liquor sale within 500 feet of residential.
2. This matter came before the ZHE on remand by the City Council, pursuant to the Notice of Decision issued by the City Council in Case No. DAC-20-11, December 16, 2020 (the "Remand Order").
3. The Remand Order states that the City Council voted to remand this case to the ZHE for the ZHE to reevaluate the enforceability of the conditions of approval limiting liquor sales, and limiting the conditional use approval to a single operator.
4. At the January 19, 2021 ZHE hearing, the ZHE received testimony and evidence on the Application, addressing solely the conditions stated in finding 3, above.
5. The ZHE incorporates all findings of its Notification of Decision dated September 2, 2020, as if fully set forth in this Notification of Decision, except as expressly stated differently in this Notification of Decision. If any conflict exists between the Notification of Decision dated September 2, 2020 and this Notification of Decision, then this Notification of Decision prevails.
6. After the Remand Order and up until the January 19, 2020 ZHE hearing, the ZHE received no written evidence from applicant, opponents, or any other party addressing the Application.
7. Agent appeared at the January 19, 2020 ZHE hearing and testified in support of the Application.
8. No other party presented testimony at the January 19, 2020 ZHE hearing.
9. The ZHE September 2, 2020 Notification of Decision adopted the following conditions of approval:



- a. The approved conditional use is personal to Murphy USA and does not run with the land.
  - b. The subject property must adhere to the Use Specific Standards set forth in IDO 4-3(D)(17) Light Vehicle Fueling Station.
  - c. Murphy USA must follow the model of the Smart Policing Initiatives and adopt and comply with the CPTED (Crime Prevention through Environmental Design) crime prevention program Applicant, as described in its submittals, cited above.
  - d. Murphy USA must hire an engineering firm to conduct a photometric study that will ensure that there is no light pollution from the subject property onto neighboring properties.
  - e. Murphy USA must add landscape buffers to ensure the safety and privacy of adjacent residential neighborhoods and neighboring properties.
  - f. Murphy USA must place and monitor security cameras in indoor and outdoor areas of the subject property, and to monitor such security cameras on a 24-hours a day, 7-days a week basis.
  - g. Murphy USA may not sell any intoxicating spirit and must limit its alcohol sales to beer and wine, only.
  - h. Any liquor retail use is restricted to prohibit the sale of alcohol between 8:00 pm and 6:00 am.
10. As to the ZHE September 2, 2020 Notification of Decision condition that “the approved conditional use is personal to Murphy USA and does not run with the land”:
- a. IDO section 14-16-6-4(W)(1) provides that, “[u]nless specified otherwise on the permit or approval document for a specific type of development approval, permits and approvals run with the land and are not affected by changes in ownership or the form of ownership of the property.” (Emphasis added).
  - b. Thus, because an approval may “specif[y] otherwise,” the IDO expressly contemplates that a particular approval may be stated to break with the default rule that approvals run with the land, and instead require that an approval be personal to the proposed operator.
  - c. Pursuant to IDO section 14-16-6-4(W)(1), the ZHE September 2, 2020 Notification of Decision on the Application expressly states that the approval is conditioned such that it is personal to Murphy USA and does not run with the land. This appears clear and unambiguous.
  - d. This condition is enforceable, because the City routinely verifies the identity of applicants and the ownership of real property that is are subjects of zoning applications, and such verification would appear to continue to be feasible and reasonable into the future.
11. The ZHE September 2, 2020 Notification of Decision condition that the “subject property must adhere to the Use Specific Standards set forth in IDO 4-3(D)(17) Light Vehicle Fueling Station” is enforceable, because the standards are expressly stated in the IDO and are definite.
12. The ZHE September 2, 2020 Notification of Decision condition that “Murphy USA must follow the model of the Smart Policing Initiatives and adopt and comply with the CPTED (Crime Prevention through Environmental Design) crime prevention program Applicant, as described in its submittals, cited above,” may pose difficulties to enforcement. This is because the CPTED by its nature is more of a policy document than a list of particular and



definite measures to be taken. However, examining the evidence and testimony submitted by Murphy regarding its proposed measures to be taken pursuant to CPTED, the following conditions are enforceable and targeted to mitigate potential harm: (a) Murphy USA must install and maintain a security monitoring system, with both interior and exterior surveillance cameras in place, that operates 24 hours a day, 7 days a week, and that is monitored by the Murphy home office; and (b) Murphy USA must maintain a constant presence of security on the premises during business hours to help prevent alcohol-related crime in the area. These conditions are enforceable, because they are definite, express, and easily verifiable with a simple physical inspection of the subject property. As to the cameras operating 24 hours a day, 7 days a week, and are monitored by the Murphy home office, a simple requirement of a certification by Murphy verifying that those conditions are satisfied would appear to suffice.

13. The ZHE September 2, 2020 Notification of Decision condition that “Murphy USA must hire an engineering firm to conduct a photometric study that will ensure that there is no light pollution from the subject property onto neighboring properties” is enforceable, because it is definite and because City enforcement staff may easily verify the same. These types of engineering studies and reports are routinely reviewed by City technical staff.
14. The ZHE September 2, 2020 Notification of Decision condition that “Murphy USA must add landscape buffers to ensure the safety and privacy of adjacent residential neighborhoods and neighboring properties” is enforceable, because it is definite and because City enforcement staff may easily verify whether Murphy has added the required landscape buffers.
15. The ZHE September 2, 2020 Notification of Decision condition that “Murphy USA must place and monitor security cameras in indoor and outdoor areas of the subject property, and to monitor such security cameras on a 24-hours a day, 7-days a week basis” is enforceable, because it is definite and City enforcement staff may easily verify by a simple physical inspection of the subject property whether the required cameras are installed, and, as to the cameras operating 24 hours a day, 7 days a week, and are monitored by the Murphy home office, a simple requirement of a certification by Murphy verifying that those conditions are satisfied would appear to suffice.
16. The ZHE September 2, 2020 Notification of Decision conditions that:
  - (i) “Murphy USA may not sell any intoxicating spirit and must limit its alcohol sales to beer and wine, only;” and
  - (ii) “any liquor retail use is restricted to prohibit the sale of alcohol between 8:00 pm and 6:00 am.;would appear enforceable from a practical perspective, because they are definite and unambiguous, and because a simple physical inspection of the subject property by City enforcement staff would reveal whether Murphy is in compliance.
17. However, questions have arisen regarding whether municipal restriction of the type and hours of sale of alcoholic beverages, as expressed in the two ZHE conditions of approval to be considered on remand cited in finding 16, immediately above, may infringe upon the State of New Mexico’s preemption of the field of the regulation of alcoholic beverage sales.
18. Specifically, the Second Judicial District Court, Bernalillo County, New Mexico, in a case striking down a municipal ban on the sale of liquor miniatures, stated that “the Supreme Court of New Mexico has recognized legislative ‘preemption in the field of the regulation



of liquor businesses.”” *Baker, et al., v. City of Albuquerque* (also cited as *Lee Investments Inc., et al., v. City of Albuquerque*), Case No. D-202-2008-02996, Memorandum Opinion and Order, May 22, 2008 (decided under prior statute) (attached for reference as EXHIBIT A) (herein the “Miniatures Case”); *see also* New Mexico Attorney General Opinion 80-23, June 13, 1980 (decided under prior statute) (available at <https://nmonesource.com/nmos/ag/en/14713/1/document.do>) (discussing impermissible municipal restriction on hours or mode of operation of New Mexico liquor license as condition to granting licensee waiver) (herein, the “AG Opinion”).

19. Essentially, the Miniatures Case and the AG Opinion appear to provide authority for the proposition that a municipality, even a home rule municipality, may not, as a condition of approval related to a liquor license, limit the types of alcoholic beverages to be sold nor the hours of sales.
20. The Applicant, appellants, and the public have not addressed the questions posed by the Miniatures Case or the AG Opinion regarding state preemption of municipal conditions on liquor licenses and sales.
21. The ZHE finds that this Application should be continued, to allow Applicant, appellants, and the public to present evidence and legal argument regarding whether the ZHE conditions of approval to be considered on remand may infringe upon the State of New Mexico legislature’s apparent preemption of the field of the regulation of alcoholic beverage sales.

#### DECISION:

CONTINUANCE of the Application to be heard at the ZHE hearing at 9:00 a.m. on February 16, 2021.

#### APPEAL:

If you wish to appeal this decision, you must do so by February 17, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



---

Robert Lucero, Esq.



Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement



**Notice of Decision  
City Council  
City of Albuquerque  
December 16, 2020**

**AC-20-11** Project PR-2020-003911, VA-2020-00144, VA-2020-00315: Los Altos Civic Association, Appeals The Zoning Hearing Examiners Decision To Approve A Conditional Use To Allow For Liquor Sale Within 500 Feet Of Residential For Commercial Tract, Block 5, Los Altos, Located At 99999 Bridge Blvd SW Zoned MX-M [Section 14-16-4-3(D)(36)(c)]

**Decision**

On December 7, 2020, by a vote of 9 FOR and 0 AGAINST the City Council voted to remand this matter to the Zoning Hearing Examiner to re-evaluate the enforceability of the conditions of approval limiting liquor sales, and limiting the conditional use permit approval to a single operator.

**IT IS THEREFORE ORDERED THAT THIS MATTER IS REMANDED TO THE ZONING  
HEARING EXAMINER**

**Attachments**

1. Action Summary from the December 7, 2020 City Council Meeting
2. Land Use Hearing Officer's Decision

A person aggrieved by this decision may appeal the decision to the Second Judicial District Court by filing in the Court a notice of appeal within thirty (30) days from the date this decision is filed with the City Clerk.



\_\_\_\_\_  
Patrick Davis, President  
City Council

Date: 12/16/20

Received by: Camille Condon  
City Clerk's Office

Date: 12/17/20

X:\CL\SHARE\CL-Staff\Legislative Staff\Reports\LUPZ\DAC-20-11.doc





# REQUEST FOR SPECIAL EXCEPTION

☐ Variance ☒ Conditional Use ☐ Other

Interpreter: ☐ Yes ☒ No

VA# 2020-00143

PR# 2020-003911

Date:		Received By: <u>Concepcion</u>	
Address of Request: 1021 Old Coors Dr. SW and Bridge Blvd. SW			
City: Albuquerque	<u>COMMERCIAL TRACT</u>	State: NM	Zip: 87121
Lot: Tract A & B	Block: 5	Zone: <u>NR-C &amp; MX-M</u> Map pg.L-11-Z	
Subdivision: Los Altos		UPC# <u>101105625735620702, 101105624937420702</u>	
Property Owner(s): MARTINEZ JOSE ALFREDO & AILDA			
Mailing Address: 3500 Bareback PL SW			
City: Albuquerque		State: NM	Zip: 87105
Phone: 505-610-4147		Email: Zapateriapedrito@hotmail.com	
Agent: Modulus Architects, Inc. Angela Williamson			
Mailing Address: 100 Sun Ave. NE Ste. 600			
City: Albuquerque		State: NM	Zip: 87109
Phone: 505-338-1499		Email: awilliamson@modulusarchitects.com	
Fee Total: <u>260.00</u>			

## Completed Application Requirements:

- ☒ Copy of relevant IDO section
- ☒ Letter of authorization (if agent representation)
- ☒ Proof of Pre-application Meeting (not required for a variance)
- ☒ Proof that neighborhood meeting requirements were met
- ☒ Proof that public notice requirements were met
- ☐ Photos (site and existing structures)
- ☒ Sketch plan
- ☒ Justification letter
- ☒ Sign posting

Approved for acceptance by: 

Date:

Hearing Date: JULY 21, 2020

ZONING OFFICIAL USE ONLY			
Request for exception to IDO Section: 14-16-43(D)(1)(i)			
Description of request: <u>Conditional Use to allow for a light vehicle fueling station adjacent to a Residential Zone District</u>			
<input type="checkbox"/> Ownership verified on AGIS	<input type="checkbox"/> Proof of ownership included	<input type="checkbox"/> Letter of authorization included	
Case history number(s) from AGIS: <u>1003639</u>			
APO:	CPO#	HPO#	VPO#
Wall variances not allowed in low-density residential development in these 2 areas per 5-7(D)(3)(e):			
1) CPO 3 and 2) Monte Vista / College View Historic Dist. - Mapped Area			
2) CPO-8 states walls no more than 3 feet high, but may request a variance			



**REQUEST FOR SPECIAL EXCEPTION**

☐ Variance ☒ Conditional Use ☐ Other

Interpreter: ☐ Yes ☒ No

VA# 2020-00144 PR# 2020-003911

<b>Date:</b>		<b>Received By:</b> <u>Concepcion Regalado</u>	
<b>Address of Request:</b> 1021 Old Coors Dr. SW and Bridge Blvd. SW			
<b>City:</b> Albuquerque	<u>COMMERCIAL TRACT</u>	<b>State:</b> NM	<b>Zip:</b> 87121
<b>Lot:</b> Tract A & B	<b>Block:</b> 5	<b>Zone:</b> NR-C & MX-M Map pg.L-11-Z	
<b>Subdivision:</b> Los Altos		<b>UPC#</b> <del>101105625735620703</del> , 101105624937420702	
<b>Property Owner(s):</b> MARTINEZ JOSE ALFREDO & AILDA			
<b>Mailing Address:</b> 3500 Bareback PL SW			
<b>City:</b> Albuquerque		<b>State:</b> NM	<b>Zip:</b> 87105
<b>Phone:</b> 505-610-4147		<b>Email:</b> Zapateriapedrito@hotmail.com	
<b>Agent:</b> Modulus Architects, Inc. Angela Williamson			
<b>Mailing Address:</b> 100 Sun Ave. NE Ste. 600			
<b>City:</b> Albuquerque		<b>State:</b> NM	<b>Zip:</b> 87109
<b>Phone:</b> 505-338-1499		<b>Email:</b> awilliamson@modulusarchitects.com	
<b>Fee Total:</b> <u>260.00</u>			

**Completed Application Requirements:**

- Copy of relevant IDO section
- Letter of authorization (if agent representation)
- Proof of Pre-application Meeting (not required for a variance)
- Proof that neighborhood meeting requirements were met
- Proof that public notice requirements were met
- Photos (site and existing structures)
- Sketch plan
- Justification letter
- Sign posting

**Approved for acceptance by:**

**Date:**

**Hearing Date:** JULY 21, 2020

<b>ZONING OFFICIAL USE ONLY</b>			
<b>Request for exception to IDO Section:</b> <u>14-16-4-3(D)(3)(c)(e)</u>			
<b>Description of request:</b> <u>Conditional Use to allow for liquor sale within 500 feet of Residential</u>			
<input type="checkbox"/> Ownership verified on AGIS	<input type="checkbox"/> Proof of ownership included	<input type="checkbox"/> Letter of authorization included	
<b>Case history number(s) from AGIS:</b> <u>1003639</u>			
<b>APO:</b>	<b>CPO#</b>	<b>HPO#</b>	<b>VPO#</b>
<b>Wall variances not allowed in low-density residential development in these 2 areas per 5-7(D)(3)(e):</b>			
1) CPO 3 and 2) Monte Vista / College View Historic Dist. - Mapped Area			
2) CPO-8 states walls no more than 3 feet high, but may request a variance			



4-3(D)(14)(b) Additional standards in Subsection 14-16-3-3(C) (Airport Protection Overlay Zone Use Regulations) may apply.

#### **4-3(D)(15) Car Wash**

4-3(D)(15)(a) A car wash building and any associated outdoor uses shall not be located within 50 feet of any Residential zone district or any lot containing a Residential use in any Mixed-use zone district.

4-3(D)(15)(b) Within 330 feet of Major Public Open Space, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).

4-3(D)(15)(c) Notwithstanding Subsection (a) above, this use is prohibited adjacent to Major Public Open Space.

4-3(D)(15)(d) This use is prohibited in the following mapped areas as noted.

1. Downtown Neighborhood Area – CPO-3
2. Sawmill/Wells Park – CPO-11

This use is prohibited in the MX-L zone district.

#### **4-3(D)(16) Heavy Vehicle and Equipment Sales, Rental, Fueling, and Repair**

4-3(D)(16)(a) This use must comply with stormwater quality requirements found in the DPM.

4-3(D)(16)(b) The lot must be graded and surfaced pursuant to DPM standards and shall be maintained in a level and serviceable condition.

4-3(D)(16)(c) This use must be screened as required by Subsection 14-16-5-6(G)(4) (Outdoor Storage Areas for Vehicles, Equipment, and Materials). The Planning Director may require a taller wall, fence, or vegetative screen to provide an adequate buffer for an abutting Residential zone district or lot containing a Residential use in any Mixed-use zone district from the reasonably anticipated visual or noise impacts of this use.

4-3(D)(16)(d) Vehicle repair shall be conducted within a building.

4-3(D)(16)(e) Any building that contains vehicle repair shall not be located within 25 feet of any Residential zone district or lot containing a Residential use in any Mixed-use zone district.

4-3(D)(16)(f) For fueling station canopies, all under-canopy lighting shall be recessed so that no light lens projects below the canopy ceiling. The canopy fascia shall not be internally illuminated.

4-3(D)(16)(g) If located within 330 feet of any Residential zone district, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).

4-3(D)(16)(h) This use is prohibited within 330 feet of Major Public Open Space.

#### **4-3(D)(17) Light Vehicle Fueling Station**

4-3(D)(17)(a) No inoperable vehicles shall be stored outside a building at any time.

4-3(D)(17)(b) This use must comply with stormwater quality requirements found in the DPM.



- 4-3(D)(17)(c) This use shall not be located where the only vehicle access to the lot is from a local street.
- 4-3(D)(17)(d) Each street that provides access to the lot shall have either 2 travel lanes in each direction or a center turn lane with access to the site.
- 4-3(D)(17)(e) Uses located on a corner lot with access from both streets shall have no more than one access point per frontage. Uses located mid-block or with access from only one street shall have no more than 2 access points from that street.
- 4-3(D)(17)(f) Access points shall be located no closer than 20 feet from any adjacent property that is not under common ownership.
- 4-3(D)(17)(g) Site access from a paved alley connecting to a public street is allowed provided that the access points from the site to the alley shall be a minimum of 25 feet from the intersection of the alley and the street.
- 4-3(D)(17)(h) For fueling station canopies, all under-canopy lighting shall be recessed so that no light lens projects below the canopy ceiling. The canopy fascia shall not be internally illuminated.
- 4-3(D)(17)(i) If located adjacent to any Residential zone district, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).
- 4-3(D)(17)(j) If located abutting or across an alley from any Residential zone district or lot containing a Residential use in any Mixed-use zone district, an opaque wall, fence, or vegetative screen at least 6 feet high is required.
- 4-3(D)(17)(k) In UC-AC-MS-PT-MT areas and the MX-H zone district, any building containing a retail use with 1,000 square feet or more of gross floor area shall have a maximum setback of 15 feet.
- 4-3(D)(17)(l) In UC-MS-PT areas, an opaque wall or vegetative screen at least 3 feet high shall be provided along all street frontages.
- 4-3(D)(17)(m) This use is prohibited within 330 feet of Major Public Open Space.
- 4-3(D)(17)(n) This use is regulated as noted in the following mapped areas.
  - 1. Downtown Neighborhood Area – CPO-3
    - a. This use is prohibited in the MX-M zone district.
    - b. This use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) in the MX-L zone district.
  - 2. East Gateway Area
    - This use is prohibited in the following mapped areas.



- i. Where patios are provided, at least 1 of the recessed walls shall contain a window for ease of surveillance and the patio shall contain shading and seating.
- ii. Where retail suite liners are provided, they shall be accessible to the public from the outside.
- b. Every 30,000 square feet of gross floor area shall be designed to appear as a minimum of 1 distinct building mass with different expressions. The varied building masses shall have a change in visible roof plane or parapet height. Massing and articulation are required to be developed so that no more than 100 feet of a wall may occur without a vertical offset of at least 24 inches.

#### 5. Signage

All signage shall be designed to be consistent with and complement the materials, color, and architectural style of buildings on the site.

- a. All freestanding signs shall be monument style, with a maximum height of 15 feet.
- b. Building-mounted signs shall consist of individual channel letters. Illuminated plastic panel signs are prohibited.

4-3(D)(34)(c) General retail, small is allowed as a permissive primary use in the MX-T zone district in the Old Town – HPO-5.

#### 4-3(D)(35) Grocery Store

4-3(D)(35)(a) For grocery stores larger than 50,000 square feet of gross floor area, the Use-specific Standards in Subsection 14-16-4-3(D)(34)(b) (Large Retail Facilities) also apply.

4-3(D)(35)(b) In the MX-L zone, this use is limited to establishments of no more than 15,000 square feet of gross floor area.

4-3(D)(35)(c) In the MX-M zone, this use is limited to establishments of no more than 70,000 square feet of gross floor area.

#### 4-3(D)(36) Liquor Retail

4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.

4-3(D)(36)(b) Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.

4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the

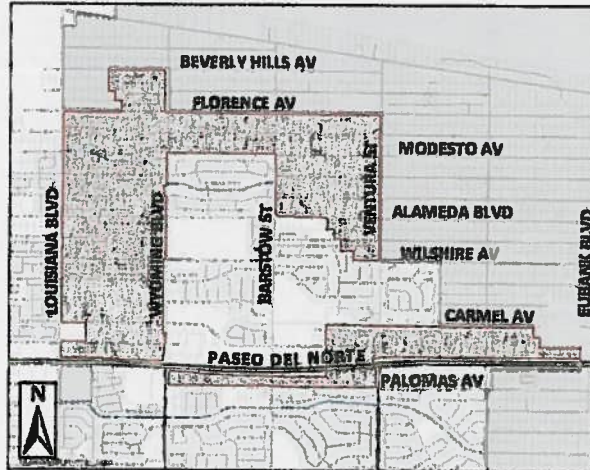


use to the nearest Residential or NR-PO zone district or lot containing a group home.

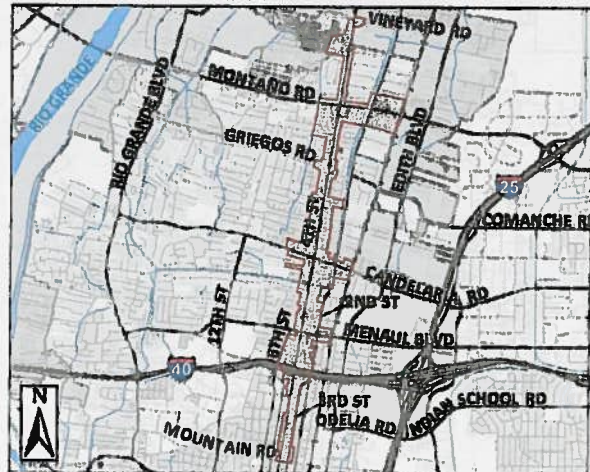
4-3(D)(36)(d) In the MX-T zone district, this use is limited to 10,000 square feet of gross floor area.

4-3(D)(36)(e) In the MX-L zone district, this use is prohibited, except in the following mapped areas, where it is allowed as accessory to a grocery store.

1. Downtown Neighborhood Area – CPO-3
2. East Downtown – CPO-4
3. East Downtown – HPO-1
4. La Cueva Area



5. North 4th Street Area



6. South Yale Area



## 6-6 DECISIONS REQUIRING A PUBLIC MEETING OR HEARING

### 6-6(A) CONDITIONAL USE APPROVAL

All applicable provisions of Section 14-16-6-4 (General Procedures) apply unless specifically modified by the provisions of this Subsection 14-16-6-6(A) or the DPM.

#### 6-6(A)(1) Applicability

- 6-6(A)(1)(a) This Subsection 14-16-6-6(A) applies to all applications for a use listed as conditional (i.e. Conditional Primary, Conditional Accessory, or Conditional Vacant if the application is filed after the primary building on the property has been vacant for 5 years or more) in Table 4-2-1. Conditional uses are only allowed if approved pursuant to this Subsection 14-16-6-6(A).

- 6-6(A)(1)(b) A Conditional Use Approval is only valid for the location stated in the application and cannot be transferred to a new location.

- 6-6(A)(1)(c) If an approved conditional use is discontinued for a period of 12 consecutive months, it may not be reestablished without a new Conditional Use Approval.

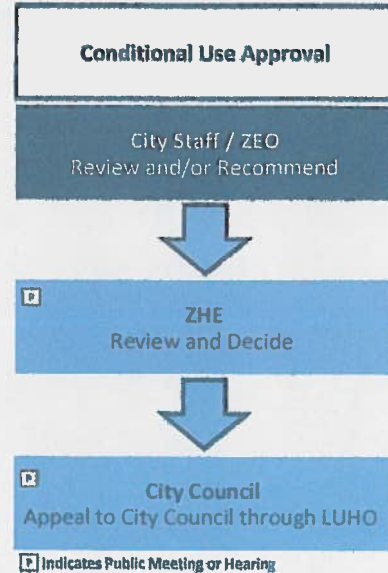
#### 6-6(A)(2) Procedure

- 6-6(A)(2)(a) The City Planning Department staff shall review the application and forward a recommendation to the ZHE pursuant to all applicable provisions of Section 14-16-6-4 (General Procedures).
- 6-6(A)(2)(b) The ZHE shall conduct a public hearing on the application and make a written decision on the application pursuant to all applicable provisions of Section 14-16-6-4 (General Procedures).

#### 6-6(A)(3) Review and Decision Criteria

An application for a Conditional Use Approval shall be approved if it meets all of the following criteria:

- 6-6(A)(3)(a) It is consistent with the adopted ABC Comp Plan, as amended.
- 6-6(A)(3)(b) It complies with all applicable provisions of this IDO, including but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in a prior permit or approval affecting the property.





- 6-6(A)(3)(c) It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.
- 6-6(A)(3)(d) It will not create material adverse impacts on other land in the surrounding area through increases in traffic congestion, parking congestion, noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts.
- 6-6(A)(3)(e) It will not increase non-residential activity within 300 feet of a lot in any Residential zone district between the hours of 8:00 P.M. and 6:00 A.M.
- 6-6(A)(3)(f) It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.

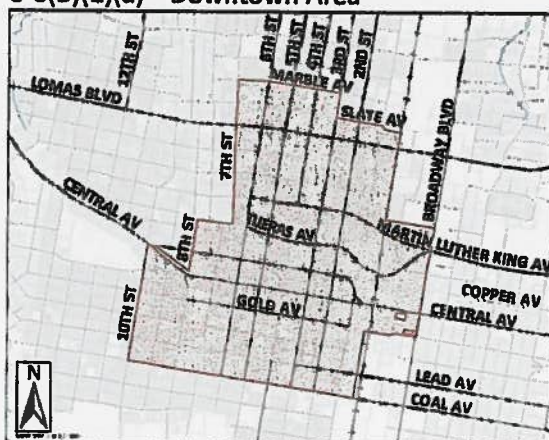
**6-6(B) DEMOLITION OUTSIDE OF AN HPO**

All applicable provisions of Section 14-16-6-4 (General Procedures) apply unless specifically modified by the provisions of this Subsection 14-16-6-6(B) or the DPM.

**6-6(B)(1) Applicability**

This Subsection 14-16-6-6(B) applies to demolition of structures that are at least 50 years old located within the following mapped areas, regardless of whether they are registered on a state or national historic register or are eligible for listing. If a structure is of unknown age, it shall be presumed that it is over 50 years old for the purposes of this Subsection 14-16-6-6(B).

**6-6(B)(1)(a) Downtown Area**





Zoning Hearing Examiner  
City of Albuquerque  
600 2<sup>nd</sup> Street NW  
Albuquerque, NM 87102

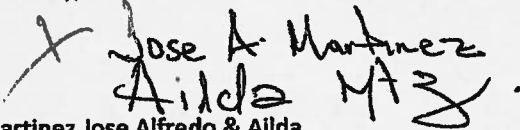
**Re: Agent Authorization Notice -- BRIDGE BLVD SW ALBUQUERQUE NM 87121**

To Whom It May Concern,

Martinez Jose Alfredo & Ailda, hereby authorizes Angela Williamson, CEO with Modulus Architects, Inc., to perform as the Agent of Record with the City of Albuquerque. This Agent Authorization is for the property located at: BRIDGE BLVD SW ALBUQUERQUE NM 87121 and legally described as: A TRACT OF LAND LYING WEST OF & ADJ TO TRS A & B LOS ALTOSADDN BLK 5 EXC LOT 12 & THE WESTERLY 26.2 FT OF LOT 13CONT 29475 SF M/L

This authorization is valid until further written notice from Martinez Jose Alfredo & Ailda or Angela Williamson, CEO with Modulus Architects, Inc. (Agent). Please direct all correspondence and communication to our Agent for the purpose of this request for a Conditional Use Permit.

Sincerely,

Handwritten signature of Jose A. Martinez and Ailda MTZ. The signature is written in black ink and includes the names "Jose A. Martinez" and "Ailda MTZ" with a stylized flourish.

Martinez Jose Alfredo & Ailda  
108 Gore Ave SE  
Albuquerque NM 87105



Zoning Hearing Examiner  
City of Albuquerque  
600 2<sup>nd</sup> Street NW  
Albuquerque, NM 87102

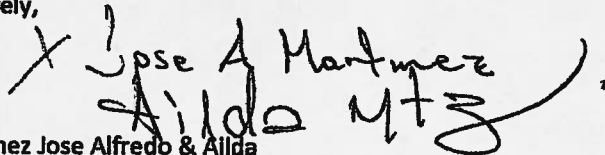
**Re: Agent Authorization Notice – 1021 OLD COORS DR SW ALBUQUERQUE NM 87121**

To Whom It May Concern,

Martinez Jose Alfredo & Ailda, hereby authorizes Angela Williamson, CEO with Modulus Architects, Inc., to perform as the Agent of Record with the City of Albuquerque. This Agent Authorization is for the property located at: 1021 OLD COORS DR SW ALBUQUERQUE NM 87121 and legally described as: TRACT "B" BLK 5 LAND DIVISION PLAT LOS ALTOS SUBD (LOT 14 & PORT LOT 13 & PORT COMMERCIAL RACT BLK 5) CONT 0.6510 AC.

This authorization is valid until further written notice from Martinez Jose Alfredo & Ailda or Angela Williamson, CEO with Modulus Architects, Inc. (Agent). Please direct all correspondence and communication to our Agent for the purpose of this request for a Conditional Use Permit.

Sincerely,

Handwritten signature of Jose A. Martinez and Ailda MTZ. The signature is written in black ink and includes the names "Jose A. Martinez" and "Ailda MTZ" in a cursive style.

Martinez Jose Alfredo & Ailda  
3500 Bareback PL SW  
Albuquerque NM 87105



**Planning, Zoning & Development Services**

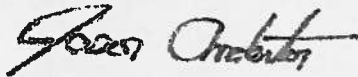
**Re: Agent Authorization Notice – Murphy Oil USA, Inc.**

**To Whom It May Concern,**

Murphy Oil USA, Inc., hereby authorizes Angela Williamson d/b/a Modulus Architects, Inc. to perform as the Agent of Record for Planning, Zoning & Development Services for current and prospective properties of Murphy Oil USA, Inc.

This authorization is valid until further written notice from Angela Williamson, Principal of Modulus Architects (Agent). Please direct any and all correspondence and communication to our Agent for these development services.

Sincerely,



Murphy Oil USA, Inc.

Texas & New Mexico

940-230-6447 – Cell

940-488-5112 – Office

[jason.anderton@murphyusa.com](mailto:jason.anderton@murphyusa.com)

[terry.rigdon@murphyusa.com](mailto:terry.rigdon@murphyusa.com)



PRE-APPLICATION REVIEW TEAM (PRT) MEETING NOTES

PA# 19-173 Date: 6/10/19 Time: 3pm

Address: 1021 Old Coors Dr. SW

AGENCY REPRESENTATIVES AT MEETING:

Planning: Whitney Rhelan

Code Enforcement: Carl

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-M + NR-C

Size: \_\_\_\_\_

Use: Gas Station + C-Store

Overlay Zone: \_\_\_\_\_

Comp Plan Area Of: \_\_\_\_\_

Comp Plan Corridor: \_\_\_\_\_

Comp Plan Center: \_\_\_\_\_

MPOS or Sensitive Lands: \_\_\_\_\_

Parking: \_\_\_\_\_

MR Area: \_\_\_\_\_

Landscaping: \_\_\_\_\_

Street Trees: \_\_\_\_\_

Use Specific Standards: \_\_\_\_\_

Dimensional Standards: \_\_\_\_\_

\*Neighborhood Organization/s: \_\_\_\_\_

*\*This is preliminary information only. Neighborhood Organization information is only accurate when obtained from the Office of Neighborhood Coordination (ONC) at [www.cabq.gov/neighborhoods/resources](http://www.cabq.gov/neighborhoods/resources).*

**PROCESS:**

Type of Action: Site Plan - Admin

Review and Approval Body: \_\_\_\_\_

Is this PRT a requirement? No






- Each parcel has its own zone, no floating zone line
- Approval process - Site Plan - Admin
- ② MX-M requirements 5 ft. min. front yard setback
- ② TIS - If it's more than 2306 SF then TIS is required
- ② Access: Table 3.2-2 New DPM (website/Planning Transp.)
- ② Parking cannot cross lot line (TCL Checklist DPM)
  - either remove line or remove parking
- ② To remove lot line - follow split zones
- ② To convert MX-M to NR-C - Zone Map Amendment through EPC
- ② Conditional Use for liquor retail in MX-M or NR-C








Gray Shading Represents Area Outside of the City Limits


 Easement
  Escarpment


 Petroglyph National Monument

 Areas Outside of City Limits

 Airport Protection Overlay (APO) Zone

 Character Protection Overlay (CPO) Zone

 Historic Protection Overlay (HPO) Zone

 View Protection Overlay (VPO) Zone



## Regina Okoye

**From:** Sanchez, Suzanna A. <suzannasanchez@cabq.gov>  
**Sent:** Wednesday, February 26, 2020 10:52 AM  
**To:** Regina Okoye  
**Subject:** ZHE Contacts for 1021 Old Coors  
**Attachments:** ZHE Public Noticing Req.pdf

Dear Applicant,

Below are the neighborhood associations that need to be notified of your ZHE application. Please use the attached Notice Handout for guidance.

You must give the neighborhood association 15 days to respond before you are able to submit your application.

Association Name	First Name	Last Name	Email	Alternate Email
Alamosa NA	Jerry	Gallegos	jgallegoswccdg@gmail.com	
Alamosa NA	Jeanette	Baca	jetbac@aol.com	
South West Alliance of Neighborhoods (SWAN Coalition)	Cherise	Quezada	cherquezada@yahoo.com	
South West Alliance of Neighborhoods (SWAN Coalition)	Jerry	Gallegos	jgallegoswccdg@gmail.com	
Westside Coalition of Neighborhood Associations	Rene	Horvath	aboard111@gmail.com	land@t
Westside Coalition of Neighborhood Associations	Harry	Hendriksen	hlhen@comcast.net	
South Valley Coalition of Neighborhood Associations	Roberto	Roibal	rroibal@comcast.net	
South Valley Coalition of Neighborhood Associations	Marcia	Fernandez	mbfernandez1@gmail.com	
Los Altos Civic Association	Dawn	Stracener	dstracener45@gmail.com	
Los Altos Civic Association	Athena	La Roux	Athena@athenalaroux.com	

Below is a list of property owners within 100+ feet of the subject property. Please use the Public Notice of Hearing letter in the attached Notice Handout to notify the property owners surrounding the subject property. Also, please provide a receipt from the post office as proof that letters were sent out.

Owner	Owner Address	Owner Address 2
SMI - ABQ RE LLC	16801 GREENSPPOINT PARK DR SUITE 376	HOUSTON TX 77060-2
GURROLA MARIA DE JESUS CAMPOS	5912 RIO VISTA CIR SW	ALBUQUERQUE NM 8
SMI - ABQ RE LLC	16801 GREENSPPOINT PARK DR SUITE 376	HOUSTON TX 77060-2
ATENCIO MICHAEL P & CARMEN R TRUSTEES ATENCIO RVT	1256 CORTEZ DR SW	ALBUQUERQUE NM 8
VIGIL RICHARD G & MARY HELEN	5904 RIO VISTA DR SW	ALBUQUERQUE NM 8
MARTINEZ JOSE ALFREDO & AILDA	108 GORE AVE SE	ALBUQUERQUE NM 8
MARTINEZ JOSE ALFREDO & AILDA	3500 BAREBACK PL SW	ALBUQUERQUE NM 8
MONTES DAVID & SYLVIA	1258 CORTEZ DR SW	ALBUQUERQUE NM 8
ARAGON MALANIE ROSE	1264 CORTEZ DR SW	ALBUQUERQUE NM 8



ATENCIO MICHAEL P & CARMEN R TRUSTEES ATENCIO RVT	1256 CORTEZ DR SW	ALBUQUERQUE NM
CORTEZ INEZ & MARTIN ALCALA	5908 RIO VISTA SW	ALBUQUERQUE NM
CARRILLO GABINO & MAGALY	2239 PAJARITO RD SW	ALBUQUERQUE NM
CIRCLE K STORES INC	5500 S QUEBEC ST SUITE 100	GREENWOOD VILLAGE 1914

Please let me know if you have any questions.

Thank you,

*Suzie Sanchez*



**SUZIE SANCHEZ**

zhe administrative assistant

o 505.924.3894

e [suzannasanchez@cabq.gov](mailto:suzannasanchez@cabq.gov)

[cabq.gov/planning](http://cabq.gov/planning)



CONTRERAS SAM A & VERONICA TRUSTEES  
CONTRERAS LVT  
1253 CORTEZ DR SW  
ALBUQUERQUE NM 87121

SMI - ABQ RE LLC  
16801 GREENSPPOINT PARK DR SUITE 376  
HOUSTON TX 77060-2310

GURROLA MARIA DE JESUS CAMPOS  
5912 RIO VISTA CIR SW  
ALBUQUERQUE NM 87121-3370

BACA FLORENCIO  
923 RIO VISTA CIR SW  
ALBUQUERQUE NM 87105-3323

ATENCIO MICHAEL P & CARMEN R TRUSTEES  
ATENCIO RVT  
1256 CORTEZ DR SW  
ALBUQUERQUE NM 87121

JOHNS DEWAYNE J & CAROLYN I  
2903 RIO VISTA CT SW  
ALBUQUERQUE NM 87105

VIGIL RICHARD G & MARY HELEN  
5904 RIO VISTA DR SW  
ALBUQUERQUE NM 87105

GARCIA GERARD  
5916 RIO VISTA DR SW  
ALBUQUERQUE NM 87121

MARTINEZ JOSE ALFREDO & AILDA  
108 GORE AVE SE  
ALBUQUERQUE NM 87105

HARLING CURTIS E  
905 RIO VISTA PL SW  
ALBUQUERQUE NM 87105-3329

MARTINEZ JOSE ALFREDO & AILDA  
3500 BAREBACK PL SW  
ALBUQUERQUE NM 87105

MONTES DAVID & SYLVIA  
1258 CORTEZ DR SW  
ALBUQUERQUE NM 87121

ARAGON MALANIE ROSE  
1264 CORTEZ DR SW  
ALBUQUERQUE NM 87121-3312

RITAS APARTMENTS LLC  
1248 CORTEZ DR SW  
ALBUQUERQUE NM 87121-3312

DIAMOND SHAMROCK STATIONS INC C/O AD  
VALOREM TAX DEPARTMENT  
PO BOX 690110  
SAN ANTONIO TX 78269-0110

MUNOZ FERNANDO  
1910 TAPIA PL SW  
ALBUQUERQUE NM 87105-4543

CARRILLO GABINO & MAGALY  
2239 PAJARITO RD SW  
ALBUQUERQUE NM 87105-6639

BERNALILLO COUNTY % COUNTY  
MANAGER  
1 CIVIC PLAZA NW  
ALBUQUERQUE NM 87102

CORTEZ INEZ & MARTIN ALCALA  
5908 RIO VISTA SW  
ALBUQUERQUE NM 87121

GARCIA DAVID & PEGGY  
5920 RIO VISTA DR SW  
ALBUQUERQUE NM 87105

MUNOZ JAIME & JESSICA  
1910 GONZALES RD SW  
ALBUQUERQUE NM 87121

SALAS TRINIDAD JR & VIOLA M  
1244 CORTEZ DR SW  
ALBUQUERQUE NM 87121

RODRIGUEZ OSVALDO & GABRIELLA  
1249 CORTEZ DR SW  
ALBUQUERQUE NM 87121

PRADO VICTOR O & OFELIA R  
13943 TUCKER AVE  
SYLMAR CA 91342-1928

CIRCLE K STORES INC  
5500 S QUEBEC ST SUITE 100  
GREENWOOD VILLAGE CO 80111-1914

RODRIGUEZ CINTHIA OR RODRIGUEZ MARIA C  
991 OLD COORS DR SW  
ALBUQUERQUE NM 87121-0000

MONTOYA GRACIE M  
1127 LA LUZ DR NW  
ALBUQUERQUE NM 87107-3548

Alamosa NA  
Gallegos Jerry  
5921 Central Avenue NW  
Albuquerque NM 87105

Alamosa NA  
Baca Jeanette  
901 Field SW  
Albuquerque NM 87121

South West Alliance of Neighborhoods  
Quezada Cherise  
10304 Paso Fino Place SW  
Albuquerque NM 87121



**South West Alliance of Neighborhoods**  
**Gallegos Jerry**  
**5921 Central Avenue NW**  
**Albuquerque NM 87105**

**Westside Coalition of Neighborhood Assoc.**  
**Horvath Rene**  
**5515 Palomino Drive NW**  
**Albuquerque NM 87120**

**Westside Coalition of Neighborhood Assoc.**  
**Hendriksen Harry**  
**10592 Rio Del Sol NW**  
**Albuquerque NM 87114**

**South Valley Coalition of Neighborhood Assoc.**  
**Roibal Roberto**  
**2233 Don Felipe Road SW**  
**Albuquerque NM 87105**

**South Valley Coalition of Neighborhood Assoc.**  
**Fernandez Marcia**  
**2401 Violet SW**  
**Albuquerque NM 87105**

**Los Altos Civic Association**  
**Stracener Dawn**  
**2824 Los Altos Place SW**  
**Albuquerque NM 87105**

**Los Altos Civic Association**  
**La Roux Athena**  
**2831 Los Altos Place SW**  
**Albuquerque NM 87105**





~~052~~



## Regina Okoye

---

**From:** Regina Okoye  
**Sent:** Thursday, February 27, 2020 3:31 PM  
**To:** 'jgallegoswccdg@gmail.com'; 'jetbac@aol.com'; 'cherquezada@yahoo.com';  
'jgallegoswccdg@gmail.com'; 'aboard111@gmail.com'; 'hlhen@comcast.net';  
'mbfernandez1@gmail.com'; 'dstracener45@gmail.com'; 'Athena@athenalaroux.com';  
'land@trna.org'; 'rroibal@comcast.net'  
**Cc:** Angela Williamson  
**Subject:** Neighborhood Meeting about Conditional Use Permit Application to the Zoning  
Hearing Examiner  
**Attachments:** Site Plan.pdf

Tracking:	Recipient	Delivery	Read
	'jgallegoswccdg@gmail.com'		
	'jetbac@aol.com'		
	'cherquezada@yahoo.com'		
	'jgallegoswccdg@gmail.com'		
	'aboard111@gmail.com'		
	'hlhen@comcast.net'		
	'mbfernandez1@gmail.com'		
	'dstracener45@gmail.com'		
	'Athena@athenalaroux.com'		
	'land@trna.org'		
	'rroibal@comcast.net'		
	Angela Williamson	Delivered: 2/27/2020 3:31 PM	Read: 2/27/2020 3:43 PM



February 27, 2020

**RE: Neighborhood Meeting about Conditional Use Permit Application to the Zoning Hearing Examiner**

To Whom It May Concern,

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 the following application(s) we will be making for a project proposed in or near your neighborhood:

**ZHE - Conditional Use Permit – Light Vehicle Fueling Station 4-3(D)(17)(i)**



***4-3(D)(17)(i) If located adjacent to any Residential zone district, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).***

**ZHE – Conditional Use Permit – Liquor Retail 4-3(D)(36)**

***4-3(D)(36)(c) – Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.***

**Attached is the proposed Murphy Express Site Plan for your reference.**

This would be an informal meeting where Modulus Architects, Inc. (Agent), would present the proposal, and we can discuss any ideas or concerns you may have.

## Project or Development Proposal

**NWC of Old Coors DR. & Bridge BLVD.  
1021 Old Coors Dr. SW  
Albuquerque NM, 87121  
Murphy Oil USA, Inc.  
Convenience Store with Fueling Station  
Full-Service Retail**

## Contact Information

**Modulus Architects, Inc.**  
**100 Sun Ave NE, Suite 600**  
**Albuquerque, New Mexico 87109**  
**c/o Angela Williamson, CEO/Principal (Agent)**  
**(505) 338-1499 ext. 1000**

[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)



**Per the IDO, you have 15 days from February 27, 2020 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 March 31, 2020.**

**If you would like to meet, please let us know when your next regular neighborhood meeting is scheduled or provide a few alternative dates that fall within 30 days of your response to this letter/email.**





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.

#### 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>

If you have any questions or need additional information regarding this matter, please do not hesitate to contact me.  
Sincerely,

**REGINA OKOYE, ENTITLEMENTS PROJECT MANAGER**

**MODULUS ARCHITECTS, INC.**

100 Sun Avenue NE, Suite 305

Albuquerque, NM 87109

Office 505.338.1499 (Ext. 1003)

Mobile + Text 505.267.7686

[www.modulusarchitects.com](http://www.modulusarchitects.com)







February 27, 2020

CONTRERAS SAM A & VERONICA TRUSTEES CONTRERAS LVT  
1253 CORTEZ DR SW  
ALBUQUERQUE NM 87121

**RE: Neighborhood Meeting about Conditional Use Permit Application to the Zoning Hearing Examiner**

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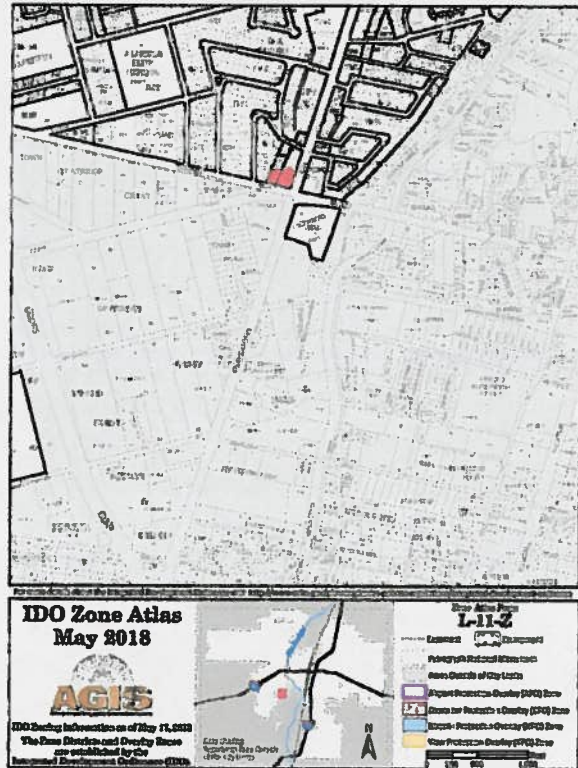


**Contact Information**

Modulus Architects, Inc.  
100 Sun Ave NE, Suite 600  
Albuquerque, New Mexico 87109  
c/o Angela Williamson, CEO/Principal (Agent)  
(505) 338-1499 ext. 1000  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)

**Project or Development Proposal**

NWC of Old Coors DR. & Bridge BLVD.  
1021 Old Coors Dr. SW  
Albuquerque NM, 87121  
Murphy Oil USA, Inc.p  
Convenience Store with Fueling Station  
Full-Service Retail



**Per the IDO, you have 15 days from February 27, 2020 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 March 31, 2020.**

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**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>



If you have any questions or need additional information regarding this matter, please do not hesitate to contact me.

Sincerely,

Angela Williamson, CEO/Principal  
Modulus Architects, Inc.  
100 Sun Ave NE, Suite 305  
Albuquerque, NM 87109  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
Office (505) 338-1499 ext. 1000  
Mobile (505) 999-8016







PROGRESS ASSOCIATES INC.  
100 SOUTH AVENUE 14, SUITE 200  
ALBUQUERQUE, NM 87109

PROGRESS ASSOCIATES INC.  
100 SOUTH AVENUE 14, SUITE 200  
ALBUQUERQUE, NM 87109

PROGRESS ASSOCIATES INC.  
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ALBUQUERQUE, NM 87109

PROGRESS ASSOCIATES INC.  
100 SOUTH AVENUE 14, SUITE 200  
ALBUQUERQUE, NM 87109

400 Main One Association  
Enterprise House  
224 E. Broadway St.  
Albuquerque, NM 87102

South Valley Community of Neighborhoods  
Enterprise House  
224 E. Broadway St.  
Albuquerque, NM 87102

South Valley Community of Neighborhoods  
Enterprise House  
224 E. Broadway St.  
Albuquerque, NM 87102

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PROGRESS ASSOCIATES INC.  
100 SOUTH AVENUE 14, SUITE 200  
ALBUQUERQUE, NM 87109

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100 SOUTH AVENUE 14, SUITE 200  
ALBUQUERQUE, NM 87109

South Valley Community of Neighborhoods  
Enterprise House  
224 E. Broadway St.  
Albuquerque, NM 87102

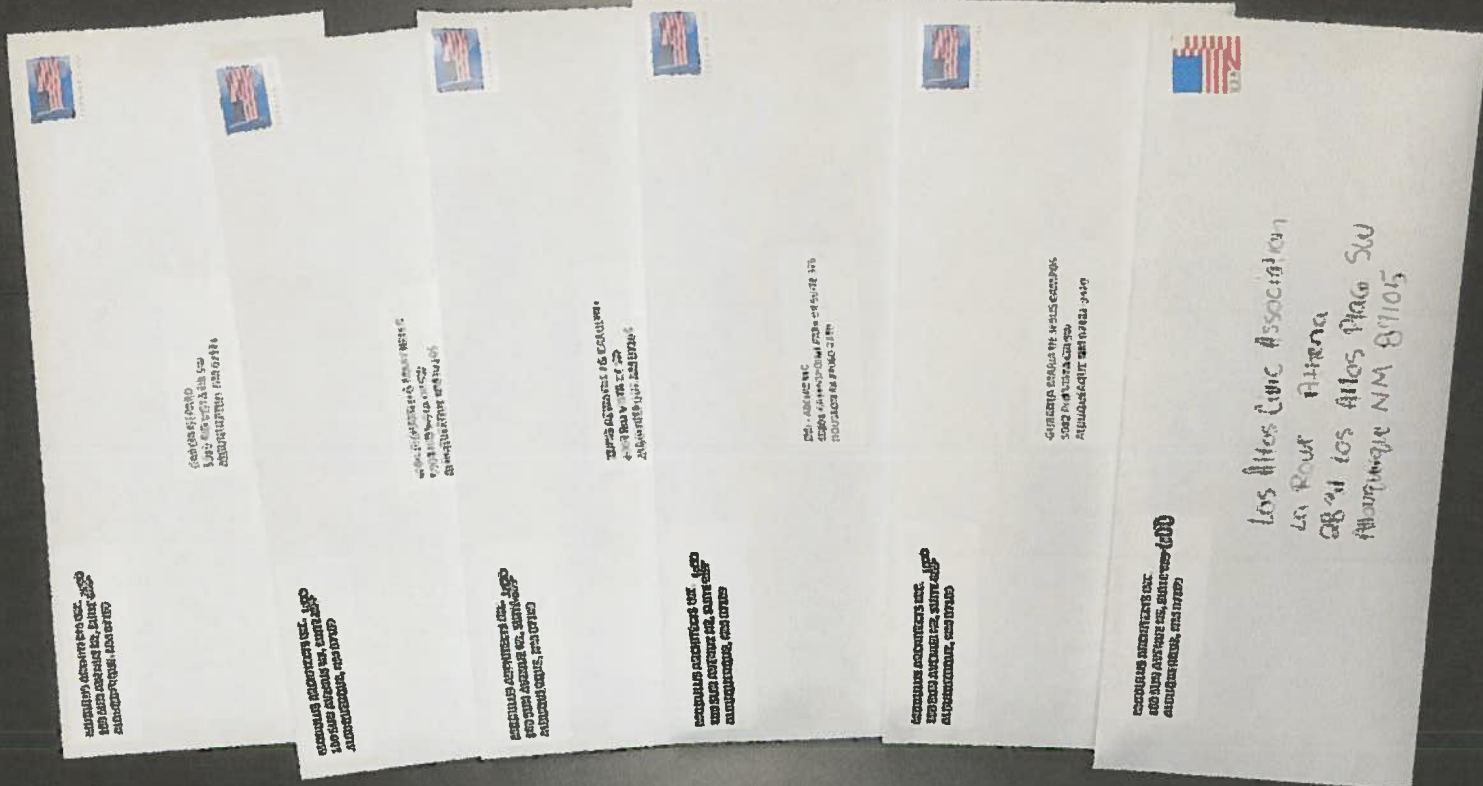
South Valley Community of Neighborhoods  
Enterprise House  
224 E. Broadway St.  
Albuquerque, NM 87102

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Enterprise House  
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Albuquerque, NM 87102

South Valley Community of Neighborhoods  
Enterprise House  
224 E. Broadway St.  
Albuquerque, NM 87102

South Valley Community of Neighborhoods  
Enterprise House  
224 E. Broadway St.  
Albuquerque, NM 87102











=====

ACADEMY  
6255 SAN ANTONIO DR NE  
ALBUQUERQUE, NM 87109-9998  
340128-0109  
(800)275-8777  
02/27/2020 04:04 PM

=====

Product	Qty	Unit Price	Price
US Flag Coil/100	1	\$55.00	\$55.00
Total:			\$55.00

-----

Credit Card Remitd \$55.00  
(Card Name:VISA)  
(Account #:XXXXXXXXXXXX1521)  
(Approval #:03325G)  
(Transaction #:522)  
(AID:A0000000031010 Chip)  
(AL:VISA CREDIT)  
(PIN:Not Required CAPITAL ONE VISA)

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or scan this code with  
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or call 1-800-410-7420.

YOUR OPINION COUNTS.

Receipt #: 840-58700065-2-5955880-1  
Clerk: 05





## **VOLUNTARY NEIGHBORHOOD MEETING NOTES**

**NWC OF OLD COORS DRIVE & BRIDGE BLVD SW – ALBUQUERQUE, NM. 87121**

**Location: Phone Conference Call**

**Date Held: May 14, 2020**

### **TOTAL IN ATTENDANCE (1):**

**On Behalf of Los Altos Civic Association:**

- 1. Athena La Roux**

**On Behalf of Modulus Architects, Inc.:**

- 1. Angela Williamson**
- 2. Regina Okoye**

### **AGENDA/PURPOSE OF MEETING:**

Voluntary neighborhood meeting to discuss a ZHE Application for a Conditional Use Permit for liquor retail sales and a Light Vehicle Fueling Station, discuss recommendations, answer any questions, address any concerns of the surrounding associations pertaining to the site located at the NWC of Old Coors DR & Bridge Blvd SW (lots A and B).

**MEETING COMMENCED WITH INTRODUCTION OF THE SITE AND EXPLAINING OUR REQUEST. THEN LED INTO QUESTIONS AND ANSWERS.**

Questions, recommendations and concerns were then addressed by Angela Williamson on behalf of Modulus Architects, Inc.

### **SUMMARY:**

#### **MAIN CONCERNS THAT AROSE:**

- 1. The sale of liquor on the premises.**
  - a. Addressed: Murphy has agreed to voluntarily remove miniatures or single container liquor bottles at all from this location. This specific type of sale lends itself to an unwanted clientele and they do not want this client at their store or in the neighborhood.**
  - b. Security Plan: Murphy has a completely different operation than the regular gas stations in the community. It has its own strategic niche that they have perfected. They have an in depth security protocol and operator efficiently. Murphy USA is an excellent steward of their services and have an impeccable record of performance across the board. They have zero violations with the State Licensing**





Board in over 10 years of continuous operations. Their sites have an extensive video surveillance program with more than ten cameras on site and in the store that are monitored live by the Murphy home office. They do not franchise their locations ever so this will always be a corporately maintained store.

**2. Traffic that will be generated from the new gas station.**

- a. Addressed: The agent explained that The City of Albuquerque placed a requirement on this development to do an extensive Traffic Impact Study in which the City will identify the scope of the study. Any improvements to the roadways, infrastructure or traffic mitigation that is recommended as a result of this study will be required to be constructed by Murphy at their expense. It was also explained that improvements will have to be done prior to any permits for construction and Murphy will have to agree to construct the improvements if they want to proceed with their project.
- b. Based on her concerns Modulus met with Bernalillo County Traffic Manager, Ms. Julie Luna to discuss the plans for this intersection. The realignment plans for this project have been approved, funded, issued for bid and awarded to a General Contractor. She states that the construction will be imminent. We have been working with both the County and City to locate our access at a location that will enhance the roadway alignment project and increase the safety for this corner.

**3. Light pollution to surrounding developments**

- a. Addressed: We (Murphy) are willing to take intensive measures to make sure that we are a good neighbor. We have hired an engineering firm to do a photometric study that will ensure that there is no light pollution from our store on any of the surrounding developments

**MEETING CONCLUDED WITH ANY FINAL THOUGHTS AND ANY FINAL QUESTIONS THAT WERE NOT ADDRESSED. MODULUS ARCHITECTS, INC. THEN DISMISSED THAT MEETING AND SENT A FOLLOW UP EMAIL TO ATTENDEE OUTLING EVERYTHING THAT WAS DISCUSSED.**

**Note:**

- Additional landscaping and landscape buffers will be added to ensure the safety and privacy of the adjacent residential neighborhoods.
- No further meetings were requested. All questions and concerns were answered and seems like neighborhood member was more at ease and in support of the request as long as agent and Murphy fulfill their promises.





May 19, 2020

**RE: RE: PUBLIC NOTICE OF ZHE HEARING - NWC OLD COORS & BRIDGE**

Dear Neighborhood Representatives,

On February 27, 2020 I issued a public notice offering a meeting for our project on the NWC of Old Coors & Bridge. To date, there have not been any meetings scheduled but I have spoken at length with Ms. Athena LaRoux with the Los Altos Civic Association which is the only neighborhood association representative that I was contacted by. She expressed concerns regarding the traffic congestion and the sale of alcohol at this location. Based on her concerns I have met with Bernalillo County Traffic Manager, Ms. Julie Luna to discuss the plans for this intersection. The realignment plans for this project have been approved, funded, issued for bid and awarded to a General Contractor. She states that the construction will be imminent. We have been working with both the County and City to locate our access at a location that will enhance the roadway alignment project and increase the safety for this corner.

I shared quite a bit of information regarding the Murphy company as an operator. First and foremost, they do not ever franchise their locations. Every development is corporately owned and managed with a strict protocol for safety. In their ten-year history in New Mexico they have never received a violation from the State Licensing Board for alcohol violations, which speaks to their management. They also provide extensive security monitoring live 24/7 from their headquarters operation. These cameras are located inside and outside in many different areas. However, based on the feedback that I was given by Ms. La Roux, I spoke with our client and Murphy has voluntarily agreed not to sell alcohol miniatures at this location. We would like to be a welcome development in the neighborhood and a good neighbor. Furthermore, have added additional landscaping and landscape buffers to ensure the safety and privacy of the adjacent residential neighborhoods. A photometric study was done to mitigate the amount of light being emitted from the establishment. This will also ensure that there is no light pollution from our store on any of the surrounding developments.

Modulus Architects, Inc. on behalf of Murphy Oil USA, Inc. will be requesting approval from the Zoning Hearing Examiner within the City of Albuquerque for a Conditional Use Permit to allow the following:

**ZHE - Conditional Use Permit – Light Vehicle Fueling Station 4-3(D)(17)(i)**

**4-3(D)(17)(i) If located adjacent to any Residential zone district, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).**

**ZHE – Conditional Use Permit – Liquor Retail 4-3(D)(36)**

**4-3(D)(36)(c) – Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection**



***14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.***

## Contact Information

**Modulus Architects, Inc.**  
100 Sun Ave NE, Suite 600  
Albuquerque, New Mexico 87109  
c/o Angela Williamson, CEO/Principal (Agent)  
(505) 338-1499 ext. 1000  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)

## Project or Development Proposal

**NWC of Old Coors DR. & Bridge BLVD.  
1021 Old Coors Dr. SW  
Albuquerque NM, 87121  
Murphy Oil USA, Inc.  
Convenience Store with Fueling Station  
Full-Service Retail**

**A Hearing will be held on July 21, 2020 at 9:00 am in the Hearing Room (Basement Level) of Plaza Del Sol, 600 2<sup>nd</sup> St. NW, Albuquerque, NM 87102.**

## Useful Links

## Integrated Development Ordinance (IDO)

<http://documents.cabq.gov/planning/IDO/IDO-Effective-2018-05-17.pdf>

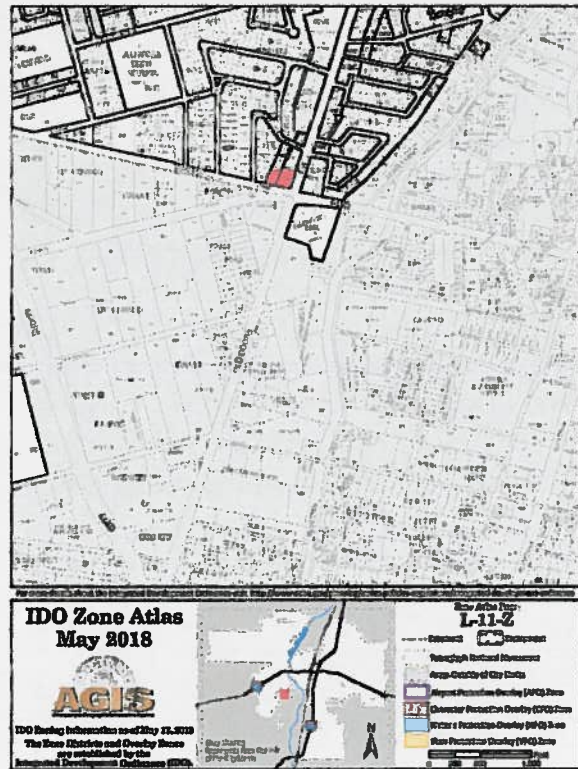
## IDO Interactive Map

<https://tinyurl.com/IDOzoningmap>

If you have any questions or need additional information regarding this matter, please do not hesitate to contact me.

Sincerely,

**Angela Williamson, CEO/Principal**  
**Modulus Architects, Inc.**  
 100 Sun Ave NE, Suite 600  
 Albuquerque, NM 87109  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
 Office (505) 338-1499 ext. 1000 Mobile (505) 999-8016





For more information, please contact the ZHE Administrative Assistant Suzie Sanchez at 505-924-3894 or [suzannasanchez@cabq.gov](mailto:suzannasanchez@cabq.gov).

Please note: "You may submit written comments to the Zoning Hearing Examiner up to 6 days before the hearing (5pm on the Wednesday before the hearing). Written comments received after that deadline will not be taken into consideration for this application



MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87102

Los Alamos Child Association  
14 New Avenue  
2511 Los Alamos Place NW  
Albuquerque NM 87101

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87102

INTERNATIONAL MASH & VERONICA TRUSTEE  
2001 REAS LVT  
1515 CENTER DR SW  
ALBUQUERQUE NM 87101

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87102

100 - 820 81 141  
2001 CENTER DR SW  
ALBUQUERQUE NM 87102

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87102

COMMUNITY MASH & VERONICA TRUSTEE  
2001 REAS LVT  
1515 CENTER DR SW  
ALBUQUERQUE NM 87101

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ALBUQUERQUE, NM 87102

South Valley Coalition of Neighborhood Assoc.  
Fernando Torres  
7401 Valley SW  
Albuquerque NM 87105

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87102

South West Alliance of Neighborhood  
Colleen Berry  
5821 Central Avenue NW  
Albuquerque NM 87105

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100 SUN AVENUE NE, SUITE 600  
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5015 RIO VISTA DR SW  
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RTAS APARTMENTS LLC  
1241 CENTER DR SW  
ALBUQUERQUE NM 87101-3312

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87102

ARACELI MALABO RIVERA  
1515 CENTER DR SW  
ALBUQUERQUE NM 87101-3312

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ALBUQUERQUE, NM 87102

100 - 820 81 141  
2001 CENTER DR SW  
ALBUQUERQUE NM 87102

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COMMUNITY MASH & VERONICA TRUSTEE  
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1515 CENTER DR SW  
ALBUQUERQUE NM 87101

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ALBUQUERQUE, NM 87102

100 - 820 81 141  
2001 CENTER DR SW  
ALBUQUERQUE NM 87102

MODULUS ARCHITECTS INC.  
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ALBUQUERQUE, NM 87102

MARTINEZ ROSE ALFONSO & ALBA  
100 GARDEN AVE SE  
ALBUQUERQUE NM 87105

MODULUS ARCHITECTS INC.  
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ALBUQUERQUE, NM 87102

GARCIA GERARD  
5815 RIO VISTA DR SW  
ALBUQUERQUE NM 87101

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87102

Westside Coalition of Neighborhood Assoc.  
Hector-Rene Murphy  
22100 NW 2nd Ave NW  
Albuquerque NM 87114



MODULUS ARCHITECTS INC.  
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ALBUQUERQUE, NM 87109

MAURIZ FERRANDO  
2520 TAPPA PL SW  
ALBUQUERQUE NM 87105-1543

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ALBUQUERQUE, NM 87109

South West Alliance of Neighborhoods  
Spanish Chapter  
3000 West Plaza Road SW  
Albuquerque NM 87125

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ALBUQUERQUE, NM 87109

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Carpenter, J. S.  
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Albuquerque NM 87102

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700 S. Central Avenue, Suite 100  
Albuquerque NM 87102

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ALBUQUERQUE, NM 87109

JOSE LUIS GARCIA RODRIGUEZ  
700 S. Central Avenue, Suite 100  
Albuquerque NM 87102

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ALBUQUERQUE, NM 87109

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ALBUQUERQUE NM 87105-1543

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CORTES INEZ & MARTIN ALCALA  
5908 RIO VISTA SW  
ALBUQUERQUE NM 87121

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CARLOS GARCIA & MARCELY  
2019 PALMISTO RD SW  
ALBUQUERQUE NM 87105-6639

MODULUS ARCHITECTS INC.  
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ALBUQUERQUE, NM 87109

Albuquerque NM  
Office Address  
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100 S. Central Ave  
Albuquerque NM 87102



=====

ACADEMY  
6255 SAN ANTONIO DR NE  
ALBUQUERQUE, NM 87109-9998  
340128-0109  
(800)275-8777  
05/19/2020 09:06 AM

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Product	Qty	Unit Price	Price
US Flag Coll/100	1	\$55.00	\$55.00
Total:			\$55.00

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Credit Card Remitd \$55.00  
(Card Name:VISA)  
(Account #:XXXXXXXXXX1521)  
(Approval #:06576G)  
(Transaction #:884)  
(AID:A0000000031010 Chip)  
(AL:VISA CREDIT)  
(PIN:Not Required CAPITAL ONE VISA)

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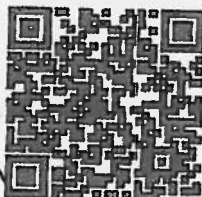
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or call 1-800-410-7420.

YOUR OPINION COUNTS

Receipt #: 840-58700065-1-5376929-1  
Clerk: 88



## Regina Okoye

---

**From:** Regina Okoye  
**Sent:** Tuesday, May 19, 2020 1:20 PM  
**To:** 'jgallegoswccdg@gmail.com'; 'jetbac@aol.com'; 'cherquezada@yahoo.com';  
'jgallegoswccdg@gmail.com'; 'aboard111@gmail.com'; 'hlhen@comcast.net';  
'mbfernandez1@gmail.com'; 'dstracener45@gmail.com'; 'Athena@athenalaroux.com';  
'land@trna.org'; 'rroibal@comcast.net'  
**Cc:** Angela Williamson  
**Subject:** RE: RE: PUBLIC NOTICE OF ZHE HEARING - NWC OLD COORS & BRIDGE

**Tracking:**

**Recipient**

**Delivery**

'jgallegoswccdg@gmail.com'  
'jetbac@aol.com'  
'cherquezada@yahoo.com'  
'jgallegoswccdg@gmail.com'  
'aboard111@gmail.com'  
'hlhen@comcast.net'  
'mbfernandez1@gmail.com'  
'dstracener45@gmail.com'  
'Athena@athenalaroux.com'  
'land@trna.org'  
'rroibal@comcast.net'

Angela Williamson

Delivered: 5/19/2020 1:20 PM



May 19, 2020

**RE: RE: PUBLIC NOTICE OF ZHE HEARING - NWC OLD COORS & BRIDGE**

Dear Neighborhood Representatives,

On February 27, 2020 I issued a public notice offering a meeting for our project on the NWC of Old Coors & Bridge. To date, there have not been any meetings scheduled but I have spoken at length with Ms. Athena La Roux with the Los Altos Civic Association which is the only neighborhood association representative that I was contacted by. She expressed concerns regarding the traffic congestion and the sale of alcohol at this location. Based on her concerns I have met with Bernalillo County Traffic Manager, Ms. Julie Luna to discuss the plans for this intersection. The realignment plans for this



project have been approved, funded, issued for bid and awarded to a General Contractor. She states that the construction will be imminent. We have been working with both the County and City to locate our access at a location that will enhance the roadway alignment project and increase the safety for this corner.

I shared quite a bit of information regarding the Murphy company as an operator. First and foremost, they do not ever franchise their locations. Every development is corporately owned and managed with a strict protocol for safety. In their ten-year history in New Mexico they have never received a violation from the State Licensing Board for alcohol violations, which speaks to their management. They also provide extensive security monitoring live 24/7 from their headquarters operation. These cameras are located inside and outside in many different areas. However, based on the feedback that I was given by Ms. La Roux, I spoke with our client and Murphy has voluntarily agreed not to sell alcohol miniatures at this location. We would like to be a welcome development in the neighborhood and a good neighbor. Furthermore, have added additional landscaping and landscape buffers to ensure the safety and privacy of the adjacent residential neighborhoods. A photometric study was done to mitigate the amount of light being emitted from the establishment. This will also ensure that there is no light pollution from our store on any of the surrounding developments.

Modulus Architects, Inc. on behalf of Murphy Oil USA, Inc. will be requesting approval from the Zoning Hearing Examiner within the City of Albuquerque for a Conditional Use Permit to allow the following:

**ZHE - Conditional Use Permit – Light Vehicle Fueling Station 4-3(D)(17)(i)**

**4-3(D)(17)(i) If located adjacent to any Residential zone district, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).**

**ZHE – Conditional Use Permit – Liquor Retail 4-3(D)(36)**

***4-3(D)(36)(c) – Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.***



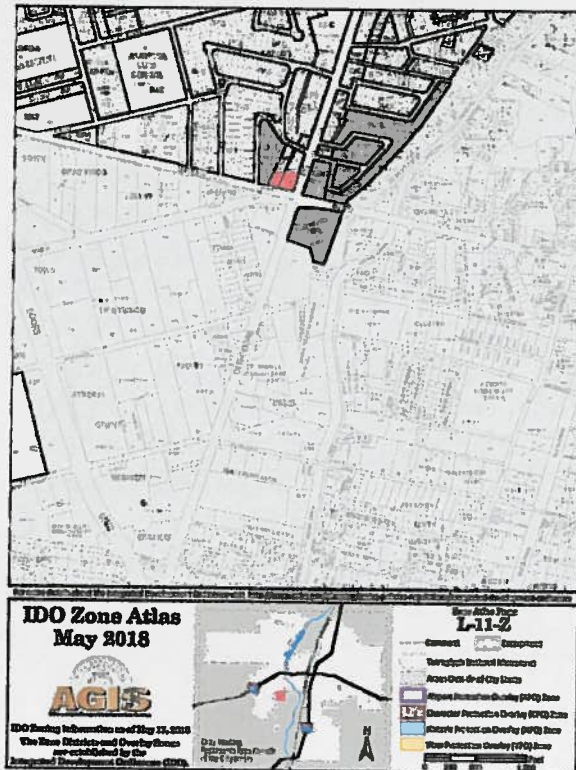
**Contact Information**

Modulus Architects, Inc.  
100 Sun Ave NE, Suite 600  
Albuquerque, New Mexico 87109  
c/o Angela Williamson, CEO/Principal (Agent)  
(505) 338-1499 ext. 1000  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)

**Project or Development Proposal**

NWC of Old Coors DR. & Bridge BLVD.  
1021 Old Coors Dr. SW  
Albuquerque NM, 87121  
Murphy Oil USA, Inc.  
Convenience Store with Fueling Station  
Full-Service Retail

A Hearing will be held on **July 21, 2020 at 9:00 am**  
Hearing Room (Basement Level) of Plaza Del Sol,  
St. NW, Albuquerque, NM 87102.



in the  
600<sup>2nd</sup>

**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>

If you have any questions or need additional information regarding this matter, please do not hesitate to contact me.

Sincerely,

Angela Williamson, CEO/Principal  
Modulus Architects, Inc.  
100 Sun Ave NE, Suite 600  
Albuquerque, NM 87109  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
Office (505) 338-1499 ext. 1000 Mobile (505) 999-8016

For more information, please contact the ZHE Administrative Assistant Suzie Sanchez at 505-924-3894 or [suzannasanchez@cabq.gov](mailto:suzannasanchez@cabq.gov).

Please note: "You may submit written comments to the Zoning Hearing Examiner up to 6 days before the hearing (5pm on the Wednesday before the hearing). Written comments received after that deadline will not be taken into consideration for this application





June 8, 2020

**RE: UPDATED - PUBLIC NOTICE OF ZHE HEARING VIA ZOOM - NWC OLD COORS & BRIDGE**

Dear Neighborhood Representatives,

Modulus Architects, Inc. on behalf of Murphy Oil USA, Inc. will be requesting approval from the Zoning Hearing Examiner within the City of Albuquerque for a Conditional Use Permit to allow the following:

**ZHE - Conditional Use Permit – Light Vehicle Fueling Station 4-3(D)(17)(i) 4-3(D)(17)(i)** If located adjacent to any Residential zone district, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).

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**A hearing will be held on July 21, 2020 beginning at 9:00AM via ZOOM.**

**Join Zoom Meeting**

<https://cabq.zoom.us/j/93420676806>

Meeting ID: 934 2067 6806

One tap mobile

+12532158782,,93420676806# US (Tacoma)

+13017158592,,93420676806# US (Germantown)

Dial by your location

+1 253 215 8782 US (Tacoma)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

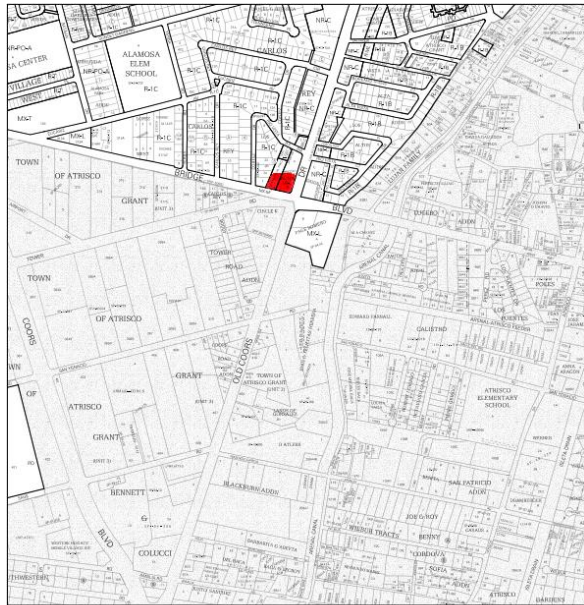
+1 669 900 6833 US (San Jose)

Meeting ID: 934 2067 6806

Find your local number: <https://cabq.zoom.us/j/93420676806>

For more information, please contact the ZHE Administrative Assistant Suzie Sanchez at 505-924-3894 or [suzannasanchez@cabq.gov](mailto:suzannasanchez@cabq.gov).





## Contact Information

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## Project or Development Proposal

NWC of Old Coors DR. & Bridge BLVD.  
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 Albuquerque NM, 87121  
 Murphy Oil USA, Inc.  
 Convenience Store with Fueling Station  
 Full-Service Retail



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### IDO Interactive Map

<https://tinyurl.com/IDOzoningmap>

If you have any questions or need additional information regarding this matter, please do not hesitate to contact me.

Sincerely,

Angela Williamson, CEO/Principal  
 Modulus Architects, Inc.  
 100 Sun Ave NE, Suite 600  
 Albuquerque, NM 87109  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
 Office (505) 338-1499 ext. 1000 Mobile (505) 999-8016



**Old Coors & Bridge**

**Legend**











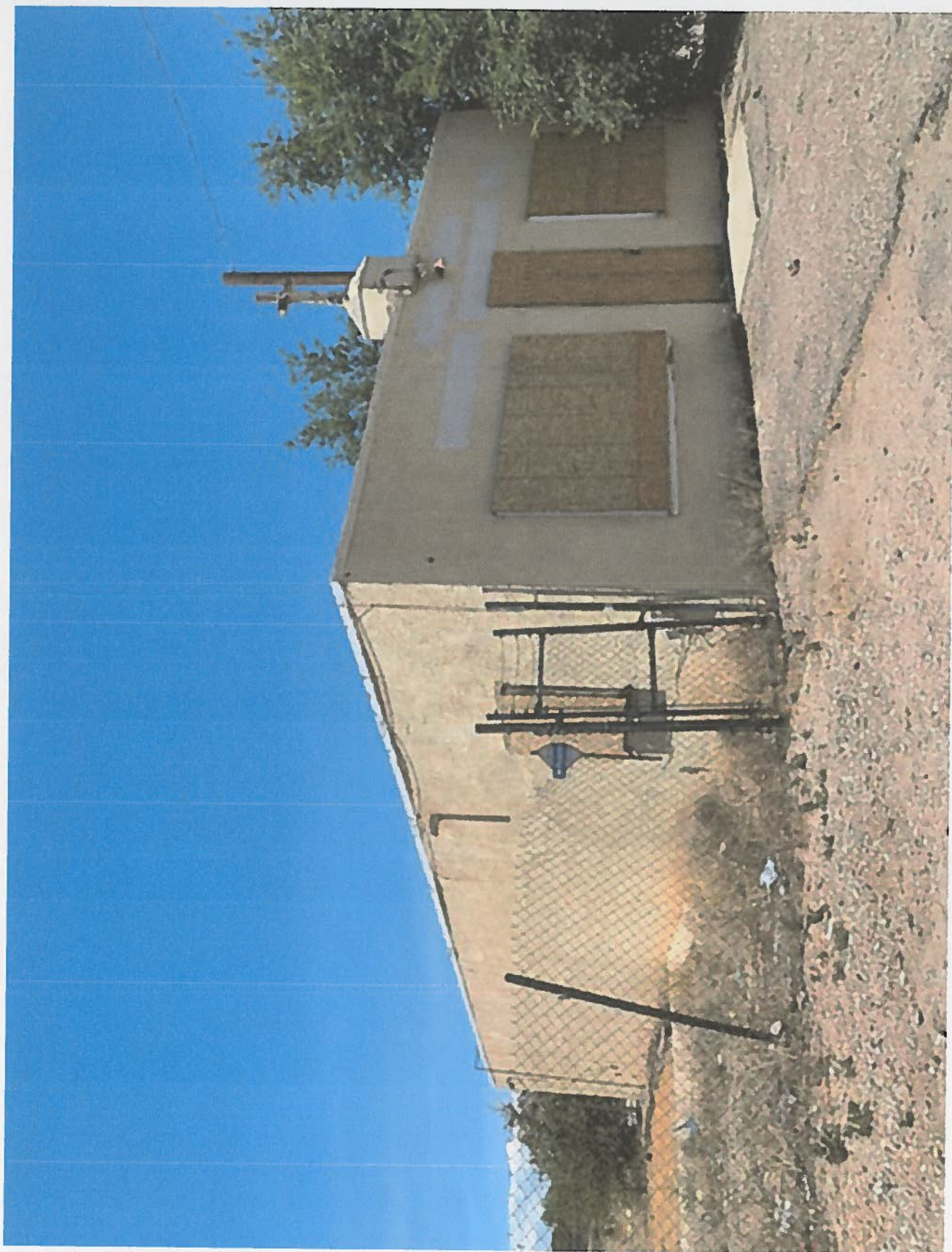








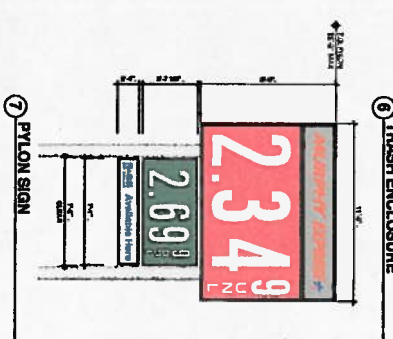
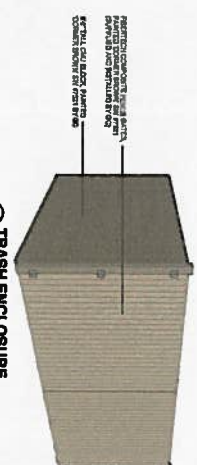
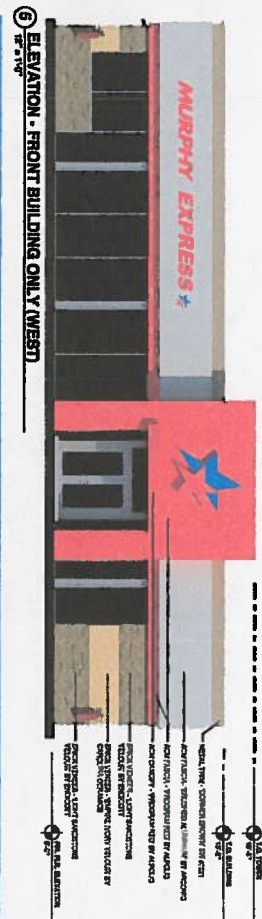
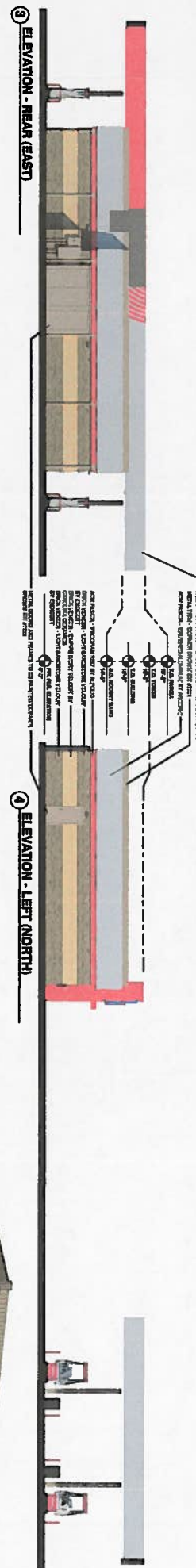










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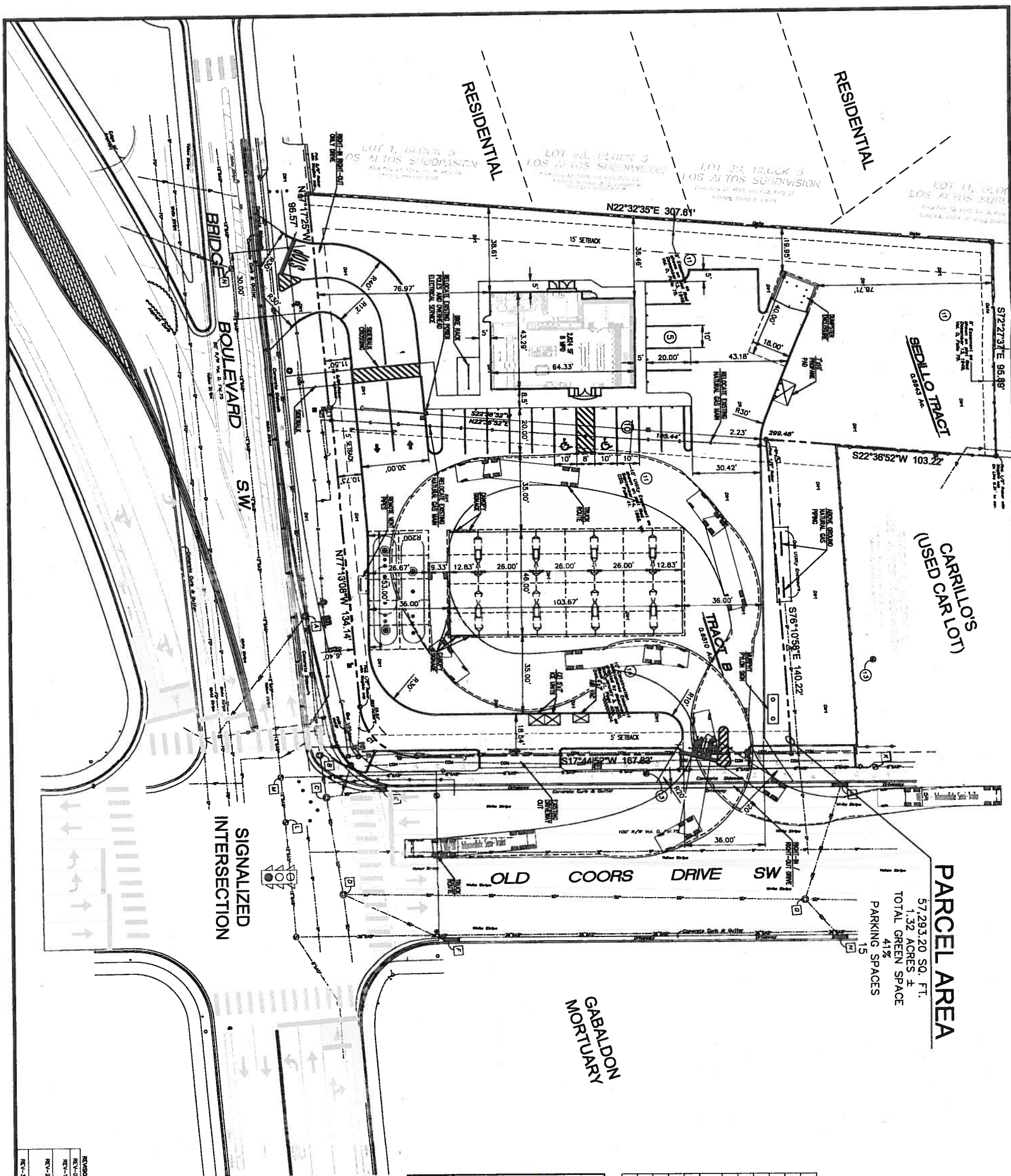










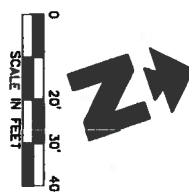


CARRILLO'S  
CARLOT)

### PARCEL AREA

57,293.20 SQ. FT.  
1.32 ACRES ±  
TOTAL GREEN SPACE  
41%  
PARKING SPACES  
15

**NOTE:**  
**REZONING REQUIRED.**



PARCEL DATA		
	S.F.	ACRES
MURPHY PARCEL	57,293.20	1.32
GREENSPACE	41 sq.	
REQUIRED PARKING	1 SP/250 S.F. (12 REQ'D.)	
PARKING SPACES PROVIDED	15 + 16 UNDER CANOPY	
ZONING	NR-C (Tract B) MAX-34 (Overall Tract)	
SETBACKS		
FRONT:	5 MIN.	
SIDES:	0' INTERIOR/5' STREET SIDE	
REAR:	15 MIN.	
SIGN	PYLON SIGN, 56' HT., 200 SF MAX	

## VICINITY MAP



REVISION	DATE	DESCRIPTION
REV-0	4/28/79	2.64 ST 8 WPT (STANDARD) CONCEPTUAL
REV-1	6/20/79	REMOVE SECOND DRIVE ALONG OLD CORNS. ADJUST BRIDGE B/LV. DRIVE WITH TOWER ROAD
REV-2	10/7/79	ADDED NEW TOW SURVEY AND ADJUSTED ST.1. ADDED REPAVED ROAD RECONSTRUCTION AND STRIPING PLAN (BY OTHERS). REPAVED DRIVE ALONG BRIDGE B/LV. TO BE SURVEYED FROM B/LV. DRIVE
REV-3	10/8/79	REVISED BRIDGE IN RIGHT-TO-LEFT DRIVE ALONG BRIDGE BOLLWORM

**MURPHY OIL USA, INC.**



**200 PEACH STREET  
EL DORADO, AR 71730**



**PAN AMERICAN ENGINEERS, LLC**

P.O. BOX 88 / 1717 JACKSON STREET  
ALEXANDRIA, LA. 71309  
(518) 478-2100  
CONTACT: RON BORDELO

CONTACT: RON BORDELOON 087

PAE JOB NO. 11347

**REV-3**

**SITE PLAN**  
**MURPHY EXPRESS**  
**21 OLD COORS DRIVE**  
**ALBUQUERQUE NEW MEXICO**

BASED ON SURVEY BY:  
 SURV TEK  
 9384 VALLEY VIEW DRIVE, NW  
 ALBUQUERQUE, NM 87114  
 PHONE: (505) 897-3366  
 DATED: 9/19

**SHEET NO.**

# SITE PLAN





Mr. Robert Lucero  
Zoning Hearing Examiner  
Plaza del Sol Hearing Room, Basement Level  
600 Second Street NW  
Albuquerque, New Mexico 87103  
Phone: (505) 924-3894

**RE: MURPHY OIL USA, INC. REQUEST FOR SPECIAL EXCEPTION CONDITIONAL USE PERMIT FOR LIQUOR RETAIL SALES (OFF-PREMISE CONSUMPTION) AND LIGHT VEHICLE FUELING STATION AT THE NWC OF OLD COORS DRIVE & BRIDGE BLVD SW – ALBUQUERQUE, NM. 87121. LEGAL DESCRIBED AS:**

**LOT 1:**

A TRACT OF LAND LYING WEST OF & ADJ TO TRS A & B LOS ALTOS ADDN BLK 5 EXC LOT 12 & THE WESTERLY 26.2 FT OF LOT 13 CONT 29475 SF M/L

**LOT 2:**

TRACT "B" BLK 5 LAND DIVISION PLAT LOS ALTOS SUBD (LOT 14 & PORT LOT 13 & PORT COMMERCIAL RACT BLK 5) CONT 0.6510 AC

Dear Mr. Lucero

Modulus Architects, Inc., hereafter referred to as "Agent" for the purpose of this request, represents Murphy USA, hereafter referred to as "Applicant". We, "Agent" are requesting approval of a Special Exception Conditional Use for Liquor Retail and for Light Vehicle Fueling Station for 1.327 acres. The parcel (the "subject site") contains two adjacent lots. The first lot is 0.6767 acres in size, zoned MX-M and is legally described as: A TRACT OF LAND LYING WEST OF & ADJ TO TRS A & B LOS ALTOS ADDN BLK 5 EXC LOT 12 & THE WESTERLY 26.2 FT OF LOT 13 CONT 29475 SF M/L. The second lot is 0.651 acres in size, zoned NR-C and is legally described as: TRACT "B" BLK 5 LAND DIVISION PLAT LOS ALTOS SUBD (LOT 14 & PORT LOT 13 & PORT COMMERCIAL RACT BLK 5) CONT 0.6510 AC. These lots are located on the NWC of Old Coors Drive and Bridge BLVD SW. The subject site is currently undeveloped.

Murphy USA (NYSE: MUSA), established in 1996, is a publicly owned company and is one of the largest independent retailers of gasoline products and convenience store merchandise with over 1,400 locations in 26 states across the Southern and Midwestern United States. Murphy's Convenience stores are Community Stores, the destination of choice for customers who frequent their favorite location each day to refresh and refuel, whether it's to grab a quick snack and beverage or a fresh prepared meal, or to fill up their gas tank.

All 1400 stores are corporately owned and operated; none of them are franchised. Murphy USA serves approximately 1.6 million customers per day and proposes to build a 2,800-sf building and have 8 multi-



product fuel dispensers. Site plans and renderings showing the proposed development are enclosed along with a street perspective illustrating what the proposed building will look like.

Murphy is **NOT** any other convenience store operator, they are the model across the country for best practices, security protocol, training, store design for crime prevention, engagement of ownership, extensive surveillance of all locations, product placement and most importantly, the culture of the company. Murphy USA has zero violations or complaints with the State Liquor Board as well as a **PROVEN** record of performance. Much of our discussion with the neighborhood representatives has been focused on the concern about an increase in crime that this development may contribute to the area so I am going to spend a great deal of effort to demonstrate that this is **NOT** the case with Murphy.

**As stated by Councilor Davis, "While most retailers of this type manage their stores responsibly, almost every neighborhood has a story about a convenience store which became a hub for discarded mini bottles of liquor, round the clock police calls, or worse"**

Last year, Murphy opened its first of its kind location in Albuquerque, New Mexico (the exact model of this location). As a testament to the Murphy model and extensive operational standards and practices, we are able to demonstrate with actual data the difference this makes. Murphy stands proudly behind its record.

<b>TABLE 1</b> <b>ALBUQUEQUE POLICE DEPARTMENT CALLS FOR SERVICE, 2020 TO CURRENT</b> <b>(BUSINESSES ADJACENT TO MURPHY USA AT 3761 NM-528)</b>	
<b>Murphy USA</b> 3761 NM-528 NW, Albuquerque, NM 87114 January 1, 2020 – May 26, 2020 33 calls	<b>Circle K</b> 3622 NM-528 NW, Albuquerque, NM 87114 January 1, 2020 – May 26, 2020 231 calls
<b>Lowe's Home Improvement</b> 3500 NM-528 NW, Albuquerque, NM 87114 January 1, 2020 – May 26, 2020 31 Calls	<b>Savers</b> 3400 Calle Cuervo NW #2, Albuquerque, NM January 1, 2020 – May 26, 2020 112 Calls
<b>Sprouts</b> 10701 Corrales Rd., Albuquerque, NM 87114 January 1, 2020 – May 26, 2020 24 Calls	<b>Salt Yard West</b> 3700 Ellison Rd. NW, Albuquerque, NM 87114 January 1, 2020 – May 26, 2020 123 Calls

As you can see, the Murphy operation had just 33 calls for service to-date in 2020 as compared to Circle K that saw 231 calls for service from the Albuquerque Police Department in that same time period. Murphy strives to operate their business's where employees and customers feel safe from potential crimes by implementing a thoughtful security and safety program in their stores, which begins with store layout and design.

Murphy follows the model of the Smart Policing Initiatives and has adopted the CPTED (Crime Prevention through Environmental Design) crime prevention program. CPTED is a concept that is data driven with a proven concept that considers the physical environment and its effect on crime prevention. There are four guiding principles.



**Natural Surveillance:**

People must be able to see illegal acts taking place to defend property or prevent crime. Surveillance puts the perpetrator(s) under the threat of being observed, and therefore identified and apprehended.

**Territoriality:**

Territoriality is all about defining what is public space, what semi-public space is, and what is private space. It involves establishing ownership of areas and can be encouraged by activities and management processes that reduce large impersonal spaces to smaller areas that can be personalized and protected.

**Access Control:**

This principle relates to territoriality by directing people where to go and denying them access to areas that they do not belong in. This is accomplished through having established vehicle and pedestrian entrances and exits, fencing, door and window locks, access control devices, and appropriate, visible signage.

**Maintenance:**

Poorly maintained and neglected areas attract unwanted people and activities. Proper maintenance of landscaping, lighting, and other features are essential CPTED principles. A positive community image is a significant deterrent to criminal behavior.

Principles such as natural surveillance, access management, territoriality, physical maintenance, and order maintenance inform our design. We pay particular attention to parking lots, building entries, restrooms, stairs and railings, fencing, wayfinding signage, landscaping, artwork, and displays of student work to create a warm, welcoming environment that gives students a sense of ownership and pride.

**Murphy Community Engagement**

From sponsoring youth sports teams to conducting food drives, Murphy's convenience stores strengthen the communities that they serve, contributing millions to charitable and community groups. Being a good neighbor is not just a good business practice, Murphy stores are champions for their communities.

Murphy stores are intensely local businesses that offer an ever-growing range of products and services. Most of all, they sell convenience, allowing customers to quickly buy what they need and get on with their day. Most of all, Murphy convenience stores sell time—time that benefits the community, whether this time is spent living in, working in or supporting that community. And this is a commodity that consumers value: More than 8 in 10 Americans (82%) support a convenience store being built in their community.

Murphy's Convenience stores are Community Stores, the destination of choice for customers who frequent their favorite location each day to refresh and refuel, whether it's to grab a quick snack and beverage or a fresh prepared meal, or to fill up their gas tank.

Convenience stores are one of the few 24/7 businesses that provide much-needed food, fuel and refreshment for millions of Americans, especially first responders, police officers, firemen, factory workers, hospital workers and restaurant employees. First responders and shift workers rely on Murphy stores. Late-night and early-morning customers depend upon stores for essential items that are not readily available elsewhere, and top reasons for a visit are shopping for a snack or meal, coffee or beverage, gasoline and cold medicine or to use the ATM.



Murphy's PRIMARY business is the sale of motor vehicle fuels and convenience store goods; the sale of alcoholic beverages is both complementary and SECONDARY to its primary business but something customers appreciate having the opportunity to purchase if so desired. Therefore, as part of its operation, Murphy's Convenience stores are Community Stores, the destination of choice for customers who frequent their favorite location each day to refresh and refuel, whether it's to grab a quick snack and beverage or a fresh prepared meal, or to fill up their gas tank.

The request is for a conditional use permit for the sale of liquor and to construct a light fueling station on site. Notably in the IDO, both uses are permissive uses in NR-C and MX-M zone district. However, due to the fact the subject is "within 500 feet of any residential or NR-PO zone district of any group home" and due to the fact that the lot is "adjacent to any residential zone district" a conditional use approval is required for both requests. The City criteria for approval per the IDO (Integrated Development Ordinance) is outlined below along with how Murphy fulfills these requirements and furthers the policies identified in the in the Albuquerque/Bernalillo Comprehensive Plan as adopted in 2017. Based on our numerous and extensive discussions with the neighborhood representatives, **Murphy has agreed to forgo the sale of miniature bottles of alcohol.**

The subject site is located within the Bridge/Tower Blvd Major Transit Corridor. This site is in Southwest Mesa's Community Planning Area. It is in also in a designated "Area of Change" under the Comprehensive Plan (Comp. Plan). An Area of Change is defined as an area within the City in which higher density and intensity in areas where growth is desired and can be supported by multi-modal transportation. While focusing on job creation, growth, and residential services [Comp. Plan, 5-23]. In additions: Areas of Change highlight places in Centers, Corridors, and Metropolitan Redevelopment Areas where new development and redevelopment are desired. They include vacant land and commercial or industrial areas that would benefit from infill or revitalization. Directing growth to Areas of Change is intended to reduce pressure on established neighborhoods and rural areas to absorb growth and infill at a scale and density that could negatively affect their character [Comp. Plan 4-13]. Knowing that the site is within a Transit Corridor, an Area of Change, zoned NR-C and MX-M, this Murphy express development will contribute the community and the exact definition stated above. The development will be in line with the intent of a Major Transit Corridor.

Alamosa NA, South West Alliance of Neighborhoods, Westside Coalition of Neighborhood Associations, South Valley Coalition of Neighborhood Associations and the Los Altos Civic Association were notified along with property owners as required. Due to the COVID restrictions no meeting was held or requested but a great deal of communication has occurred between the Los Altos Civic Association members and Modulus Architects, representing Murphy. Several concerns arose regarding the sale of alcohol and its potentials for creating harm to the community. It was expressed by all involved that this is a result of the current operator at the opposite corner and their record of performance, or lack thereof. Concern was also raised that if Murphy were to sell this property that they could be left with another unsavory operator. I explained that this was not a Zone Change and that the Conditional Use Permit approval is issued for the Murphy owner but does not transfer to another owner. **As we have outlined extensively, Murphy is not this operator and will not create any negative impacts to the community, to the contrary, Murphy will provide a safe, convenient and cost effective opportunity to provide the day-too-day needs of the community and shift workers that rely on Murphy.**

We have been working with the community and property owners over the course of the last few months. Understandably, the community has concerns based on their current experience with another operator. The neighborhoods brought to light the issue they have with liquor retail on site. Murphy USA is an excellent steward of their services and have an impeccable record of performance across the board. They have zero violations with the State Licensing Board in over 10 years of continuous operations. Their sites



have an extensive video surveillance program with more than ten cameras on site and in the store that are monitored live by the Murphy home office. They do not franchise their locations ever so this will always be a corporately maintained store. ***I have provided extensive documentation, data and facts regarding safeguards in place for the employees, consumers and the community as a whole. This extends far beyond just cameras and lighting. As demonstrated throughout this submittal, Murphy has a comprehensive model of smart policing initiatives, CPTED driven sites and stores,***

The Neighborhood Association is concerned about perpetuity of the new zoning this would allow. I believe there is quite a bit of confusion about the difference between a Conditional Use Permit approval and a Zone Map Amendment. They are concerned that if they were to support Murphy in this request and that Murphy were to leave at some point that they would be potentially left with an unsavory operator. I have outlined the differences and the safeguards in place regarding a Conditional Use Permit approval. A copy of those email discussions has been submitted with our package for review.

Another issue that was discussed was the concern about the traffic. Murphy and our team of engineers has been working in tandem with the City of Albuquerque and Bernalillo County on the federally funded project at Old Coors and Bridge. We are working in unison to get this project done with as little disruption as possible. We have timed our construction with the Tower realignment project, our site plan and access have been incorporated into the overall plans for the realignment project which is anticipated to being in July of 2020. The realignment project is long overdue and will substantially address traffic safety concerns.

**Pursuant to the IDO (Integrated Development Ordinance) as amended May 17, 2018 –**

**4-3(D)(36) Liquor Retail**

4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.

4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4- 3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the

**4-3(D)(17) Light Vehicle Fueling Station**

4-3(D)(17)(i) If located adjacent to any Residential zone district, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).

**6-6(A) CONDITIONAL USE APPROVAL**

All applicable provisions of Section 14-16-6-4 (General Procedures) apply unless specifically modified by the provisions of this Subsection 14-16-6-6(A) or the DPM.

6-6(A)(3) Review and Decision Criteria - An application for a Conditional Use Approval shall be approved if it meets all of the following criteria:

**6-6(A)(3)(a) It is consistent with the adopted ABC Comp Plan, as amended.**

***Applicant Response (Bold): The request for Special Exception Conditional Use Permit is consistent with the adopted ABC Comp Plan as shown by furthering (and not being in conflict with) a preponderance of applicable Goals and Policies in the ABC Comp Plan.***

***2.4.6 FOCUSING GROWTH IN CENTERS & CORRIDORS - Existing and designated Centers and Corridors are intended to accommodate much of the anticipated future growth in the city and county. Instead of low-density, single-use growth at our edges, new development and redevelopment will be encouraged in***



*existing Centers connected by a strong transportation network that accommodates cars and trucks, transit, cyclists, and pedestrians.*

***Applicant Response (Bold):*** The subject property and proposed project are ideal to further this goal of the Comprehensive Plan. The subject site is located adjacent to the Tower Employment Center, the subject site sits squarely at the intersection of Tower/Bridge and Old Coors in the Tower/Bridge Corridor and is a designation Major Transit Corridor which is a strong transportation network. The realignment of Tower furthers to establish this location as an exemplary location for Murphy. We have working in unison with Bernalillo County to incorporate our site and access points to provide a safe and easy transition into the Tower realignment project scheduled to start construction in July 2020. This project would further this policy.

*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.*

***Applicant Response (Bold):*** Future development on the subject site zoned NR-C and MX-M 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. The request furthers Policy 4.1.4.

*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]*

***Applicant Response (Bold):*** This request furthers this policy because this property is located in the Bridge/Tower Comprehensive Corridor along a Major Transit Corridor in "Area of Change" and would be an infill project in an area significantly lacking investment and revitalization. It would encourage employment density and redevelopment and would further this policy as this is the most appropriate area to accommodate growth and discourage the need for development at the urban edge. The subject site is located in the Bridge/Tower Comprehensive Corridor.

***This request furthers Policy 5.1.1 – Land Use***

*5.1.1.3 Evaluate existing land uses and development trends to identify opportunities for increased land use intensity to support transit-oriented development within 660 ft. of transit stations along Premium Transit Corridors. [ABC]*

***Applicant Response (Bold):*** This is clearly an opportunity to further this policy by increasing the land use intensity to support infill development within a Transit Corridor as the subject site is located in the Tower Transit Corridor and is designated as a Major Transit Corridor. This request furthers Policy 5.1.1.3 – Land Use.

*5.1.1.4 Promote ongoing public-private cooperation necessary to create private market conditions that support intensified development of jobs and housing in Transit Corridors. [ ABC]*

***Applicant Response (Bold):*** The Property is located in a Transit Corridor on Albuquerque's Southwest area in which the jobs to housing balance is significantly low as is the availability of day-to-day goods as services without the need to cross the river. The location is most appropriate to accommodate development and encourage



appropriate density in an infill location, in a Transit Corridor, and thus discourage the need for development at the urban edge.

*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.*

**Applicant Response (Bold):** The subject site is located in a designated Transit Corridor, and in an Area of Change that is intended to develop. The current zoning of MX-M zone allows for a wide array of moderate intensity retail and commercial uses that provide for the day to day goods and services of the community that is encouraged in Centers and Corridors. The request furthers Policy 5.1.2-Development Areas.

*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]*

**Applicant Response (Bold):** This request furthers Goal 5.2 and Policy 5.2.1 because the proposed Conditional Use request will allow for a mix of goods and services to be available which are conveniently accessible. This will encourage redevelopment that brings goods and services within walking and biking distance of neighborhoods. The location within a transit corridor offers choice transportation to services. Characteristics of the community will be maintained since the requested zoning is PERMISSIVE and occur in an existing commercial zone within a transit corridor. This request furthers Policy 5.2.1 – Land Use

#### *POLICY 5.3.1*

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

**Applicant Response (Bold):** This request furthers Policy 5.3.1 because the proposed Special Exception Conditional Use will support additional growth in an Area of Change with existing infrastructure and public facilities. This request furthers Policy 5.3.1 – Land Use

#### *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. [ABC]*

- 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. [ABC]
- b) Maintain the characteristics of distinct communities through zoning and design standards that are consistent with long-established residential development patterns. [ABC]
- c) Ensure appropriate setbacks, buffers, and/or design standards to minimize offsite impacts.
- d) See Policy 5.2.1 for desired land uses to support 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. [ABC]*

**Applicant Response (Bold):** This request furthers policy 5.3.7 because the request Special Exception for Conditional Use which may be objectionable to immediate neighbors may be useful to society and will be equitable to ensure that social assets are distributed evenly and social responsibilities are borne



fairly across the Albuquerque Area. Furthermore, this request maintains the zoning designation adopted with the IDO that allows as a permissive use in the MX-M zone the requested Liquor Retail component.

Murphy USA has a long-proven track record of strong enforcement of liquor sales regulations. Murphy has more than 1,500 stores throughout the United States and train their employees to monitor the sales of alcohol to prevent sales to impaired individuals.

Murphy is NOT any other convenience store operator, they are the model across the country for best practices, security protocol, training, store design for crime prevention, engagement of ownership, extensive surveillance of all locations, product placement and most importantly, the culture of the company. Murphy USA has zero violations or complaints with the State Liquor Board as well as a PROVEN record of performance.

Murphy has a proven track record of being a good operator, the most recent Murphy that opened late last year had just 33 calls for service to-date in 2020 as compared to Circle K that saw 231 calls for service (across the street) from the Albuquerque Police Department in that same time period. Murphy strives to operate their business's where employees and customers feel safe from potential crimes by implementing a thoughtful security and safety program in their stores, which begins with store layout and design.

Murphy follows the model of the Smart Policing Initiatives and has adopted the CPTED (Crime Prevention through Environmental Design) crime prevention program. CPTED is a concept that is data driven with a proven concept that considers the physical environment and its effect on crime prevention. There are four guiding principles.

#### **Natural Surveillance:**

People must be able to see illegal acts taking place to defend property or prevent crime. Surveillance puts the perpetrator(s) under the threat of being observed, and therefore identified and apprehended.

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Principles such as natural surveillance, access management, territoriality, physical maintenance, and order maintenance inform our design. We pay particular attention to parking lots, building entries,



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Murphy stores are intensely local businesses that offer an ever-growing range of products and services. Most of all, they sell convenience, allowing customers to quickly buy what they need and get on with their day. Most of all, Murphy convenience stores sell time—time that benefits the community, whether this time is spent living in, working in or supporting that community. And this is a commodity that consumers value: More than 8 in 10 Americans (82%) support a convenience store being built in their community.

Murphy's Convenience stores are Community Stores, the destination of choice for customers who frequent their favorite location each day to refresh and refuel, whether it's to grab a quick snack and beverage or a fresh prepared meal, or to fill up their gas tank.

Convenience stores are one of the few 24/7 businesses that provide much-needed food, fuel and refreshment for millions of Americans, especially first responders, police officers, firemen, factory workers, hospital workers and restaurant employees. First responders and shift workers rely on Murphy stores. Late-night and early-morning customers depend upon stores for essential items that are not readily available elsewhere, and top reasons for a visit are shopping for a snack or meal, coffee or beverage, gasoline and cold medicine or to use the ATM.

Murphy USA has an extensive security monitoring system with both interior and exterior surveillance systems in place that operates 24/7 that is monitored by the home office. There is a constant presence of security on the premises to prevent alcohol related crime in the area. Murphy USA feels it has a proven method and track record of mitigating any problems related to retail liquor sales. We believe that the actions above are sufficient to mitigate any potential adverse impacts on the surrounding area.

#### ***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.*

#### ***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]*

***Applicant Response (Bold):*** The subject Property is located in an Area of Change and will direct growth and more intense development to this corridor where change is encouraged. Because the proposed request will encourage growth and high-quality future redevelopment in accordance with this policy in a Transit Corridor.



*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]*

**Applicant Response (Bold):** This request furthers this Policy because the proposed project will encourage economic development that will provide jobs, goods, and services which improve the life for new and existing members of the community and contribute to a diverse and vibrant economy by revitalizing an area with growth that is consistent with and enhances the establish character of existing development. This type of economic development is best suited for infill locations supported by commercial corridors. This subject site encompasses all aspects of successful economic development and furthers this Policy.

*POLICY 8.1.3*

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

**Applicant Response (Bold):** This request furthers this Policy by allowing for future development 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.

As demonstrated in our policy narrative, the request Special Exception for Conditional Use 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.

The location for this request for Conditional Use is located in an Area of Change (as shown in the ABC Comp Plan). Our application demonstrates that 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 section. This development of Murphy's will allow for the implementation of redevelopment and implementation of patterns of land use that are consistent with the Comp Plan conditions and historic land use, and will promote connectivity along the transit corridor as a destination for goods and services.

6-6(A)(3)(b) It complies with all applicable provisions of this IDO, including but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in a prior permit or approval affecting the property.

**Applicant Response (Bold):** This request complies with applicable provisions of this IDO including but not limited to any Use-Specific Standards and other adopted City regulations.

As it relates to this request, the use Specific Standards for Liquor Retail in an MX-M zone clearly identify areas that this use would not be allowed and this property and this property is NOT located in one of those areas.'

4-3(D)(36)(f) In the MX-M zone district, this use is permissive, except in the following mapped areas, where it is prohibited unless accessory to a grocery store as noted.

1. Downtown Neighborhood Area – CPO-3
2. East Downtown – CPO-4
3. East Downtown – HPO-1
4. North 4th Street Area



The property for the Special Exception is NOT located in the Downtown Neighborhood Area CPO-3, the East Downtown CPO-4, the East Downtown HPO-1 or the North 4<sup>th</sup> Street Area.

6-6(A)(3)(c) *It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.*

**Applicant Response (Bold):** The approval of the Special Exception for a Conditional Use will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. This opportunity for redevelopment will provide more retail choices for the area.

Murphy is NOT any other convenience store operator, they are the model across the country for best practices, security protocol, training, store design for crime prevention, engagement of ownership, extensive surveillance of all locations, product placement and most importantly, the culture of the company.

Murphy's Convenience stores are Community Stores, the destination of choice for customers who frequent their favorite location each day to refresh and refuel, whether it's to grab a quick snack and beverage or a fresh prepared meal, or to fill up their gas tank.

Murphy USA has zero violations or complaints with the State Liquor Board as well as a PROVEN record of performance. Much of our discussion with the neighborhood representatives has been focused on the concern about an increase in crime that this development may contribute to the area so I am going to spend a great deal of effort to demonstrate that this is NOT the case with Murphy.

As stated by City Councilor Davis, *"While most retailers of this type manage their stores responsibly, almost every neighborhood has a story about a convenience store which became a hub for discarded mini bottles of liquor, round the clock police calls, or worse"*

Last year, Murphy opened its first of its kind location in Albuquerque, New Mexico (the exact model of this location). As a testament to the Murphy model and extensive operational standards and practices, we are able to demonstrate with actual data the difference this makes. Murphy stands proudly behind its record.

TABLE 1 ALBUQUEQUE POLICE DEPARTMENT CALLS FOR SERVICE, 2020 TO CURRENT (BUSINESSES ADJACENT TO MURPHY USA AT 3761 NM-528)	
<b>Murphy USA</b> 3761 NM-528 NW, Albuquerque, NM 87114 January 1, 2020 – May 26, 2020 33 calls	<b>Circle K</b> 3622 NM-528 NW, Albuquerque, NM 87114 January 1, 2020 – May 26, 2020 231 calls
<b>Lowe's Home Improvement</b> 3500 NM-528 NW, Albuquerque, NM 87114 January 1, 2020 – May 26, 2020 31 Calls	<b>Savers</b> 3400 Calle Cuervo NW #2, Albuquerque, NM January 1, 2020 – May 26, 2020 112 Calls

As you can see, the Murphy operation had just 33 calls for service to-date in 2020 as compared to Circle K that saw 231 calls for service from the Albuquerque Police Department in that same time period. Murphy strives to operate their business's where employees and customers feel safe from potential



crimes by implementing a thoughtful security and safety program in their stores, which begins with store layout and design.

Our team has met with Lieutenant Shawn Garrett with the Mayors Problem Response Team along with his team of certified CPTED plan reviewers. We are aggressively pursuing a partnership with Albuquerque Police Department to prevent and protect our customers and employees. Our efforts are part of the model that Murphy has adopted for Smart Policing Initiatives and has adopted the CPTED (Crime Prevention through Environmental Design) crime prevention program. CPTED is a concept that is data driven with a proven concept that considers the physical environment and its effect on crime prevention. There are four guiding principles.

#### **Natural Surveillance:**

People must be able to see illegal acts taking place to defend property or prevent crime. Surveillance puts the perpetrator(s) under the threat of being observed, and therefore identified and apprehended.

#### **Territoriality:**

Territoriality is all about defining what is public space, what semi-public space is, and what is private space. It involves establishing ownership of areas and can be encouraged by activities and management processes that reduce large impersonal spaces to smaller areas that can be personalized and protected.

#### **Access Control:**

This principle relates to territoriality by directing people where to go and denying them access to areas that they do not belong in. This is accomplished through having established vehicle and pedestrian entrances and exits, fencing, door and window locks, access control devices, and appropriate, visible signage.

#### **Maintenance:**

Poorly maintained and neglected areas attract unwanted people and activities. Proper maintenance of landscaping, lighting, and other features are essential CPTED principles. A positive community image is a significant deterrent to criminal behavior.

- Proper store maintenance is a major deterrent for criminals.
- Curb appeal, such as clean stores, parking lots and landscaping can help discourage criminals from entering the property.
- A well-lit store is a major deterrence for criminals. Effective lighting and security cameras are strong indicators—and visual cues to customers—that a store is vigilant about providing a safe environment, both on the lot and inside the store.
- By removing signage and decals from windows and doors, and utilizing low shelving units, convenience retailers provide an inviting atmosphere for their customers as well as clear lines of sight for employees throughout the store and on the lot

#### **Employee Training/Operations:**

Proven to reduce the appeal of crime by more than 62% is to minimize cash on hand at stores by using time-release drop safes or other means to limit the amount of money available. Safety is the No. 1 priority for Murphy stores, and they significantly invest in employee training, giving them guidance and resources to remain vigilant about detecting suspicious patrons and potential crimes.



**Murphy has repeatedly demonstrated their commitment to preventing the misuse of alcohol in the communities in which they operate and promote responsible consumption by properly training their employees with stringent prevention techniques. The Murphy training protocol demonstrates a commitment to work to prevent alcohol-related problems and a desire to be part of the solution. They program teaches staff how to recognize when a customer is intoxicated or underage. In addition to preventing the illegal sale of alcohol, store employees learn how to handle intoxicated customers and keep them from harming themselves and others. These intervention techniques reflect the short period of time a clerk has to interact with a customer.**

**Murphy is in a unique position to stop human trafficking, one of the fastest-growing crime epidemics in our country. Longer hours of operation, public restrooms, and ease of access increase the likelihood that convenience stores can help victims of human trafficking. Convenience Stores Against Trafficking (CSAT), a program of the national nonprofit, IN OUR BACKYARD, empowers the convenience store industry to play a vital role in human trafficking awareness in local communities. Murphy is an active member and advocate for CSAT.**

**Murphy strives to operate a business where employees and customers feel safe from potential crimes by implementing a thoughtful security and safety program in their stores. Principles such as natural surveillance, access management, territoriality, physical maintenance, and order maintenance inform our design. We pay particular attention to parking lots, building entries, restrooms, stairs and railings, fencing, wayfinding signage, landscaping, artwork, and displays of student work to create a warm, welcoming environment that gives students a sense of ownership and pride**

#### **Murphy Community Engagement**

**From sponsoring youth sports teams to conducting food drives, Murphy's convenience stores strengthen the communities that they serve, contributing millions to charitable and community groups. Being a good neighbor is not just a good business practice, Murphy stores are champions for their communities.**

**Murphy stores are intensely local businesses that offer an ever-growing range of products and services. Most of all, they sell convenience, allowing customers to quickly buy what they need and get on with their day. Most of all, Murphy convenience stores sell time—time that benefits the community, whether this time is spent living in, working in or supporting that community. And this is a commodity that consumers value: More than 8 in 10 Americans (82%) support a convenience store being built in their community.**

**Murphy's Convenience stores are Community Stores, the destination of choice for customers who frequent their favorite location each day to refresh and refuel, whether it's to grab a quick snack and beverage or a fresh prepared meal, or to fill up their gas tank.**

**Convenience stores are one of the few 24/7 businesses that provide much-needed food, fuel and refreshment for millions of Americans, especially first responders, police officers, firemen, factory workers, hospital workers and restaurant employees. First responders and shift workers rely on Murphy stores. Late-night and early-morning customers depend upon stores for essential items that are not readily available elsewhere, and top reasons for a visit are shopping for a snack or meal, coffee or beverage, gasoline and cold medicine or to use the ATM.**

**In addition to the strong internal policies that Murphy imposes on all of its locations, there are 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- 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, as demonstrated in our policy review of the ABC Comprehensive Plan (POLICY 5.3.7) 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. [ABC]**

**Per the Comprehensive Plan, objectionable land uses can be mitigated by appropriate setbacks, buffers, and design standards to minimize offsite impacts. These “objectionable” uses must be distributed evenly and fairly across Albuquerque.**

*6-6(A)(3)(d) It will not create material adverse impacts on other land in the surrounding area through increases in traffic congestion, parking congestion, noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts.*

**Applicant Response (Bold):** The Special Exception Conditional Use will not create material adverse impacts on other land in the surrounding area through increases in traffic congestion, parking congestion, noise, vibration. Murphy and our team of engineers have been working in tandem with the City of Albuquerque and Bernalillo County on the federally funded realignment project at this corner (Old Coors and Bridge). We are working in unison to get this project done with as little disruption as possible. We have timed our construction with the Tower realignment project, our site plan and access have been incorporated into the overall plans for the realignment project which is anticipated to being in July of 2020. The realignment project is long overdue and will substantially address traffic safety concerns. The property site is located in a Major Transit Corridor and as such, it is designed for high frequency and high-volume traffic. The development will have adequate parking as required by standards of the IDO. There is no car wash being proposed so there will not be any noise being generated other than that of general retail operations.

This project will also greatly IMPROVE the environmental standards of the area. This site has documented environmental contamination as identified in the Phase One Environmental Assessment report. The Murphy development will be addressing the environmental contamination and working with the appropriate agencies to ensure remediation is done.

To ensure to light pollution creates an impact, our team of engineers have done a photometric study which identifies light values across our property. It demonstrates that there will be no light pollution on the adjacent properties.

*6-6(A)(3)(e) It will not increase non-residential activity within 300 feet of a lot in any Residential zone district between the hours of 8:00 P.M. and 6:00 A.M.*

**Applicant Response (Bold):** This request will not increase non-residential activity within 300 feet of a lot in any Residential zone district between the hours of 8:00 PM and 6:00 AM. Murphy is not a destination location, rather, our consumers are “passerby” traffic. This will not increase the activity that is already active and present at this location. The property to the north, east and south are commercially zoned properties with commercial operations.

*6-6(A)(3)(f) It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.*



***Applicant Response (Bold):*** The property will not negatively impact pedestrian or transit connectivity. All required landscape buffers, setbacks, ingress/egress and parking are fully contained on the property and do not impact the pedestrian or transit connectivity. The development has been thoughtfully designed to meet the pedestrian and transit connectivity design standards of both the IDO and the DPM.

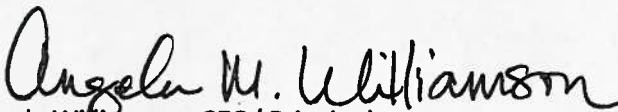
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The Albuquerque/Bernalillo Comprehensive Plan specifies that this property is located adjacent to the Tower designated Plan Center. The Plan identifies that the Goal for a Community Activity Center is; "to expand and strengthen concentrations of moderate and high-density mixed land use and social/economic activities which would reduce urban sprawl, auto travel needs and services costs and which enhance the identity of Albuquerque and its communities."

The MX-M & NR-C zone allows the retail sale of package liquor and fueling centers as permissive, we respectively request approval of the Special Exception request be made on the preponderance of goals and policies that are furthered in both the Comprehensive Plan and the Integrated Development Ordinance. We have carefully presented facts that support or request and respectively ask for an approval based on these facts.

Thank you for your consideration, and please let me know if you have any questions or concerns.

Respectfully submitted,



Angela Williamson, CEO/ Principal

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Office (505) 338.1499

[Awilliamson@modulusarchitects.com](mailto:Awilliamson@modulusarchitects.com)



**From:** [Jennifer Kepesh](#)  
**To:** [Angela Williamson](#)  
**Subject:** Re: Murphy Oil Project at Bridge and Old Coors  
**Date:** Tuesday, June 2, 2020 10:47:14 AM

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Angela,

Thank you so much for your very thorough and thoughtful answers to these questions. It certainly helps to have a fuller picture of the plans and the reasons behind all of this. It does indeed ease my mind to know that you are working so closely with the city on the redevelopment/traffic patterns. I also appreciate the data you presented about security issues and that you explained the permitting so well, and that you are addressing the environmental concerns.

My questions are my own, but I know my concerns are echoed by many in the neighborhood. (We don't all worry about the same things to the same extent, of course.) I will therefore share your responses with others in our neighborhood. I think knowing ahead of time the answers to these questions can make discussion more productive.

Have you set up a meeting time (in person? Zoom?). Our neighborhood has a lot of people who do not use social media much, so it's important for us to put fliers in mailboxes to be sure they are informed.

Thank you again!

Warmly,

Jennifer Kepesh

On Tuesday, June 2, 2020, 10:35:26 AM MDT, Angela Williamson  
<[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)> wrote:

Jennifer,

Thank you very much for taking the time to express your concerns and ask for input. If I may go out of order from your questions below so that I can clear up some policy issues which are extremely important in our request for support. We are not asking for a Zone Change. I know the Valero and Circle K did but that is not what our request is. The property intended for our development is already zoned to allow for a fueling station and liquor retail as permissive approved uses. Theirs was not and so they were seeking a Zone Change that would have changed the zoning for the life of the property.

Our property is already zoned to allow this (MX-M and NR-C). Our request is for a Conditional Use Permit to allow fuel and liquor retail due to its proximity to residential



development. This is a different threshold for approval and is specific to the operator, NOT the property. If approved, the approval specifically states the Murphy is approved. If Murphy were to sell the property, the approval would not pass on to the next user. Murphy has been in business since 1950. All stores are corporately owned and never ever franchised.

Because we are seeking a Conditional approval from the Zoning Hearing Examiner, he is allowed to place conditions on that approval such as a restriction on mini's which we have voluntarily agreed too.

I have responded to your questions below in red. Again, thank you for continuing the dialogue so that I have an opportunity to gain the trust of the community and demonstrate how different we are from all of the others.

All my best,

Angela

---

**From:** Jennifer Kepesh [mailto:[jen\\_kepesh@yahoo.com](mailto:jen_kepesh@yahoo.com)]  
**Sent:** Monday, June 1, 2020 5:36 PM  
**To:** Angela Williamson <[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)>  
**Subject:** Murphy Oil Project at Bridge and Old Coors

Dear Angela,

Thank you for reaching out to our neighborhood to share the information about Murphy Oil's intentionality to be a good business neighbor. Would you be willing to share your thoughts on the following concerns with me?

(1) Our neighborhood is a "luminaria" neighborhood. We deliberately have no street lights in our neighborhood to avoid electric light for Christmas Eve, when the whole city is invited to our display. Excess light ruins the experience. How could we be sure that Murphy Oil would be a good neighbor and shut down their light on Christmas Eve? *I am not sure about the response from Murphy on this, I love the luminarias of Albuquerque and would be in full support of this. I will actually ask if Murphy would be willing to participate in the Luminaria display if ok with the community but I will pose this question to them and give you their response.*

(2) I deeply appreciate the work Murphy Oil does to be a good neighbor. But if Murphy Oil is indeed such a good neighbor today, that does not guarantee that it will stay a good neighbor if not compelled to do so by law. For example, if the company or even just this station were to change ownership, any agreements and promises that Murphy Oil had informally with the nearby neighborhoods/county/city would be unenforceable. *I can understand your concerns about this issue. Murphy has been in their communities since 1950's. They do not ever franchise their locations so that they can maintain the strict standards that many communities have come to trust. Many of the projects I am working on now (in other states) are projects we built 10 years ago that are now being remodeled or torn down and rebuilt to uphold the site, architecture, upgrades to*



security, and frankly to stay fresh and new. Murphy does not cut corners and will be investing millions of dollars in this project and in the community. As I mentioned above, the Conditional Use approval we are seeking will be specific to Murphy. If for some unforeseen reason this property changes hands, that approval does not extend to another property owner. Murphy has a very long long record of consistent responsible ownership and stewardship.

Changing the zoning for this lot would also mean a change in perpetuity. The city worked hard to create zones that would best serve the needs of the current community and future residential and business development in this area. Zoning changes for this lot change the essential character of the neighborhood in the medium term. Why should we support such a change? *I addressed this first but again, this is not a Zone Change request. The property is already zoned to allow for a fueling station and alcohol sales. What we are seeking in a Conditional Use Permit which is required due to the proximity of 500 feet to residential development. A conditional use approval is not granted in perpetuity and is specific only to Murphy. Murphy will provide a safe, convenient and cost effective opportunity to provide the day-to-day needs of the community. Murphy's Convenience stores are Community Stores, the destination of choice for customers who frequent their favorite location each day to refresh and refuel, whether it's to grab a quick snack and beverage or a fresh prepared meal, or to fill up their gas tank. The addition of this store will not change the character of the neighborhood but instead will become part of that character.*

(3) There is a very severe issue of dangerous traffic on this corner, and in-and-out businesses that encourage yet more quick changes of speed, lanes, and direction are a big problem. If you spend time around rush hour, especially in winter light, you will see how this is very nearly a blind intersection (looking into the sun). As a location selling alcohol, you'd be encouraging pedestrian traffic as well. This particular corner is simply too dangerous for this kind of business. *We have worked in tandem with Bernalillo County on the realignment of Tower Road. Our site plan and access points have been included in the thoughtful design for this federally funded project that will be starting in July 2020. The engineering and design have been done to greatly reduce potential conflicts and improve safety. This project along with our integration will improve intersections and multi-modal accommodations/amenities. This project is the first of a four-phase design project in support of the Bridge Boulevard Corridor Redevelopment Plan. The Project has multi-jurisdictional coordination in support of the reconstruction and/or modification of the roadway section, including intersection improvements/realignments, sidewalks, ADA accommodations, drainage improvements, and lighting.*

(4) The lot immediately adjacent to this one has an unreconciled environmental leak of gas (it used to be a gas station) that is still being monitored for its impact on nearby groundwater, including groundwater in the Los Altos neighborhood. How can you be sure that your construction will not add to the continuing danger there, and how can we know that adding a gas station to that same spot can be helpful? *As part of our due diligence, we did a Phase I environmental study for the properties. We are aware of the unreconciled environmental hazard and will be addressing this issue as part of our construction should we move forward. This is a very costly process but one that Murphy is willing to undertake to mitigate any future potential for impacts to the environment. As for the gas station itself, Murphy uses one of the most advanced systems in the world. The underground tanks have a very sophisticated monitoring system and exceed*



*ALL federal standards. To-date Murphy has never had any leaks or contamination of any kind at any of its more than 1,400 stores.*

**(5) If you are able to change your zoning and sell alcohol, you will make it much more likely that the Valero station on the Southeast corner will yet again re-petition for the same right and be successful, adding two quick-drink locations within a few yards of our homes. How can this be good for the residents of a historic neighborhood?** *Addressed above, the property is already zoned for this use. Valero was seeking a zone change to NR-C which is what this property is already zoned. Our request is for a Conditional Use Permit.*

How, indeed, can it be good for Murphy Oil to open a store where they will create competition for themselves by opening the door to a second such market at Valero? We are aware of how many such gas stations and markets have changed hands and closed up in this area. We fear that Murphy Oil has not taken a clear-eyed look at this, or else that the company has plans to sell up as quickly as possible. *I can understand why you would think this but I assure you, Murphy far exceeds all other convenience stores and will be the destination of choice. This goes back to the culture from the top down. They offer a superior product, better prices, cleaner, safer stores. They invest millions of dollars in their projects and the communities they are in. In every location, every market they continue to set the standard for how all stores should operate. They do not sell their stores and never franchise whatsoever. Murphy is NOT any other convenience store operator, they are the model across the country for best practices, security protocol, training, store design for crime prevention, engagement of ownership, extensive surveillance of all locations, product placement and most importantly, the culture of the company.*

**(6) If Murphy Oil were to develop the lot without alcohol sales, can it meet its goals? If not, how can we see this as anything different than an intention to plant a liquor store on our corner?** *Murphy alcohol sales constitute only 4% of the total sales on average of their stores. They have agreed not to sell miniatures at this location and are willing to have this stipulated in the Conditional Use permit approval. The only reason that Murphy does not agree to not sell alcohol at all is that it becomes an issue of competitive advantage. Being new to this market, they have to at least provide the same opportunity for goods and services as their competitors. Murphy's PRIMARY business is the sale of motor vehicle fuels and convenience store goods; the sale of alcoholic beverages are both complementary and SECONDARY to its primary business but something customers appreciate having the opportunity to purchase if so desired. Therefore, as part of its operation, Murphy would like to offer liquor sales to its customer for off-premise consumption*

*Warmly,*

Jennifer Kepesh  
808 Rio Vista Circle SW  
Albuquerque NM 87105  
(505) 702-5446



**From:** [Angela Williamson](#)  
**To:** ["Jennifer Kepesh"](#)  
**Subject:** RE: Murphy Oil Project at Bridge and Old Coors  
**Date:** Tuesday, June 2, 2020 10:35:00 AM

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**Sent:** Monday, June 1, 2020 5:36 PM  
**To:** Angela Williamson <[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)>  
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*Warmly,*

Jennifer Kepesh  
808 Rio Vista Circle SW  
Albuquerque NM 87105  
(505) 702-5446



## Angela Williamson

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**From:** Angela Williamson  
**Sent:** Tuesday, May 19, 2020 10:01 AM  
**To:** 'Athena La Roux'  
**Subject:** Murphy USA Development at Old Coors & Bridge  
**Attachments:** Page 111 from 2016.05.13\_Bridge Bldv. Phase 1\_95% Plan Set-3.pdf; Pages from 2016.05.13\_Bridge Bldv. Phase 1\_95% Plan Set.pdf; Albuquerque NM 8MPD 2824 CSP Rev3 10-8-19.pdf

Good afternoon Athena,

I wanted to follow up on our conversation as it related to your concerns and questions about the Old Coors and Bridge roadway alignment. I spoke with Julie Luna who is the Director of the Bernalillo County Transportation Division. Construction plans for the realignment of Old Coors and Bridge have been approved, issued for bid and have been awarded for construction. She has stated to me that the construction will be imminent. I know that this was a very important issue to you when we spoke so I wanted to give you a copy of the plans that have been approved for this project. I have included a site plan of our intended project so you can see how access would be provided. We have provided this to the County and City and thus far, they are in agreement with the interaction between the two.

Thank you again for your time,

Angela

**Angela M. Williamson, CEO/Principal**  
**Modulus Architects & Land Use Planning, Inc.**  
100 Sun Ave NE, Suite 600  
Albuquerque, New Mexico 87109  
Office: (505) 338.1499 ext. 1000  
Cell + Text: (505) 999.8016  
Email: [awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
Website: [www.modulusarchitects.com](http://www.modulusarchitects.com)  
Join us on Facebook: [Modulus Architects on Facebook](#)  
Find me on LinkedIn: [Angela LinkedIn Profile](#)

---

**From:** Angela Williamson  
**Sent:** Thursday, May 14, 2020 3:53 PM  
**To:** 'Athena La Roux' <[athenalaroux@gmail.com](mailto:athenalaroux@gmail.com)>  
**Subject:** Murphy USA Development at Old Coors & Bridge

Good afternoon Athena,

Thank you very much for talking with me today and for your patience as we try and navigate the Covid-19 restrictions. I would love to meet with you but under the circumstances I will offer a video conference if you would like to talk further. I greatly appreciate your insight on our proposal and your neighborhood. As you know, Murphy USA would like to develop a new facility at this location that would require Conditional Permit approval for the fueling center as well as



the alcohol component. You raised several concerns today that I would like to address. First and foremost, Murphy USA is an excellent steward of their services and have an impeccable record of performance across the board. They have zero violations with the State Licensing Board. Their sites have an extensive video surveillance program with more than ten cameras on site and in the store that are monitored live by the Murphy home office. They do not franchise their locations ever so this will always be a corporately maintained store.

You and I discussed the concern about the traffic, The City of Albuquerque has already placed a requirement on this development to do an extensive Traffic Impact Study in which the City will identify the scope of the study. Any improvements to the roadways, infrastructure or traffic mitigation that is recommended as a result of this study will be required to be constructed by Murphy at their expense. The study has not been done yet so I don't know what those improvements will be but it will have to be done prior to any permits for construction and Murphy will have to agree to constructing the improvements if they want to proceed with their project.

One of the concerns we talked about also had to do with liquor sales. As I mentioned above, Murphy is an excellent operator and has zero tolerance for liquor violations. They do not have any violations or complaints with the State licensing Board in over 10 years of continuous operations. Furthermore, upon discussing these concerns with my client, they have voluntarily agreed NOT to sell the miniature or single container liquor bottles at all. This specific type of sale lends itself to an unwanted clientele and they do not want this client at their store or in the neighborhood.

We (Murphy) are willing to take intensive measures to make sure that we are a good neighbor. We have hired an engineering firm to do a photometric study that will ensure that there is no light pollution from our store on any of the surrounding developments, this should be ready in a few days' time and I will be glad to share this with you.

Moving forward, I would love to work together on this and the many other projects for different clients I am working on in the South Valley. Specific to Murphy, please let me know if you would like to schedule a video conference meeting or call with you and or additional members of the Neighborhood. I would like to start our application at the end of May so I am hoping we can work through your concerns.

All my best,  
Angela

Please feel free to call my personal cell at any time to discuss (505) 999-8016.

**Angela M. Williamson, CEO/Principal**

**Modulus Architects & Land Use Planning, Inc.**

100 Sun Ave NE, Suite 600

Albuquerque, New Mexico 87109

Office: (505) 338.1499 ext. 1000

Cell + Text: (505) 999.8016

Email: [awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)

Website: [www.modulusarchitects.com](http://www.modulusarchitects.com)

Join us on Facebook: [Modulus Architects on Facebook](#)

Find me on LinkedIn: [Angela LinkedIn Profile](#)





## Angela Williamson

---

**From:** Angela Williamson  
**Sent:** Tuesday, November 5, 2019 11:30 AM  
**To:** athena laroux  
**Subject:** RE: Murphy oil.

Hi Athena,

I have not filed any applications yet, it is very important to me to meet with you and the other residents to understand your thoughts and concerns about this development.

All my best,  
Angela

**ANGELA M. WILLIAMSON, CEO/PRINCIPAL**

**MODULUS ARCHITECTS, INC.**

100 Sun Avenue NE, Suite 305

Albuquerque, NM 87109

Mobile + Text 505.999.8016

Office 505.338.1499 (Ext. 1000)



---

**From:** athena laroux <athenalaroux@gmail.com>  
**Sent:** Tuesday, November 5, 2019 11:26 AM  
**To:** Angela Williamson <awilliamson@modulusarchitects.com>  
**Subject:** Re: Murphy oil.

Hi Angela,  
I didn't hear back from my last email, have you already filed your application?  
I've talked w swan, wdcdc and Alamosa, it took a bit to coordinate.  
Thanks,

Athena la roux

On Oct 21, 2019, at 11:00 AM, Angela Williamson <[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)> wrote:

Good morning Athena,  
Thank you for taking the time to write this email regarding our project. I represent Murphy which is a much different operator than Circle K with a very long record of community involvement and exemplary security policies. I do know the history with Circle K and the recent denial of a request for a Zone Map



Amendment. I have advised my client of all of this information but they would like me to at least meet with you and the Neighborhood Associations. Their facilities are state of the art and their program is very different than anything you have seen before. Currently there is only one other facility in New Mexico that reflects their new store program.

I have not made any submittals to the City yet and would like the opportunity to go over this project with you and your fellow residents. Can you please advise if there is a day in the evening that is convenient to set up a meeting?

Thank you for your time,

Angela

**ANGELA M. WILLIAMSON, CEO/PRINCIPAL**  
**MODULUS ARCHITECTS, INC.**

100 Sun Avenue NE, Suite 305

Albuquerque, NM 87109

Mobile + Text 505.999.8016

Office 505.338.1499 (Ext. 1000)

<image001.png>

<image002.png>

<image003.png>

<image004.png>

<image005.png>

<image006.jpg>

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**From:** athena laroux <[athenalaroux@gmail.com](mailto:athenalaroux@gmail.com)>

**Sent:** Saturday, October 19, 2019 1:32 PM

**To:** Angela Williamson <[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)>

**Subject:** Murphy oil.

Hello Angela,

Thanks for your letter.

We would like to have a neighborhood meeting with you.

Are you aware of the recent developments on the Valero/Circle k across the street?

The alcohol permit was declined and circle k won't be expanding.

I'm sure you know there's also a tiny church across from that lot. I know that ground is contaminated but is likely fine for a gas station.

LACA and the neighboring communities fought long and hard to get alcohol sales declined. We'd be fine w another gas station as it's a very dangerous intersection and would benefit from less cross traffic.

We can include SWAN and Alamosa neighborhood at the meeting.

An evening or weekend works fine.

Thanks for contacting us.

Athena la roux  
LACA President



# SIGN POSTING AGREEMENT

## REQUIREMENTS

### POSTING SIGNS ANNOUNCING PUBLIC HEARINGS

All persons making application to the City under the requirements and procedures established by the Integrated Development Ordinance are responsible for the posting and maintaining of one or more signs on the property which is subject to the application, as shown in Table 6-1-1. Vacations of public rights-of-way (if the way has been in use) also require signs. Waterproof signs are provided at the time of application for a \$10 fee per sign. If the application is mailed, you must still stop at the Development Services Front Counter to pick up the sign(s).

The applicant is responsible for ensuring that the signs remain posted throughout the 15-day period prior to any public meeting or hearing. Failure to maintain the signs during this entire period may be cause for deferral or denial of the application. Replacement signs for those lost or damaged are available from the Development Services Front Counter.

#### 1. LOCATION

- A. The sign shall be conspicuously located. It shall be located within twenty feet of the public sidewalk (or edge of public street). Staff may indicate a specific location.
- B. The face of the sign shall be parallel to the street, and the bottom of the sign shall be at least two feet from the ground.
- C. No barrier shall prevent a person from coming within five feet of the sign to read it.

#### 2. NUMBER

- A. One sign shall be posted on each paved street frontage. Signs may be required on unpaved street frontages.
- B. If the land does not abut a public street, then, in addition to a sign placed on the property, a sign shall be placed on and at the edge of the public right-of-way of the nearest paved City street. Such a sign must direct readers toward the subject property by an arrow and an indication of distance.

#### 3. PHYSICAL POSTING

- A. A heavy stake with two crossbars or a full plywood backing works best to keep the sign in place, especially during high winds.
- B. Large headed nails or staples are best for attaching signs to a post or backing; the sign tears out less easily.

#### 4. TIME

Signs must be posted from JULY 06, 2020 To JULY 21, 2020

#### 5. REMOVAL

- A. The sign is not to be removed before the initial hearing on the request.
- B. The sign should be removed within five (5) days after the initial hearing.

I have read this sheet and discussed it with the Development Services Front Counter Staff. I understand (A) my obligation to keep the sign(s) posted for (15) days and (B) where the sign(s) are to be located. I am being given a copy of this sheet.

Regina Okoye  
(Applicant or Agent)

6/2/2020  
(Date)

I issued 2 signs for this application, 06/02/2020, MARCELO IBARRA  
(Date) (Staff Member)

PROJECT NUMBER: PR-2020-003911

VA-2020-00144  
VA-2020-00143





# CITY OF ALBUQUERQUE INVOICE

**MODULUS ARCHITECTS**

**100 SUN AVE NW**

**Reference NO: VA-2020-00143**

**Customer NO: CU-35112705**

<b>Date</b>	<b>Description</b>	<b>Amount</b>
6/02/20	Application Fee	\$260.00

**Due Date: 6/02/20**

**Total due for this invoice:**

**\$260.00**

**Options to pay your Invoice:**

1. Online with a credit card: <http://posse.cabq.gov/posse/pub/lms/Default.aspx>
2. In person: Plaza Del Sol, 600 2nd St. NW, Albuquerque, NM 87102

PLEASE RETURN THE BOTTOM PORTION OF THIS INVOICE NOTICE WITH PAYMENT



**City of Albuquerque**  
PO Box 1293  
Albuquerque, NM 87103

**Date:** 6/02/20  
**Amount Due:** \$260.00  
**Reference NO:** VA-2020-00143  
**Payment Code:** 130  
**Customer NO:** CU-35112705

**MODULUS ARCHITECTS**  
100 SUN AVE NW  
ALBUQUERQUE, NM 87129



130 0000VA202000143001025467115665237000000000000260000CU35112705





# CITY OF ALBUQUERQUE INVOICE

**MODULUS ARCHITECTS**

**100 SUN AVE NW**

Reference NO: VA-2020-00144

Customer NO: CU-35112705

Date	Description	Amount
6/02/20	Application Fee	\$260.00

Due Date: **6/02/20**

Total due for this invoice:

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PLEASE RETURN THE BOTTOM PORTION OF THIS INVOICE NOTICE WITH PAYMENT



City of Albuquerque  
PO Box 1293  
Albuquerque, NM 87103

**Date:** 6/02/20  
**Amount Due:** \$260.00  
**Reference NO:** VA-2020-00144  
**Payment Code:** 130  
**Customer NO:** CU-35112705

MODULUS ARCHITECTS  
100 SUN AVE NW  
ALBUQUERQUE, NM 87129



130 0000VA202000144001025467115667749000000000000260000CU35112705



## City of Albuquerque ZHE – July 21, 2020

## Agenda Item #22

**VA-2020-00143**

PR-2020-003911

**Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district for Commercial Tract, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(17)(i)]**

**Ownership:** **Owner:** MARTINEZ JOSE ALFREDO & AILDA

**Zone District/Purpose:** MX-M/The purpose of the MX-M zone district is to provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Centers and Corridors.

### Allowable Use:

Light vehicle fueling station						C	P	P	P	P	P					4-3(D)(17)
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**Applicable Comp Plan Designation(s):** Area of Change, Bridge/Tower MT

**Applicable Overlay Zones:** None listed

**Applicable Use-Specific Standard(s):**

#### 4-3(D)(17) Light Vehicle Fueling Station

4-3(D)(17)(a) No inoperable vehicles shall be stored outside a building at any time.

4-3(D)(17)(b) This use must comply with stormwater quality requirements found in the DPM.

4-3(D)(17)(c) This use shall not be located where the only vehicle access to the lot is from a local street.

4-3(D)(17)(d) Each street that provides access to the lot shall have either 2 travel lanes in each direction or a center turn lane with access to the site.

4-3(D)(17)(e) Uses located on a corner lot with access from both streets shall have no more than one access point per frontage. Uses located mid-block or with access from only one street shall have no more than 2 access points from that street.

4-3(D)(17)(f) Access points shall be located no closer than 20 feet from any adjacent property that is not under common ownership.

4-3(D)(17)(g) Site access from a paved alley connecting to a public street is allowed provided that the access points from the site to the alley shall be a minimum of 25 feet from the intersection of the alley and the street.

4-3(D)(17)(h) For fueling station canopies, all under-canopy lighting shall be recessed so that no light lens projects below the canopy ceiling. The canopy fascia shall not be internally illuminated.

4-3(D)(17)(i) If located adjacent to any Residential zone district, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).



4-3(D)(17)(j) If located abutting or across an alley from any Residential zone district or lot containing a Residential use in any Mixed-use zone district, an opaque wall, fence, or vegetative screen at least 6 feet high is required.

4-3(D)(17)(k) In UC-AC-MS-PT-MT areas and the MX-H zone district, any building containing a retail use with 1,000 square feet or more of gross floor area shall have a maximum setback of 15 feet.

4-3(D)(17)(l) In UC-MS-PT areas, an opaque wall or vegetative screen at least 3 feet high shall be provided along all street frontages.

4-3(D)(17)(m) This use is prohibited within 330 feet of Major Public Open Space.

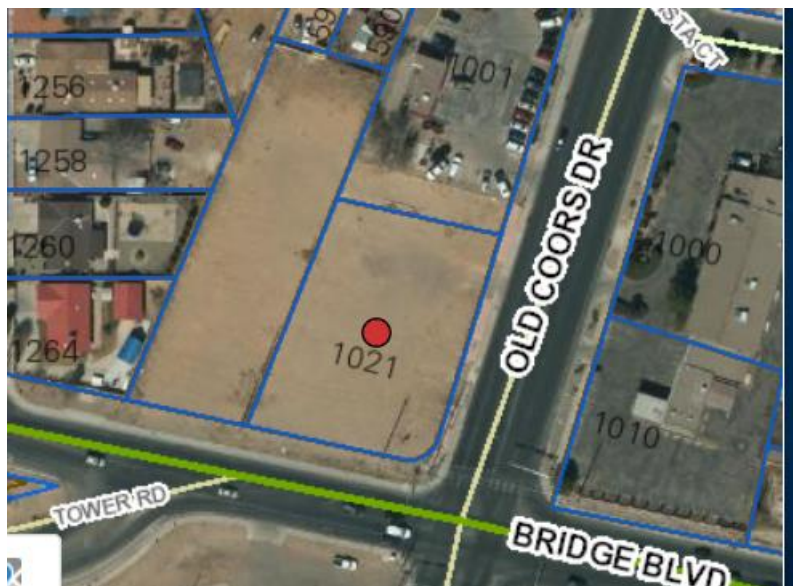
**Applicable Dimensional/Development Standards:** n/a

**Prior Approval Conditions:** No prior special exceptions on the western lot

**Traffic Recommendations:** No objections

**Planning Recommendation:** This matter should proceed to a public hearing where the Zoning Hearing Examiner will hear additional evidence and make a written decision pursuant to applicable provisions of Section 14-16-6-4.

City Parcel  
**Address:** 99999 BRIDGE BLVD SW  
**Apartment:**  
**Lot:** COMMERCIAL TRACT **Block:** 5  
**Subdivision:** LOS ALTOS  
**Pin:** ABQ166918





**City of Albuquerque ZHE – July 21, 2020**

## Agenda Item #23

**VA-2020-00144**

PR-2020-003911

**Jose Alfredo and Ailda Martinez (Agent, Modulus) requests a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district for Lot B, Block 5, Los Altos, located at 1021 Old Coors Dr SW zoned MX-M [Section 14-16-4-3(D)(36)(c)]**

**Ownership:** Owner: MARTINEZ JOSE ALFREDO & AILDA

**Zone District/Purpose:** MX-M/The purpose of the MX-M zone district is to provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Centers and Corridors.

### Allowable Use:

Liquor retail					C	A	P	P	P	C	C	C					4-3(D)(36)
---------------	--	--	--	--	---	---	---	---	---	---	---	---	--	--	--	--	------------

**Applicable Comp Plan Designation(s):** Area of Change, Bridge/Tower MT

**Applicable Overlay Zones:** None listed

**Applicable Use-Specific Standard(s):**

4-3(D)(36) Liquor Retail

4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.

4-3(D)(36)(b) Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.

4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.

**Applicable Dimensional/Development Standards:** n/a

**Prior Approval Conditions:** 1003639 – Approval of carport

**Traffic Recommendations:** No objections

**Planning Recommendation:** This matter should proceed to a public hearing where the Zoning Hearing Examiner will hear additional evidence and make a written decision pursuant to applicable provisions of Section 14-16-6-4.



**City Parcel**

**Address:** 1021 OLD COORS DR SW

**Apartment:**

**Lot:** B    **Block:** 5

**Subdivision:** LOS ALTOS

**Pin:** ABQ167431









CITY OF ALBUQUERQUE  
PLANNING DEPARTMENT  
INTER-OFFICE MEMORANDUM

June 22, 2020

**To:** Lorena Patten-Quintana, ZHE Planner

**From:** Matt Grush, P.E. Senior Engineer

**Subject:** COMMENTS FOR THE ZHE HEARING OF July 21, 2020

The Transportation Development Review Services Section has reviewed the zone hearing requests, and submits the attached comments.

---

**VA-2020-00143, 0144**

**PR-2020-003911**

**Address:** 1021 Old Coors Dr. SW

**Transportation Review:** No objections

CU application.



**Sanchez, Suzanna A.**

---

**From:** Regina Okoye <rokoye@modulusarchitects.com>  
**Sent:** Monday, August 03, 2020 11:05 AM  
**To:** Patten-Quintana, Lorena; Sanchez, Suzanna A.  
**Cc:** Angela Williamson  
**Subject:** RE: Murphy's at Old Coors and Bridge - PR# 2020-003911, VA#2020-00143, PR: 2020-003911, VA# 2020-00144  
**Attachments:** Notices Combined.pdf

Good Morning Suzie and Lorena,

Attached are the updated neighborhood letters (Meeting Request and Hearing Notice) that clarify the address change and the new Zoom meeting. We would like to add the attachment to our application.

Please let us know if you have any further questions.

Thank you,

**REGINA OKOYE, ENTITLEMENTS PROJECT MANAGER**  
**MODULUS ARCHITECTS, INC.**

100 Sun Avenue NE, Suite 600  
Albuquerque, NM 87109  
Office 505.338.1499 (Ext. 1003)  
Mobile + Text 505.267.7686  
[www.modulusarchitects.com](http://www.modulusarchitects.com)



---

**From:** Patten-Quintana, Lorena [<mailto:lpatten-quintana@cabq.gov>]  
**Sent:** Friday, July 24, 2020 11:18 AM  
**To:** Regina Okoye <[rokoye@modulusarchitects.com](mailto:rokoye@modulusarchitects.com)>  
**Cc:** Angela Williamson <[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)>  
**Subject:** FW: Murphy's at Old Coors and Bridge

I confirmed that the address correction is sufficient. Don't forget the guidelines below and be certain the address is correct. -Lorena



---

**From:** Patten-Quintana, Lorena  
**Sent:** Thursday, July 23, 2020 6:15 PM  
**To:** 'Regina Okoye' <[rokoye@modulusarchitects.com](mailto:rokoye@modulusarchitects.com)>  
**Subject:** RE: Murphy's at Old Coors and Bridge

I believe you missed some 9s. Be certain to follow the guidelines for mail and email for neighborhood associations and the mailing for property owners within 100 feet. I will confirm that the address correction is sufficient. I'll get back with you in the morning.

We get this on track!

-Lorena

---

**From:** Regina Okoye <[rokoye@modulusarchitects.com](mailto:rokoye@modulusarchitects.com)>  
**Sent:** Thursday, July 23, 2020 4:36 PM  
**To:** Patten-Quintana, Lorena <[lpatten-quintana@cabq.gov](mailto:lpatten-quintana@cabq.gov)>  
**Subject:** RE: Murphy's at Old Coors and Bridge

Lorena,

That description looks accurate to me.

I have also attached the new letters I will be sending out for the neighborhood meeting and neighborhood hearing. Can you take a look at it and verify that I hit the points that we talked about and ensure that I did not leave anything pertinent out.

Thanks for all your help.

**REGINA OKOYE, ENTITLEMENTS PROJECT MANAGER**  
**MODULUS ARCHITECTS, INC.**

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Albuquerque, NM 87109  
Office 505.338.1499 (Ext. 1003)  
Mobile + Text 505.267.7686  
[www.modulusarchitects.com](http://www.modulusarchitects.com)



---

**From:** Patten-Quintana, Lorena [<mailto:lpatten-quintana@cabq.gov>]  
**Sent:** Thursday, July 23, 2020 3:07 PM  
**To:** Regina Okoye <[rokoye@modulusarchitects.com](mailto:rokoye@modulusarchitects.com)>  
**Subject:** Murphy's at Old Coors and Bridge



Gina,

Please confirm the requests below. Thanks! -Lorena

1. VA-2020-00143      Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) request a  
PR-2020-003911      conditional use to allow for a light vehicle fueling station adjacent to a  
residential zone district for Commercial Tract, Block 5, Los Altos,  
located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-  
3(D)(17)(i)]
  
2. VA-2020-00144      Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) request a  
PR-2020-003911      conditional use to allow for liquor sale within 500 feet of residential for  
Commercial Tract, Block 5, Los Altos, located at 99999 Bridge Blvd SW  
zoned MX-M [Section 14-16-4-3(D)(36)(e)]

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

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





June 8, 2020

**RE: UPDATED - PUBLIC NOTICE OF ZHE HEARING VIA ZOOM - NWC OLD COORS & BRIDGE**

Dear Neighborhood Representatives,

Modulus Architects, Inc. on behalf of Murphy Oil USA, Inc. will be requesting approval from the Zoning Hearing Examiner within the City of Albuquerque for a Conditional Use Permit to allow the following:

**ZHE - Conditional Use Permit – Light Vehicle Fueling Station 4-3(D)(17)(i) 4-3(D)(17)(i)** If located adjacent to any Residential zone district, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).

**ZHE – Conditional Use Permit – Liquor Retail 4-3(D)(36) 4-3(D)(36)(c)** – *Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.*

**A hearing will be held on July 21, 2020 beginning at 9:00AM via ZOOM.**

**Join Zoom Meeting**

<https://cabq.zoom.us/j/93420676806>

Meeting ID: 934 2067 6806

One tap mobile

+12532158782,,93420676806# US (Tacoma)

+13017158592,,93420676806# US (Germantown)

Dial by your location

+1 253 215 8782 US (Tacoma)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

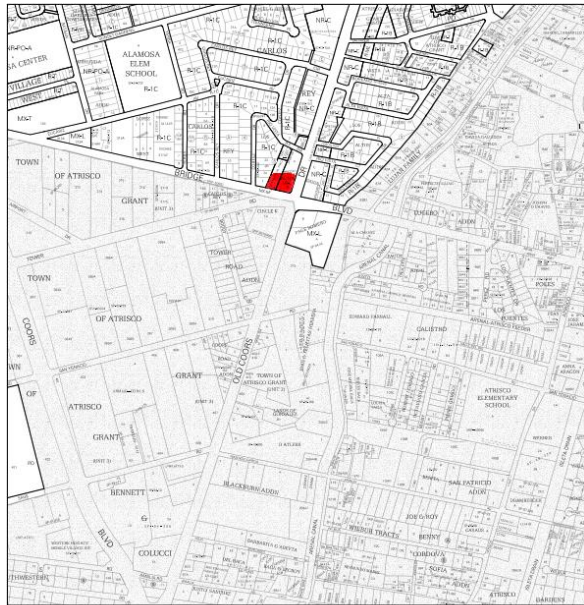
+1 669 900 6833 US (San Jose)

Meeting ID: 934 2067 6806

Find your local number: <https://cabq.zoom.us/j/93420676806>

For more information, please contact the ZHE Administrative Assistant Suzie Sanchez at 505-924-3894 or [suzannasanchez@cabq.gov](mailto:suzannasanchez@cabq.gov).





## Contact Information

Modulus Architects, Inc.  
 100 Sun Ave NE, Suite 600  
 Albuquerque, New Mexico 87109  
 c/o Angela Williamson, CEO/Principal (Agent)  
 (505) 338-1499 ext. 1000  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)

## Project or Development Proposal

NWC of Old Coors DR. & Bridge BLVD.  
 1021 Old Coors Dr. SW  
 Albuquerque NM, 87121  
 Murphy Oil USA, Inc.  
 Convenience Store with Fueling Station  
 Full-Service Retail



Please note: "You may submit written comments to the Zoning Hearing Examiner up to 6 days before the hearing (5pm on the Wednesday before the hearing). Written comments received after that deadline will not be taken into consideration for this application

## Useful Links

### Integrated Development Ordinance (IDO)

<http://documents.cabq.gov/planning/IDO/IDO-Effective-2018-05-17.pdf>

### IDO Interactive Map

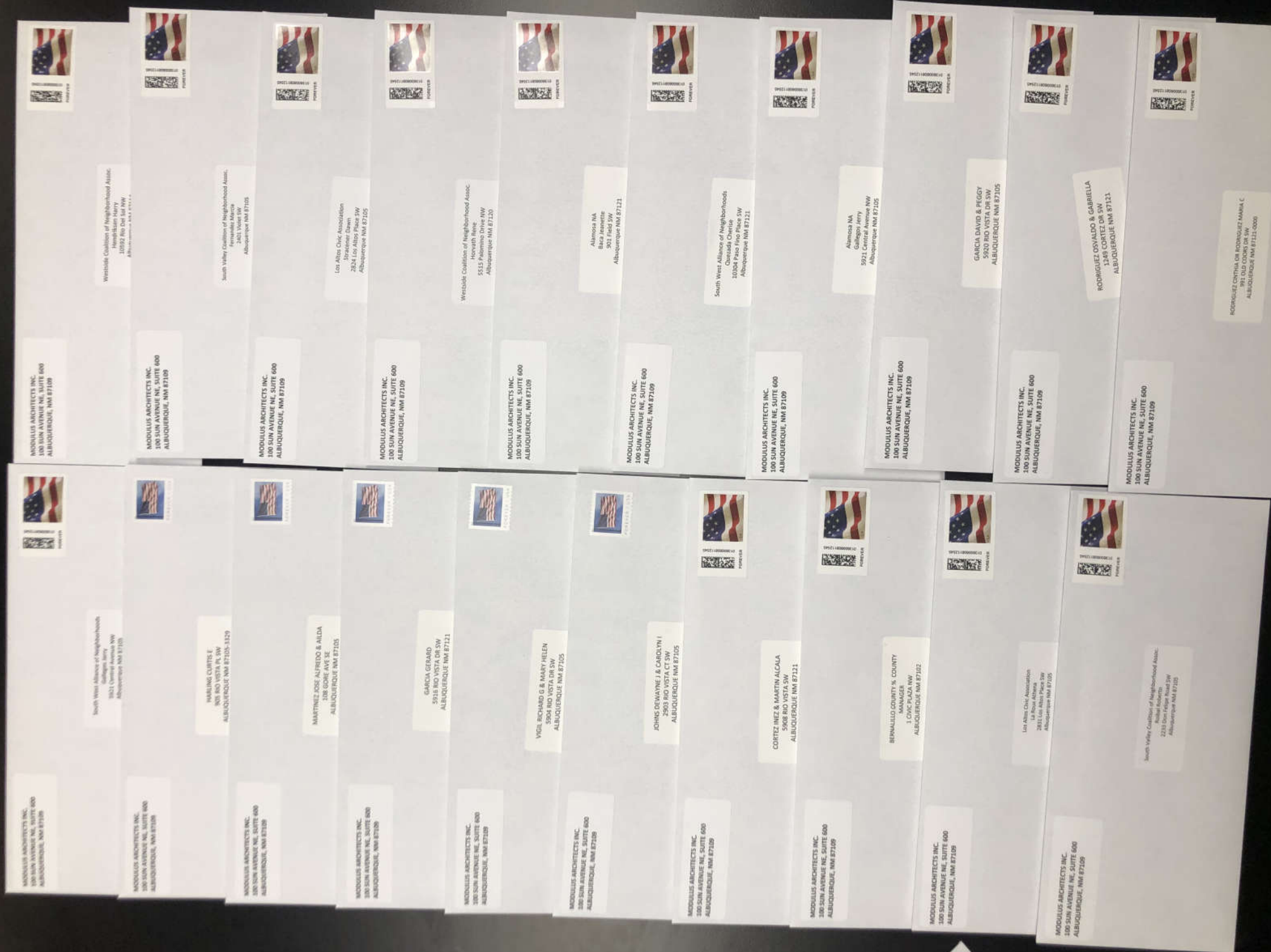
<https://tinyurl.com/IDOzoningmap>

If you have any questions or need additional information regarding this matter, please do not hesitate to contact me.

Sincerely,

Angela Williamson, CEO/Principal  
 Modulus Architects, Inc.  
 100 Sun Ave NE, Suite 600  
 Albuquerque, NM 87109  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
 Office (505) 338-1499 ext. 1000 Mobile (505) 999-8016







MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109

MODULUS ARCHITECTS INC.  
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ALBUQUERQUE, NM 87109

ANUNDO JAMIE & JESSICA  
1310 DONAHUE RD SW  
ALBUQUERQUE, NM 87111

MONTES DAVID & SYLVIA  
1258 CORTEZ DR SW  
ALBUQUERQUE, NM 87111

MARTINEZ JOSE ALFREDO & ALIDA  
3800 BATEMAN PL SW  
ALBUQUERQUE, NM 87105

PRADO VICTOR O & OFELIA R  
13943 TUCKER AVE  
STUMAR CA 91342-1528

CABRILLO GABRIEL & MAGALY  
2239 PALARITO RD SW  
ALBUQUERQUE, NM 87105-6639

MUNOZ FERNANDO  
3510 TAPPA PL SW  
ALBUQUERQUE, NM 87105-4543

SHAMING SWAMPSCOTT INC C/O AD  
VALERIE TAYLOR  
PO BOX 680110  
SAN ANTONIO TX 78269-0110

MOHTOVA GRACIE M  
11271 LA LUZ DR NW  
ALBUQUERQUE, NM 87107-3548

CIRCLE K STORES INC  
5500 S CLIFTON ST SUITE 100  
GREENWOOD VILLAGE CO 80111-1914

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109

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MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109

ATENCIO MICHAEL P & CAMERON B TRUSTEES  
ATENCIO INT  
1256 CORTEZ DR SW  
ALBUQUERQUE, NM 87121

BACA FLORENCIO  
923 RIO VISTA CIR SW  
ALBUQUERQUE, NM 87105-3323

GURROLA MARIA DE JESUS CAMPOS  
5912 RIO VISTA CIR SW  
ALBUQUERQUE, NM 87121-3370

SMI - ABC RE LLC  
16801 GREENPOINT PARK DR SUITE 376  
HOUSTON TX 77060-2310

CONTRERAS SAM A & VERONICA TRUSTEES  
CONTRERAS LIT  
12500 RIVINGTON AVE  
ALBUQUERQUE, NM 87121

RITAS APARTMENTS LLC  
1248 CORTEZ DR SW  
ALBUQUERQUE, NM 87121-3312

ABAGON MALANIE ROSE  
1244 CORTEZ DR SW  
ALBUQUERQUE, NM 87121-3312

SALAS TRINIDAD JR & VIOLA M  
1244 CORTEZ DR SW  
ALBUQUERQUE, NM 87121



ACADEMY  
6255 SAN ANTONIO DR NE

ALBUQUERQUE  
NM

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340128-9552  
(800)275-8777

11:27 AM

6/8/2020

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(Transaction #:221)  
(Receipt #:000221)  
(AID:A0000002031010)  
(AL:VISA CREDIT)  
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CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district for Commercial Tract, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(17)(i)]

Special Exception No:..... **VA-2020-00143**  
Project No: ..... **Project#2020-003911**  
Hearing Date: ..... 07-21-20  
Closing of Public Record: ..... 07-21-20  
Date of Decision: ..... 08-05-20

On the 21st day of July, 2020, Modulus Architects, agent for property owners Jose Alfredo and Ailda Martinez (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district (“Application”) upon the real property located at 99999 Bridge Blvd SW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Questions have arisen regarding the uses, addresses, and legal descriptions noticed for this application and the related application listed under VA-2020-00144, Project#2020-003911.
2. The ZHE also has questions regarding whether the proposed conditional use may or may not satisfy IDO Section 14-16-6-6(a)(3)(a), which requires that the proposed conditional use be consistent with the adopted ABC Comp Plan, as amended. Specifically, the ZHE would like additional evidence regarding Comp Plan Policy 5.3.7, which pertains to “Locally Unwanted Land Uses,” and which exists to “[e]nsure 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.”
3. This matter should be deferred to allow Applicant and the public to timely submit additional evidence in this matter.

DECISION:

DEFERRAL of the Application to be heard at the ZHE hearing at 9:00 a.m. on August 18, 2020.



APPEAL:

If you wish to appeal this decision, you must do so by August 20, 2020 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.

A handwritten signature in dark ink, appearing to read "Robert Lucero". The signature is fluid and cursive, with the first name "Robert" and last name "Lucero" clearly distinguishable.

---

Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
Modulus Architects, Angela Williamson, [awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)





CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for liquor sale within 500 feet of residential for Lot B, Block 5, Los Altos, located at 1021 Old Coors Dr SW, zoned MX-M [Section 14-16-4-3(D)(36)(c)]

Special Exception No:..... **VA-2020-00144**  
Project No: ..... **Project#2020-003911**  
Hearing Date: ..... 07-21-20  
Closing of Public Record: ..... 07-21-20  
Date of Decision: ..... 08-05-20

On the 21st day of July, 2020, Modulus Architects, agent for property owners Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for liquor sale within 500 feet of residential (“Application”) upon the real property located at 1021 Old Coors Dr SW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Questions have arisen regarding the uses, addresses, and legal descriptions noticed for this application and the related application listed under VA-2020-00143, Project#2020-003911.
2. The ZHE also has questions regarding whether the proposed conditional use may or may not satisfy IDO Section 14-16-6-6(a)(3)(a), which requires that the proposed conditional use be consistent with the adopted ABC Comp Plan, as amended. Specifically, the ZHE would like additional evidence regarding Comp Plan Policy 5.3.7, which pertains to “Locally Unwanted Land Uses,” and which exists to “[e]nsure 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.”
3. This matter should be deferred to allow Applicant and the public to timely submit additional evidence in this matter.

DECISION:

DEFERRAL of the Application to be heard at the ZHE hearing at 9:00 a.m. on August 18, 2020.

APPEAL:

If you wish to appeal this decision, you must do so by August 20, 2020 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.



Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.

A handwritten signature in dark ink, appearing to read "Robert Lucero". The signature is fluid and cursive, with the first name "Robert" and last name "Lucero" clearly distinguishable.

---

Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
Modulus Architects, Angela Williamson, [awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)







4-3(D)(17)(j) If located abutting or across an alley from any Residential zone district or lot containing a Residential use in any Mixed-use zone district, an opaque wall, fence, or vegetative screen at least 6 feet high is required.

4-3(D)(17)(k) In UC-AC-MS-PT-MT areas and the MX-H zone district, any building containing a retail use with 1,000 square feet or more of gross floor area shall have a maximum setback of 15 feet.

4-3(D)(17)(l) In UC-MS-PT areas, an opaque wall or vegetative screen at least 3 feet high shall be provided along all street frontages.

4-3(D)(17)(m) This use is prohibited within 330 feet of Major Public Open Space.

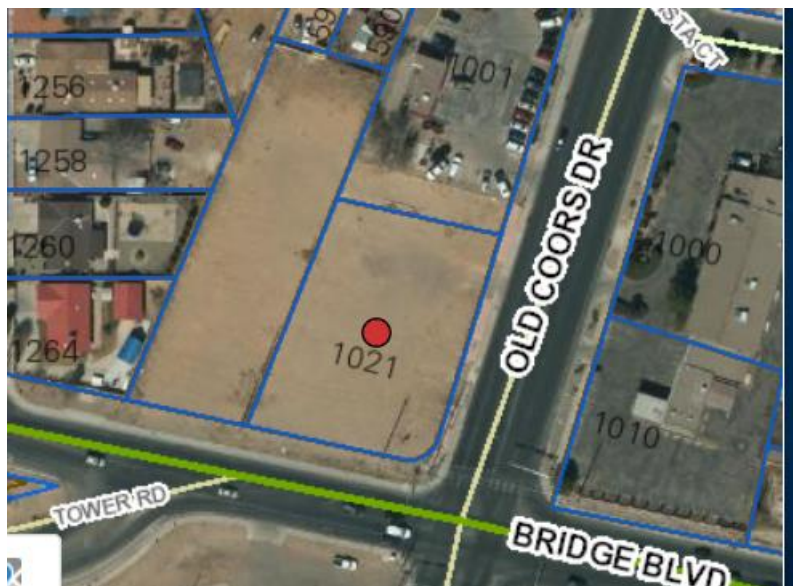
**Applicable Dimensional/Development Standards:** n/a

**Prior Approval Conditions:** No prior special exceptions on the western lot

**Traffic Recommendations:** No objections

**Planning Recommendation:** This matter should proceed to a public hearing where the Zoning Hearing Examiner will hear additional evidence and make a written decision pursuant to applicable provisions of Section 14-16-6-4.

City Parcel  
**Address:** 99999 BRIDGE BLVD SW  
**Apartment:**  
**Lot:** COMMERCIAL TRACT **Block:** 5  
**Subdivision:** LOS ALTOS  
**Pin:** ABQ166918





**City of Albuquerque ZHE – July 21, 2020**

## Agenda Item #7

**VA-2020-00144**

PR-2020-003911

**Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) request a conditional use to allow for liquor sale within 500 feet of residential for Commercial Tract, Block 5, Los Altos, located at 99999 Bridge Blvd SW zoned MX-M [Section 14-16-4-3(D)(36)(c)]**

**Ownership:** Owner: MARTINEZ JOSE ALFREDO & AILDA

**Zone District/Purpose:** MX-M/The purpose of the MX-M zone district is to provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Centers and Corridors.

### Allowable Use:

Liquor retail					C	A	P	P	P	C	C	C					4-3(D)(36)
---------------	--	--	--	--	---	---	---	---	---	---	---	---	--	--	--	--	------------

**Applicable Comp Plan Designation(s):** Area of Change, Bridge/Tower MT

**Applicable Overlay Zones:** None listed

**Applicable Use-Specific Standard(s):**

4-3(D)(36) Liquor Retail

4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.

4-3(D)(36)(b) Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.

4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.

**Applicable Dimensional/Development Standards:** n/a

**Prior Approval Conditions:** 1003639 – Approval of carport

**Traffic Recommendations:** No objections

**Planning Recommendation:** This matter should proceed to a public hearing where the Zoning Hearing Examiner will hear additional evidence and make a written decision pursuant to applicable provisions of Section 14-16-6-4.



**City Parcel**

**Address:** 1021 OLD COORS DR SW

**Apartment:**

**Lot:** B    **Block:** 5

**Subdivision:** LOS ALTOS

**Pin:** ABQ167431







Mr. Robert Lucero  
Zoning Hearing Examiner  
Plaza del Sol Hearing Room, Basement Level  
600 Second Street NW  
Albuquerque, New Mexico 87103  
Phone: (505) 924-3894

August 11, 2020

**Re: Supplemental/Supporting Information - Conditional Use Permit Request  
VA-2020-00144/Project No. PR-2020-003911  
Market Void Analysis – Liquor Retail**

Mr. Lucero,

The following information is provided in order to supplement the record for the above-referenced project.

**Liquor Retail Void Analysis Report for the NWC of Old Coors & Bridge**

- There is only (1) Liquor Retail opportunity within a 1.5-mile radius of this location;
- The AVERAGE number of Liquor Retail opportunities in Albuquerque per 1-mile radius is 5;
- The AVERAGE number of liquor opportunities in Albuquerque per 2-mile radius is 17.25.
- The distance between the proposed site and the **NEAREST** Liquor Retail opportunity is **7,392 sq. ft.** away;
- This distance greatly **EXCEEDS** the strictest legal liquor distance separation laws in all of the United States;
- The strictest distance restriction of liquor retail establishments to one another in the United States is 2,500 sq. ft.;
- Our site exceeds this by more than 4,892 sq. ft.;
- Average population density for a liquor establishment in the United States for Quota State is 1 liquor establishment for 10,204 people
- Average population density for a liquor retail establishment in the United States for No Quota States is 1 liquor establishment for every 5,737 people; and
- New Mexico has one of the most restrictive density restrictions of population to liquor establishments in the United States with only one liquor establishment per 21,952 people.





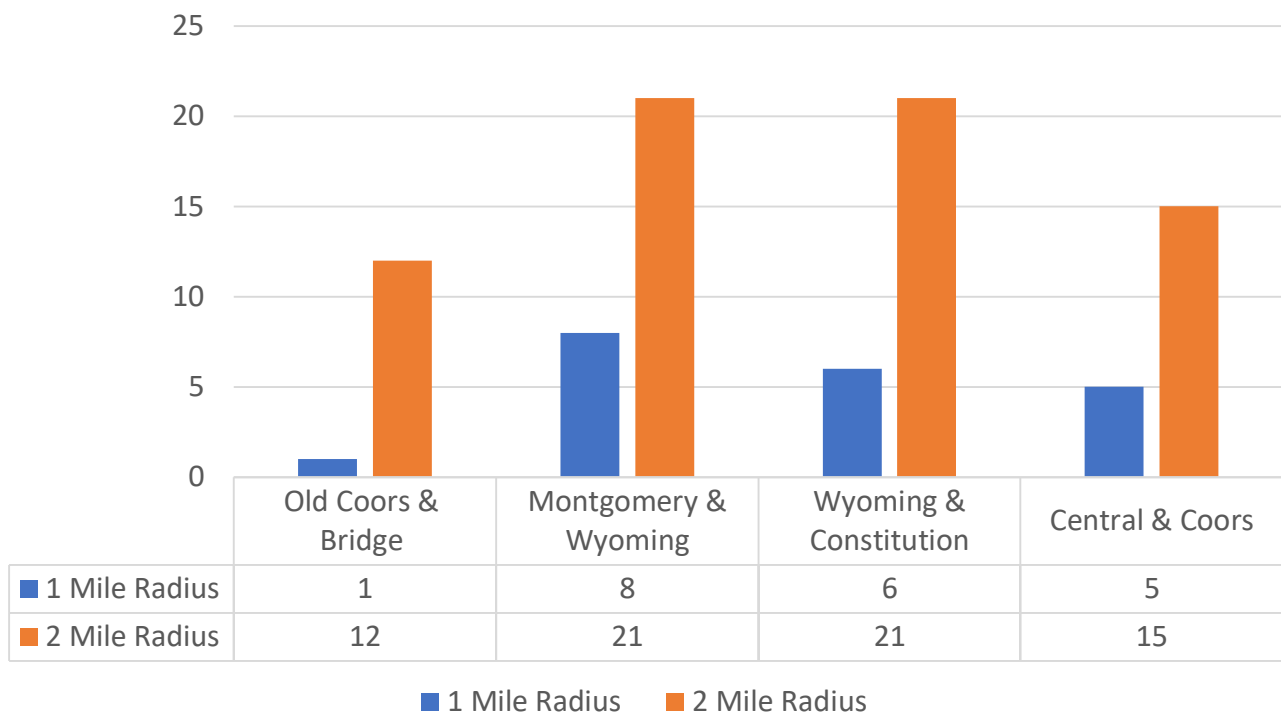
## Old Coors & Bridge – Albuquerque, New Mexico







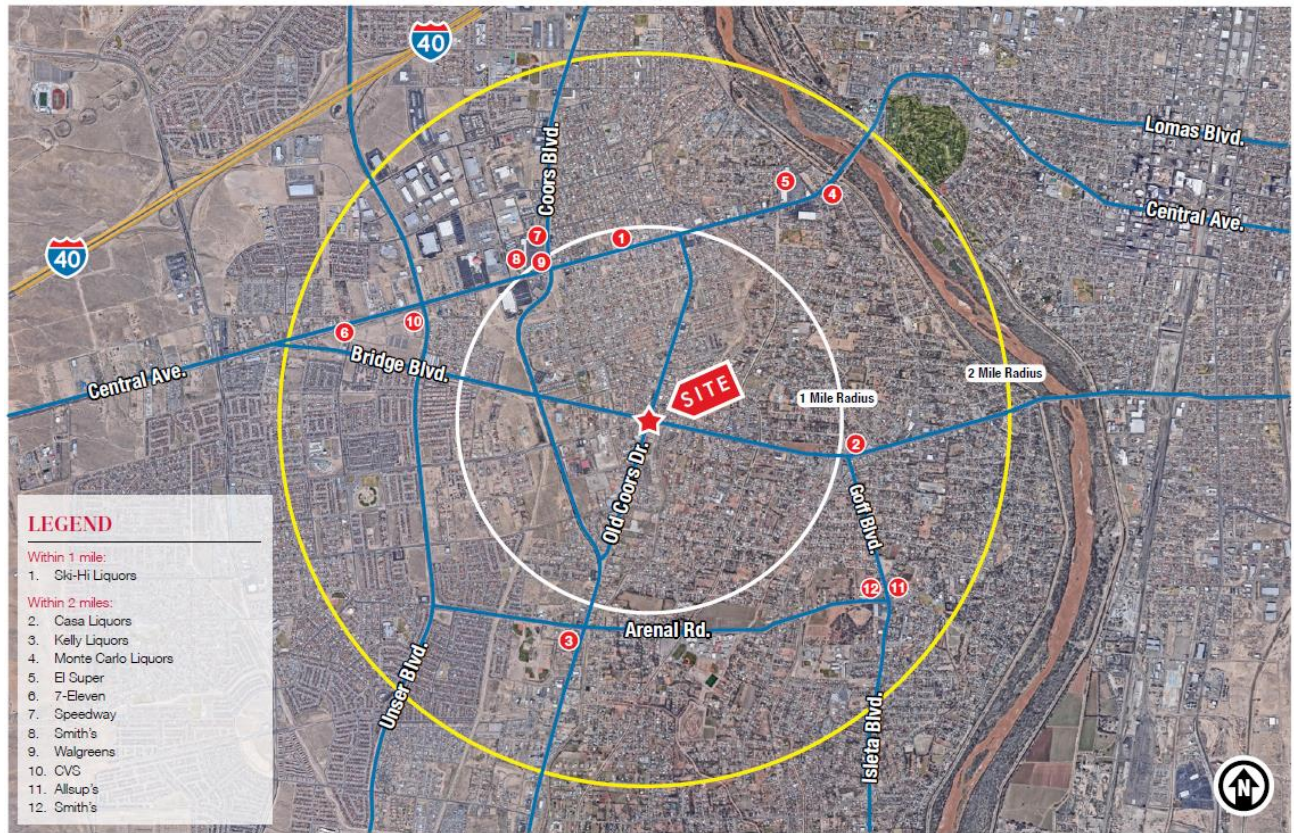
**Liquor Retail Void Analysis  
Old Coors & Bridge**







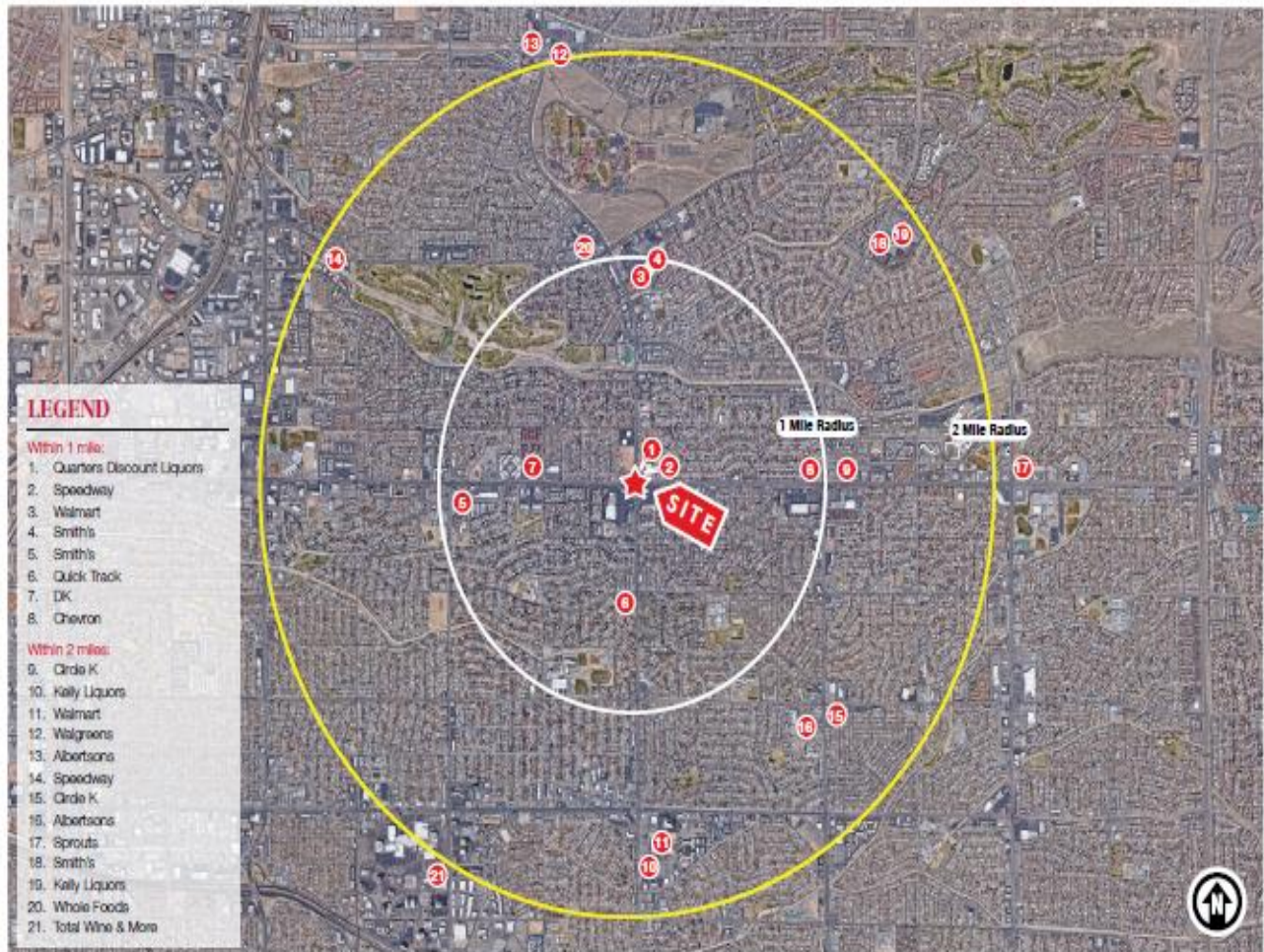
**Liquor Retail Void Analysis Old Coors & Bridge - Albuquerque, New Mexico**







## Liquor Retail Void Analysis Report - Montgomery & Wyoming Albuquerque, New Mexico







**Liquor Retail - Void Analysis Constitution & Wyoming - Albuquerque, New Mexico**







## Liquor Retail - Void Analysis Coors & Central - Albuquerque, New Mexico



### Liquor Retail in Albuquerque

- New Mexico as a State is one of the most underserved markets in the nation when it comes to Liquor Retail opportunities;
- New Mexico is a Quota State which means it allows only one liquor license liquor for every two thousand people;
- In 2015, this market trade area had a population of more than 115,000;
- The subject site for this request has only ONE retail liquor outlet within a 1.5-mile radius; and,
- **The market trade area for this use is WELL UNDERSERVED by more than 40% as compared to the Albuquerque average.**





### **References for Data Analysis**

*Market Analysis of Retail Liquor Establishment Locations - Maestas & Ward Commercial Real Estate Experts, (2020)*

*Liquor Outlets, American Planning Association Published Report Retail Market Analysis of the West Central Trade Area – Albuquerque, New Mexico – Gibbs Planning Group, Inc. (2011) with market projects used for current analysis*

*New Mexico Liquor Control Act, 60-6A-18 Limitation on number of licenses issued in New Mexico (Revised Sept. 2019)*

*Liquor Store Density per Population United States – Marathon Strategies Research Group (Published 2014)*

Sincerely,

Angela Williamson, CEO/Principal  
Modulus Architects, Inc.  
100 Sun Ave. NE, Suite 600  
Albuquerque, NM 87109  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
Office: (505) 338-1499 ext. 1000  
Cell: (505) 999-8016



**From:** [Angela Williamson](#)  
**To:** [Patten-Quintana, Lorena](#)  
**Cc:** [Sanchez, Suzanna A.](#); [Regina Okoye](#)  
**Subject:** URGENT - Supplemental- Liquor Retail Void Analysis VA-2020-00144  
**Date:** Tuesday, August 11, 2020 3:20:39 PM  
**Attachments:** [Liquor Retail Void Analysis for Old Coors & Bridge Presentation .pdf](#)  
[Liquor Retail Void Analysis for Old Coors & Bridge Presentation .pdf](#)  
[Supplemental Retail Liquor Void Analysis Report.pdf](#)  
**Importance:** High

---

Good afternoon Lorena and Suzanna,

Conditional Use Permit Request  
VA-2020-00144 / Project #PR-2020-003911

Please see me supplemental information for our CUP request – Liquor Retail. We have provided a Void Analysis Study for Old Coors and Bridge. Our analysis clearly demonstrates that there is a need for this use in this area and that this area is substantially underserved as compared to the rest of Albuquerque. I intend to present this at the ZHE Hearing in the form of a PowerPoint if possible.

All my best,  
Angela

**Angela M. Williamson, CEO/Principal**  
**Modulus Architects & Land Use Planning, Inc.**  
100 Sun Ave NE, Suite 600  
Albuquerque, New Mexico 87109  
Office: (505) 338.1499 ext. 1000  
Cell + Text: (505) 999.8016  
Email: [awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
Website: [www.modulusarchitects.com](http://www.modulusarchitects.com)  
Join us on Facebook: [Modulus Architects on Facebook](#)  
Find me on LinkedIn: [Angela LinkedIn Profile](#)

Black Logo for Email



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**From:** Patten-Quintana, Lorena [mailto:[lpatten-quintana@cabq.gov](mailto:lpatten-quintana@cabq.gov)]  
**Sent:** Friday, August 7, 2020 12:09 PM  
**To:** Angela Williamson <[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)>  
**Cc:** Sanchez, Suzanna A. <[suzannasanchez@cabq.gov](mailto:suzannasanchez@cabq.gov)>; Regina Okoye



<rokoye@modulusarchitects.com>

**Subject:** RE: CUP for Murphy at Old Coors & Bridge

The deadline to submit materials for the record is next Wednesday by 5 pm. You may provide documents for the file and then summarize for brevity.

-Lorena

---

**From:** Angela Williamson <[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)>

**Sent:** Friday, August 7, 2020 11:47 AM

**To:** Patten-Quintana, Lorena <[lpatten-quintana@cabq.gov](mailto:lpatten-quintana@cabq.gov)>

**Cc:** Sanchez, Suzanna A. <[suzannasanchez@cabq.gov](mailto:suzannasanchez@cabq.gov)>; Regina Okoye <[rokoye@modulusarchitects.com](mailto:rokoye@modulusarchitects.com)>

**Subject:** CUP for Murphy at Old Coors & Bridge

Hi Lorena,

I am working on several exhibits to submit for consideration of my request. We hired a real estate expert to do a "VOID ANALYSIS" that demonstrates the need for liquor retail at our location and we compared it to several other infill locations sporadically around the City.

Also, my client has agreed to not sell hard liquor at this location and do ONLY beer and wine. How do you recommend I provide all of this updated information to the ZHE?

Thank you,  
Angela

**Angela M. Williamson, CEO/Principal**

**Modulus Architects & Land Use Planning, Inc.**

100 Sun Ave NE, Suite 600

Albuquerque, New Mexico 87109

Office: (505) 338.1499 ext. 1000

Cell + Text: (505) 999.8016

Email: [awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)

Website: [www.modulusarchitects.com](http://www.modulusarchitects.com)

Join us on Facebook: [Modulus Architects on Facebook](#)

Find me on LinkedIn: [Angela LinkedIn Profile](#)



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# Marketplace Void Analysis Liquor Retail

NWC Old Coors & Bridge Blvd.  
Albuquerque, New Mexico

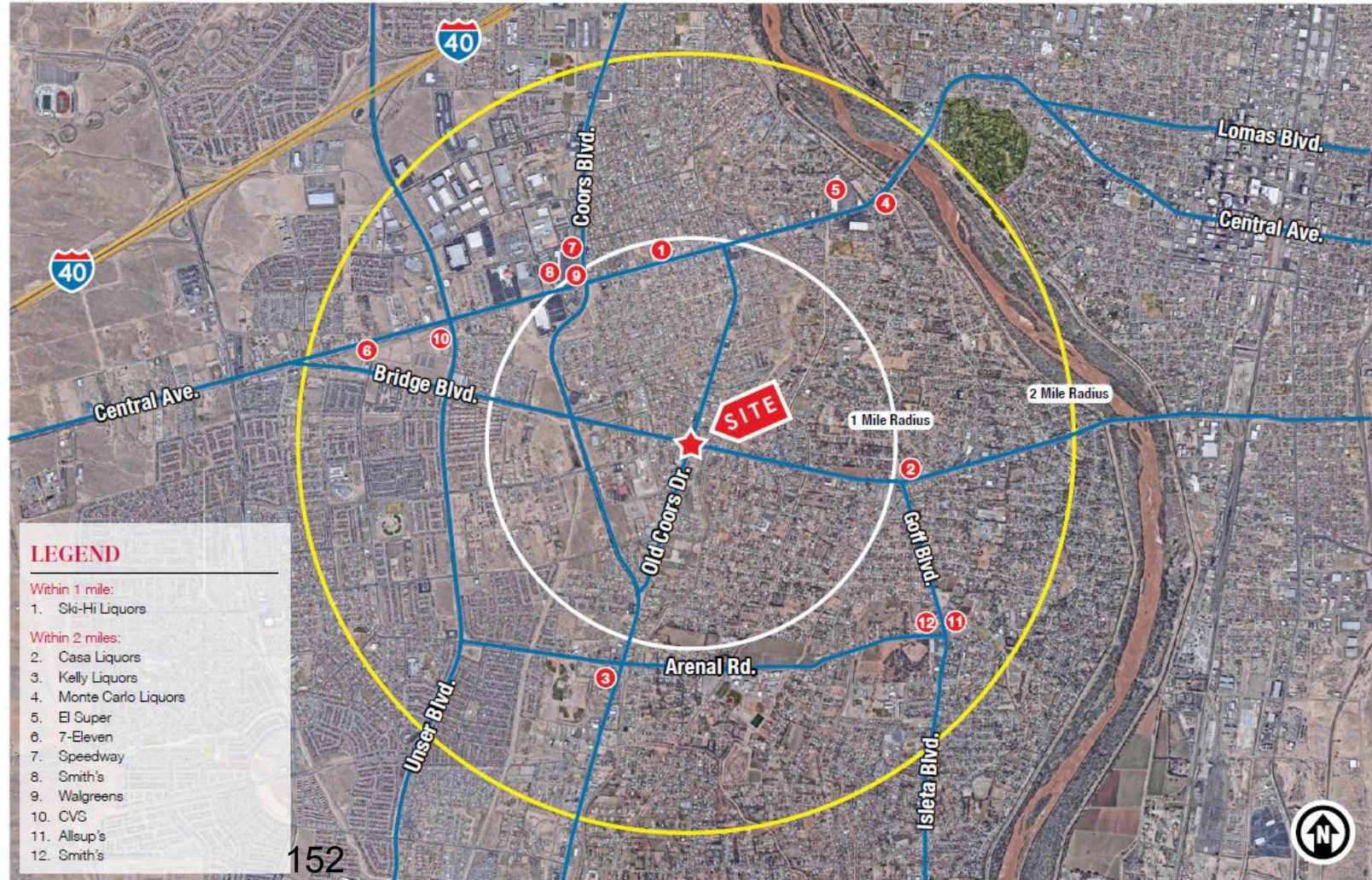
**Conditional Use Permit Request**  
**VA-2020-00144 / Project #PR-2020-003911**





# Marketplace Void Analysis Report for the NWC of Old Coors & Bridge

- There is only (1) Liquor Retail opportunity within a 1.5 mile radius of this location
- The AVERAGE number of Liquor Retail opportunities in Albuquerque per 1 mile radius is 5
- The AVERAGE number of liquor opportunities in Albuquerque per 2 mile radius is 17.25





# Liquor Retail Void Analysis

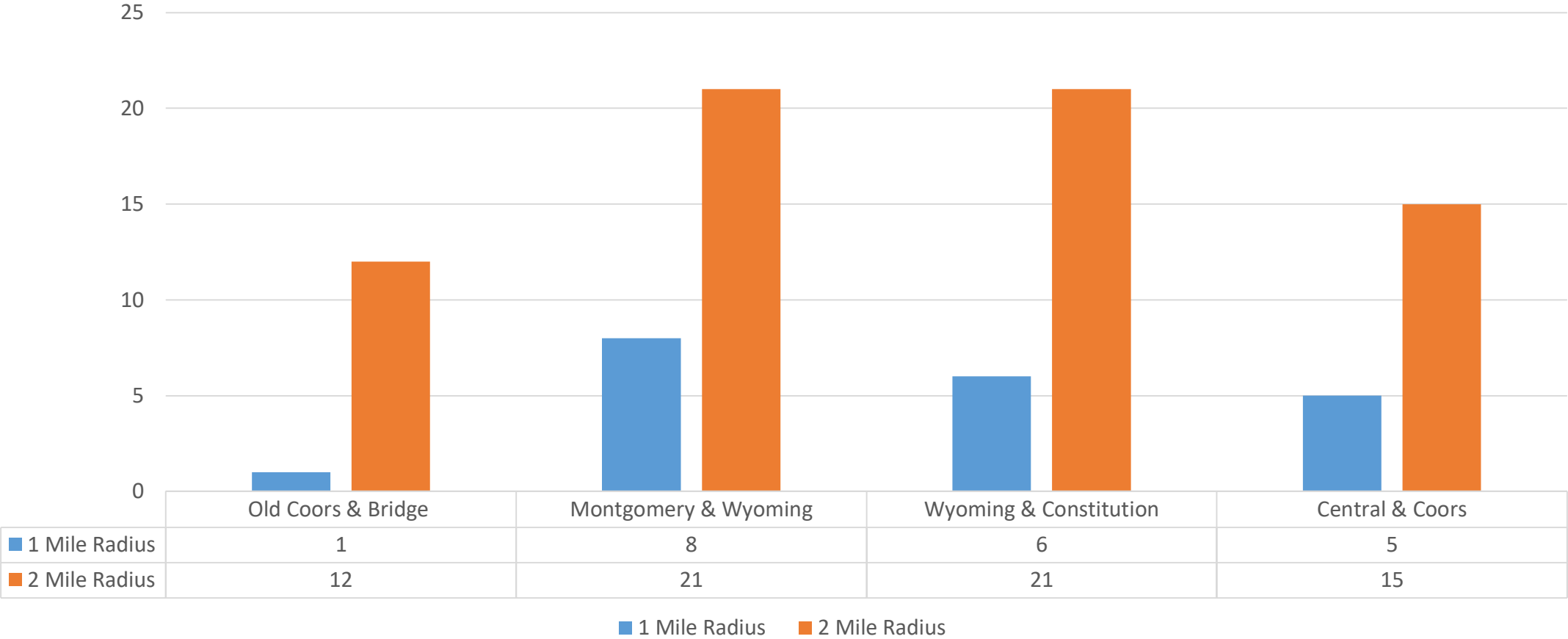
## NWC Old Coors & Bridge

- The distance between the proposed site and the NEAREST Liquor Retail opportunity is **7,392** sq. ft. away
- This distance greatly **EXCEEDS** the strictest legal liquor distance separation laws in all of the United States
- The strictest distance restriction of liquor retail establishments to one another in the United States is 2,500 sq. ft.
- Our site exceeds this by more than 4,892 sq. ft.
- Average population density for a liquor establishment in the United States for Quota States is 1 liquor establishment for 10,204 people
- Average population density for a liquor retail establishment in the United States for Non-Quota States is 1 liquor establishment for every 5,737 people
- New Mexico has one of the most restrictive density restrictions of population to liquor establishments in the United States with only one liquor establishment allowed per 21,953 people



# Liquor Retail Void Analysis

## Old Coors & Bridge

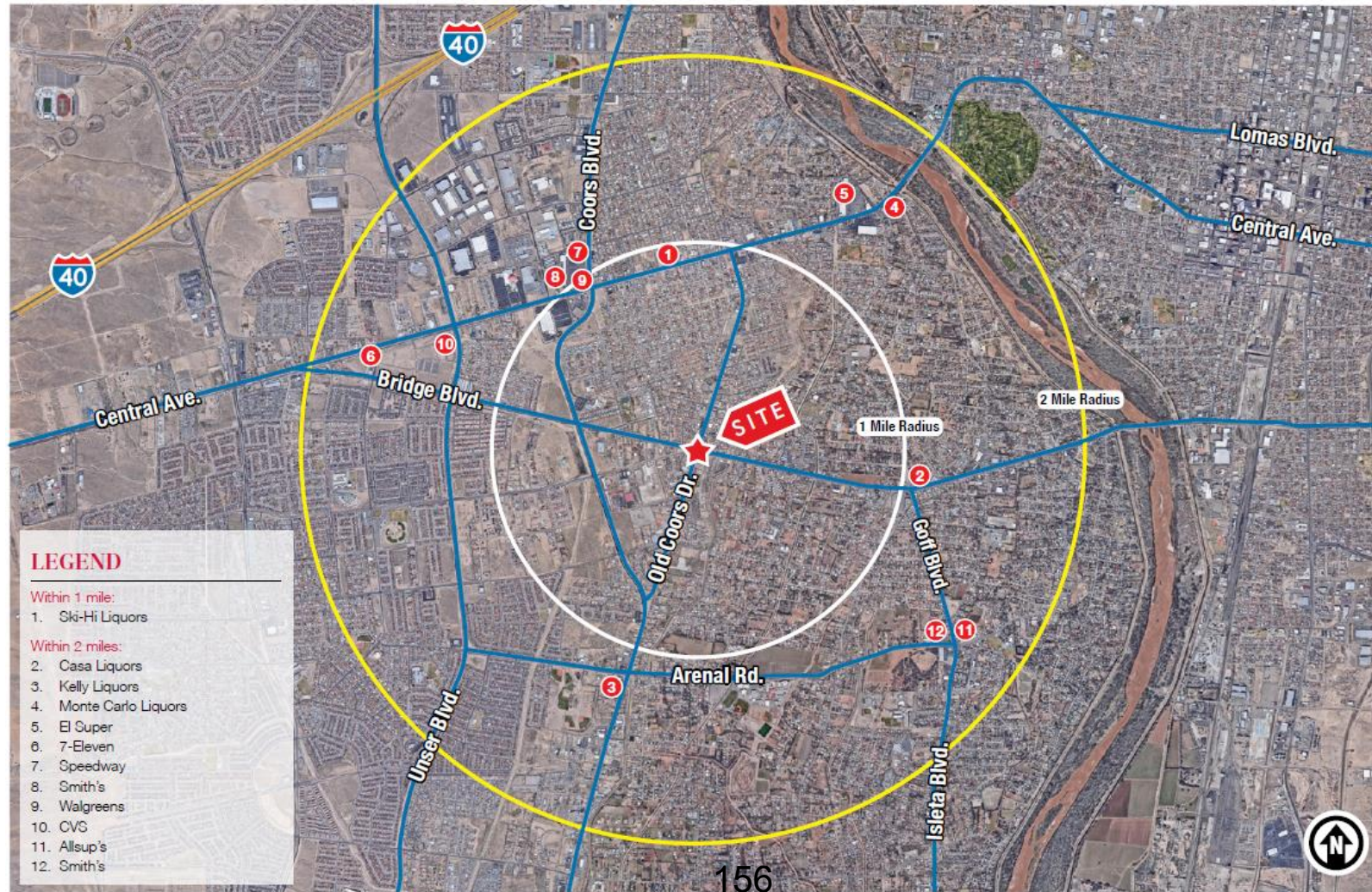






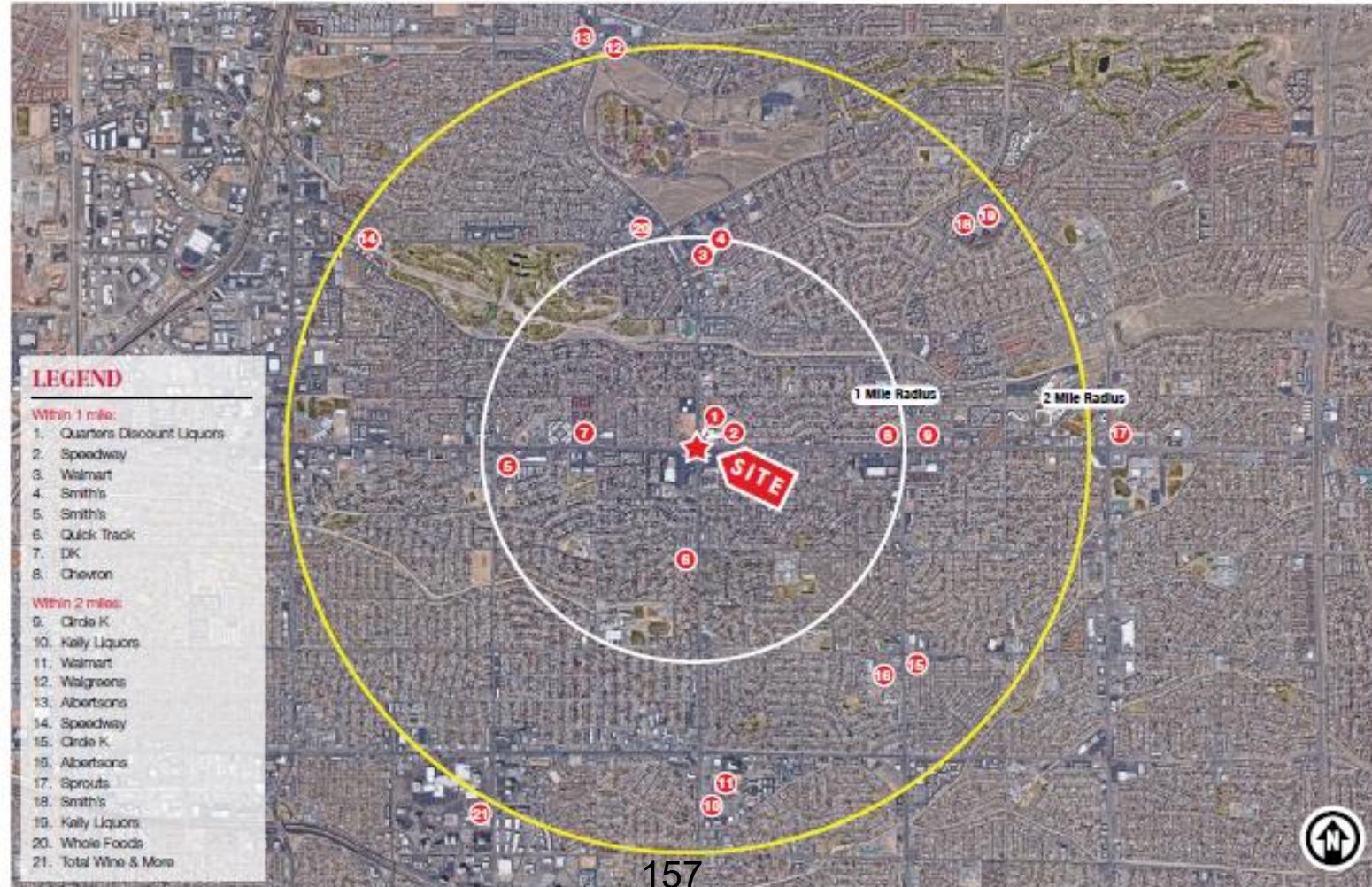


# Old Coors & Bridge Marketplace Void Analysis





# Montgomery & Wyoming Marketplace Void Analysis Report





# Constitution & Wyoming Marketplace Void Analysis





# Central & Coors Marketplace Void Analysis





# Liquor Retail in Albuquerque

- New Mexico as a State is one of the most underserved markets in the nation when it comes to Liquor Retail opportunities.
- New Mexico is a Quota State which means it allows only one liquor license liquor for every two thousand people.
- In 2015, this market trade area had a population of more than 115,000
- The subject site for this request has only ONE retail liquor outlet within a 1.5 mile radius.
- The market trade area for this use is WELL UNDERSERVED by more than 40% as compared to the Albuquerque average



# References for Data Analysis

- *Market Analysis of Retail Liquor Establishment Locations - Maestas & Ward Commercial Real Estate Experts, (2020)*
- *Liquor Outlets, American Planning Association Published Report*
- *Retail Market Analysis of the West Central Trade Area – Albuquerque, New Mexico – Gibbs Planning Group, Inc. (2011) with market projects used for current analysis*
- *New Mexico Liquor Control Act, 60-6A-18 Limitation on number of licenses issued in New Mexico (Revised Sept. 2019)*
- *Liquor Store Density per Population United States – Marathon Strategies Research Group (Published 2014)*



Regina Okoye

**From:** Regina Okoye  
**Sent:** Monday, August 3, 2020 9:35 AM  
**To:** 'jgallegoswccd@gmail.com'; 'jetbac@aol.com'; 'cherquezada@yahoo.com'; 'jgallegoswccd@gmail.com'; 'aboard111@gmail.com'; 'hlhen@comcast.net'; 'mbfernandez1@gmail.com'; 'dstracener45@gmail.com'; 'Athena@athenalaroux.com'; 'land@trna.org'; 'rroibal@comcast.net'  
**Cc:** Angela Williamson  
**Subject:** UPDATED NEIGHBORHOOD MEETING NOTICE about Conditional Use Permit Application to the Zoning Hearing Examiner  
**Attachments:** 20 - Site Plan.pdf

Tracking:	Recipient	Delivery	Read
	'jgallegoswccd@gmail.com'		
	'jetbac@aol.com'		
	'cherquezada@yahoo.com'		
	'jgallegoswccd@gmail.com'		
	'aboard111@gmail.com'		
	'hlhen@comcast.net'		
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	'dstracener45@gmail.com'		
	'Athena@athenalaroux.com'		
	'land@trna.org'		
	'rroibal@comcast.net'		
	Angela Williamson	Delivered: 8/3/2020 9:35 AM	Read: 8/3/2020 9:36 AM





UPDATED NEIGHBORHOOD MEETING NOTICE – THIS NOTICE IS TO INFORM YOU ABOUT THE ADDRESS UPDATE TO THE REQUESTED APPLICATION FOR CONDITIONAL USE PERMITS TO THE ZONING HEARING EXAMINER

To Whom It May Concern,

In accordance with the procedures of the City of Albuquerque’s Integrated Development Ordinance (IDO) **Subsection 14-16-6-4(C) Neighborhood Meeting**, we have provided you an opportunity to discuss the following application(s) we will be making for a project proposed in or near your neighborhood:

**ZHE - Conditional Use Permit – Light Vehicle Fueling Station 4-3(D)(17)(i): PR# 2020-003911, VA#2020-00143**

**4-3(D)(17)(i) If located adjacent to any Residential zone district, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).**

**ZHE – Conditional Use Permit – Liquor Retail 4-3(D)(36): PR: 2020-003911, VA# 2020-00144**

***4-3(D)(36)(c) – Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.***



**Contact Information**  
Modulus Architects, Inc.  
100 Sun Ave NE, Suite 600  
Albuquerque, New Mexico 87109  
c/o Angela Williamson, CEO/Principal (Agent)  
(505) 338-1499 ext. 1000  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)

**UPDATED Project or Development Proposal**

Address: 99999 Bridge Blvd SW, Albuquerque NM, 87121  
UPC: 101105624937420702  
Legal Description: A TRACT OF LAND LYING WEST OF & ADJ TO TRS A & B LOS ALTOSADDN BLK 5 EXC LOT 12 & THE WESTERLY 26.2 FT OF LOT 13CONT 29475 SF M/L  
Murphy Oil USA, Inc.  
Convenience Store with Fueling Station  
Full-Service Retail



On February 27, 2020 I issued a public notice offering a meeting for our project on the NWC of Old Coors & Bridge. To date, there have not been any meetings scheduled but I have spoken at length with Ms. Athena LaRoux with the Los Altos Civic Association which is the only neighborhood association representative that I was contacted by. She expressed concerns regarding the traffic congestion and the sale of alcohol at this location. Based on her concerns I have met with Bernalillo County Traffic Manager, Ms. Julie Luna to discuss the plans for this intersection. The realignment plans for this project have been approved, funded, issued for bid and awarded to a General Contractor. She states that the construction will be imminent. We have been working with both the County and City to locate our access at a location that will enhance the roadway alignment project and increase the safety for this corner.

I shared quite a bit of information regarding the Murphy company as an operator. First and foremost, they do not ever franchise their locations. Every development is corporately owned and managed with a strict protocol for safety. In their ten-year history in New Mexico they have never received a violation from the State Licensing Board for alcohol violations, which speaks to their management. They also provide extensive security monitoring live 24/7 from their headquarters operation. These cameras are located inside and outside in many different areas. However, based on the feedback that I was given by Ms. La Roux, I spoke with our client and Murphy has voluntarily agreed not to sell alcohol miniatures at this location. We would like to be a welcome development in the neighborhood and a good neighbor. Furthermore, have added additional landscaping and landscape buffers to ensure the safety and privacy of the adjacent residential neighborhoods. A photometric study was done to mitigate the amount of light being emitted from the establishment. This will also ensure that there is no light pollution from our store on any of the surrounding developments.

**This notice is only to inform you about the project address update. The updated project address is 99999 Bridge Blvd SW, Albuquerque NM, 87121. The Zone Atlas Map above highlights the exact location. Attached is the proposed Murphy Express Site Plan for your reference.**

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.

**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>

If you have any questions or need additional information regarding this matter, please do not hesitate to contact me.

Sincerely,  
Angela Williamson, CEO/Principal  
Modulus Architects, Inc.  
100 Sun Ave NE, Suite 600  
Albuquerque, NM 87109  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
Office (505) 338-1499 ext. 1000  
Mobile (505) 999-8016



REGINA OKOYE, ENTITLEMENTS PROJECT MANAGER

**MODULUS ARCHITECTS, INC.**

100 Sun Avenue NE, Suite 600

Albuquerque, NM 87109

Office 505.338.1499 (Ext. 1003)

Mobile + Text 505.267.7686

[www.modulusarchitects.com](http://www.modulusarchitects.com)





Regina Okoye

**From:** Regina Okoye  
**Sent:** Monday, August 3, 2020 9:56 AM  
**To:** 'jgallegoswccdg@gmail.com'; 'jetbac@aol.com'; 'cherquezada@yahoo.com'; 'jgallegoswccdg@gmail.com'; 'aboard111@gmail.com'; 'hlhen@comcast.net'; 'mbfernandez1@gmail.com'; 'dstracener45@gmail.com'; 'Athena@athenalaroux.com'; 'land@trna.org'; 'rroibal@comcast.net'  
**Cc:** Angela Williamson  
**Subject:** RE: UPDATED PUBLIC NOTICE OF ZHE HEARING VIA ZOOM about Conditional Use Permit Application to the Zoning Hearing Examiner  
**Attachments:** 20 - Site Plan.pdf

Tracking:	Recipient	Delivery	Read
	'jgallegoswccdg@gmail.com'		
	'jetbac@aol.com'		
	'cherquezada@yahoo.com'		
	'jgallegoswccdg@gmail.com'		
	'aboard111@gmail.com'		
	'hlhen@comcast.net'		
	'mbfernandez1@gmail.com'		
	'dstracener45@gmail.com'		
	'Athena@athenalaroux.com'		
	'land@trna.org'		
	'rroibal@comcast.net'		
	Angela Williamson	Delivered: 8/3/2020 9:56 AM	Read: 8/3/2020 10:01 AM





**RE: UPDATED PUBLIC NOTICE OF ZHE HEARING VIA ZOOM - THIS NOTICE IS TO INFORM YOU ABOUT THE ADDRESS UPDATE TO THE REQUESTED APPLICATION FOR CONDITIONAL USE PERMITS TO THE ZONING HEARING EXAMINER**

Dear Neighborhood Representatives,

Modulus Architects, Inc. on behalf of Murphy Oil USA, Inc. will be requesting approval from the Zoning Hearing Examiner within the City of Albuquerque for a Conditional Use Permit to allow the following:

**ZHE - Conditional Use Permit – Light Vehicle Fueling Station 4-3(D)(17)(i): PR# 2020-003911, VA#2020-00143**

**4-3(D)(17)(i) If located adjacent to any Residential zone district, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).**

**ZHE – Conditional Use Permit – Liquor Retail 4-3(D)(36): PR: 2020-003911, VA# 2020-00144**

*4-3(D)(36)(c) – Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.*

The applicant is requesting a Conditional Use Permit for a light vehicle fueling station and for liquor retail per IDO 4-3(D)(17)(i) and 4-3(D)(36)(c) for lot A only. The subject property is located adjacent to and within 500 feet of a Residential zone district. Therefore, meeting the standard for this requirement. Attached is the Site Plan for the project that highlights the projects proximity to the Residential zone district.

**This notice is to inform you about the project address update and new Zoom Meeting on August 18<sup>th</sup>, 2020. The updated project address is 99999 Bridge Blvd SW, Albuquerque NM, 87121. The Zone Atlas Map below highlights the exact location.**





### Contact Information

Modulus Architects, Inc.  
 100 Sun Ave NE, Suite 600  
 Albuquerque, New Mexico 87109  
 c/o Angela Williamson, CEO/Principal (Agent)  
 (505) 338-1499 ext. 1000  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)

### Project or Development Proposal

Address: 99999 Bridge Blvd SW, Albuquerque NM, 87121

UPC: 101105624937420702

Legal Description: A TRACT OF LAND LYING WEST OF & ADJ TO TRS A & B LOS ALTOSADDN BLK 5 EXC LOT 12 & THE WESTERLY 26.2 FT OF LOT 13CONT 29475 SF M/L

Murphy Oil USA, Inc.

Convenience Store with Fueling Station

Full-Service Retail

**A hearing will be held on August 18, 2020 beginning at 9:00AM via ZOOM.**

Join Zoom Meeting

<https://cabq.zoom.us/j/91253495489>

Meeting ID: 912 5349 5489

One tap mobile

+13017158592,,91253495489# US (Germantown)

+13126266799,,91253495489# US (Chicago)

Dial by your location

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 912 5349 5489

Find your local number: <https://cabq.zoom.us/u/aepARMwc9>

For more information, please contact the ZHE Administrative Assistant Suzie Sanchez at 505-924-3894 or [suzannasanchez@cabq.gov](mailto:suzannasanchez@cabq.gov).



Please note: "You may submit written comments to the Zoning Hearing Examiner up to 6 days before the hearing (5pm on the Wednesday before the hearing). Written comments received after that deadline will not be taken into consideration for this application"

For more information, please contact the ZHE Administrative Assistant Suzie Sanchez at 505-924-3894 or [suzannasanchez@cabq.gov](mailto:suzannasanchez@cabq.gov).

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### Useful Links

#### Integrated Development Ordinance (IDO)

<http://documents.cabq.gov/planning/IDO/IDO-Effective-2018-05-17.pdf>

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<https://tinyurl.com/IDOzoningmap>

If you have any questions or need additional information regarding this matter, please do not hesitate to contact me.  
Sincerely,

Angela Williamson, CEO/Principal  
Modulus Architects, Inc.  
100 Sun Ave NE, Suite 600  
Albuquerque, NM 87109  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
Office (505) 338-1499 ext. 1000 Mobile (505) 999-8016





August 3, 2020

**UPDATED NEIGHBORHOOD MEETING NOTICE – THIS NOTICE IS TO INFORM YOU ABOUT THE ADDRESS UPDATE TO THE REQUESTED APPLICATION FOR CONDITIONAL USE PERMITS TO THE ZONING HEARING EXAMINER**

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**ZHE - Conditional Use Permit – Light Vehicle Fueling Station 4-3(D)(17)(i): PR# 2020-003911, VA#2020-00143**

**4-3(D)(17)(i)** If located adjacent to any Residential zone district, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).

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**4-3(D)(36)(c) – Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.**



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[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)

**UPDATED Project or Development Proposal**

Address: 99999 Bridge Blvd SW, Albuquerque NM, 87121  
UPC: 101105624937420702  
Legal Description: A TRACT OF LAND LYING WEST OF & ADJ TO TRS A & B LOS ALTOS ADDN BLK 5 EXC LOT 12 & THE WESTERLY 26.2 FT OF LOT 13 CONT 29475 SF M/L  
Murphy Oil USA, Inc.  
Convenience Store with Fueling Station  
Full-Service Retail



On February 27, 2020 I issued a public notice offering a meeting for our project on the NWC of Old Coors & Bridge. To date, there have not been any meetings scheduled but I have spoken at length with Ms. Athena LaRoux with the Los Altos Civic Association which is the only neighborhood association representative that I was contacted by. She expressed concerns regarding the traffic congestion and the sale of alcohol at this location. Based on her concerns I have met with Bernalillo County Traffic Manager, Ms. Julie Luna to discuss the plans for this intersection. The realignment plans for this project have been approved, funded, issued for bid and awarded to a General Contractor. She states that the construction will be imminent. We have been working with both the County and City to locate our access at a location that will enhance the roadway alignment project and increase the safety for this corner.

I shared quite a bit of information regarding the Murphy company as an operator. First and foremost, they do not ever franchise their locations. Every development is corporately owned and managed with a strict protocol for safety. In their ten-year history in New Mexico they have never received a violation from the State Licensing Board for alcohol violations, which speaks to their management. They also provide extensive security monitoring live 24/7 from their headquarters operation. These cameras are located inside and outside in many different areas. However, based on the feedback that I was given by Ms. La Roux, I spoke with our client and Murphy has voluntarily agreed not to sell alcohol miniatures at this location. We would like to be a welcome development in the neighborhood and a good neighbor. Furthermore, have added additional landscaping and landscape buffers to ensure the safety and privacy of the adjacent residential neighborhoods. A photometric study was done to mitigate the amount of light being emitted from the establishment. This will also ensure that there is no light pollution from our store on any of the surrounding developments.

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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.

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If you have any questions or need additional information regarding this matter, please do not hesitate to contact me.

Sincerely,

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Modulus Architects, Inc.  
100 Sun Ave NE, Suite 600  
Albuquerque, NM 87109  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
Office (505) 338-1499 ext. 1000  
Mobile (505) 999-8016





August 3, 2020

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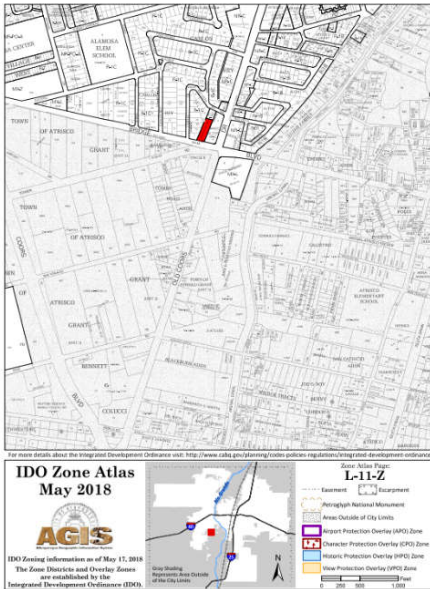
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 26.2 FT OF LOT 13CONT 29475 SF M/L  
 Murphy Oil USA, Inc.  
 Convenience Store with Fueling Station  
 Full-Service Retail

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Join Zoom Meeting

<https://cabq.zoom.us/j/91253495489>

Meeting ID: 912 5349 5489

One tap mobile

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+13126266799,,91253495489# US (Chicago)

Dial by your location

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+1 312 626 6799 US (Chicago)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 912 5349 5489

Find your local number: <https://cabq.zoom.us/u/aepARMwc9>

For more information, please contact the ZHE Administrative Assistant Suzie Sanchez at 505-924-3894 or [suzannasanchez@cabq.gov](mailto:suzannasanchez@cabq.gov).

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## Useful Links

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### **IDO Interactive Map**

<https://tinyurl.com/IDOzoningmap>

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Sincerely,

Angela Williamson, CEO/Principal  
Modulus Architects, Inc.  
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Albuquerque, NM 87109  
[awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
Office (505) 338-1499 ext. 1000 Mobile (505) 999-8016







MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



CARRILLO GABINO & MAGALY  
2239 PAJARITO RD SW  
ALBUQUERQUE NM 87105-6639

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



ATENCIO MICHAEL P & CARMEN R TRUSTEES  
ATENCIO RVT  
1256 CORTEZ DR SW  
ALBUQUERQUE NM 87121

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



Alamosa NA  
Gallegos Jerry  
5921 Central Avenue NW  
Albuquerque NM 87105

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



RODRIGUEZ CINTHIA OR RODRIGUEZ MARIA C  
591 OLD COONS DR SW  
ALBUQUERQUE NM 87121-0000

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



CIRCLE K STORES INC  
5500 S QUEBEC ST SUITE 100  
GREENWOOD VILLAGE CO 80111-1914

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



PRADO VICTOR O & OFELIA R  
13943 TUCKER AVE  
SYLMAR CA 91342-1928

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



SMI - ABC RE LLC  
16801 GREENSPRING PARK DR SUITE 376  
HOUSTON TX 77060-2310

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



RODRIGUEZ OSVALDO & GABRIELLA  
3249 CORTEZ DR SW  
ALBUQUERQUE NM 87121

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109

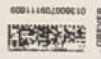


GARCIA GERARD  
5916 RIO VISTA DR SW  
ALBUQUERQUE NM 87121

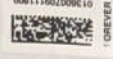
MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



MONTES DAVID & SYLVIA  
1258 CORTEZ DR SW  
ALBUQUERQUE NM 87121



MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



MUNOZ FERNANDO  
1910 TAPIA PL SW  
ALBUQUERQUE NM 87105-4543

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



BACA FLORENCIO  
923 RIO VISTA CIR SW  
ALBUQUERQUE NM 87105-3323

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



MONTTOYA GRACIE M  
1127 LA LUZ DR NW  
ALBUQUERQUE NM 87107-3548

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



SALAS TRINIDAD JR & VIOLA M  
1244 CORTEZ DR SW  
ALBUQUERQUE NM 87121

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



MUNOZ JAIME & JESSICA  
1910 GONZALES RD SW  
ALBUQUERQUE NM 87121

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



South Valley Coalition of Neighborhood Assoc.  
Rosal Roberto  
2233 Don Felipe Road SW  
Albuquerque NM 87105

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



GURROLA MARIA DE JESUS CAMPOS  
5912 RIO VISTA CIR SW  
ALBUQUERQUE NM 87121-3370

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109



LOS ALTOS CIVIC ASSOCIATION  
LA ROSA ATHENA  
2831 DON FELIPE RD SW  
ALBUQUERQUE NM 87105



CHITECTS INC.  
E NE, SUITE 600  
NM 87109

CHITECTS INC.  
E NE, SUITE 600  
NM 87109

CHITECTS INC.  
E NE, SUITE 600  
NM 87109

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CHITECTS INC.  
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QUE, NM 87109

CHITECTS INC.  
E NE, SUITE 600  
QUE, NM 87109

South West Alliance of Neighborhoods  
Quetzada Cherise  
10304 Paso Fino Place SW  
Albuquerque NM 87121

CORTEZ INEZ & MARTIN ALCALA  
5908 RIO VISTA SW  
ALBUQUERQUE NM 87121

DIAMOND SHAMROCK STATIONS INC C/O AD  
VALOREM TAX DEPARTMENT  
PO BOX 690110  
SAN ANTONIO TX 78269-0110

MARTINEZ JOSE ALFREDO & AILDA  
3500 BAREBACK PL SW  
ALBUQUERQUE NM 87105

BERNALILLO COUNTY % COUNTY  
MANAGER  
1 CIVIC PLAZA NW  
ALBUQUERQUE NM 87102

MARTINEZ JOSE ALFREDO & AILDA  
108 GORE AVE SE  
ALBUQUERQUE NM 87105

Westside Coalition of Neighborhood Assoc.  
Horvath Rene  
5515 Palomino Drive NW  
Albuquerque NM 87120

CONTRERAS SAM A & VERONICA TRUSTEES  
CONTRERAS LVT  
1253 CORTEZ DR SW  
ALBUQUERQUE NM 87121

JOHNS DEWAYNE J & CAROLYN I  
2903 RIO VISTA CT SW  
ALBUQUERQUE NM 87105

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
ALBUQUERQUE, NM 87109

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ALBUQUERQUE, NM 87109

MODULUS ARCHITECTS INC.  
100 SUN AVENUE NE, SUITE 600  
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GARCIA DAVID & PEGGY  
5920 RIO VISTA DR SW  
ALBUQUERQUE NM 87105

South Valley Coalition of Neighborhood Assoc.  
Fernandez Marcia  
2401 Violet SW  
Albuquerque NM 87105

RITAS APARTMENTS LLC  
1248 CORTEZ DR SW  
ALBUQUERQUE NM 87121-3312

ARAGON MALANIE ROSE  
1264 CORTEZ DR SW  
ALBUQUERQUE NM 87121-3312

HARLING CURTIS E  
905 RIO VISTA PL SW  
ALBUQUERQUE NM 87105-3329

VIGIL RICHARD G & MARY HELEN  
5904 RIO VISTA DR SW  
ALBUQUERQUE NM 87105

South West Alliance of Neighborhoods  
Gallegos Jerry  
5921 Central Avenue NW  
Albuquerque NM 87105

Alamosa NA  
Baca Jeanette  
901 Field SW  
Albuquerque NM 87121

Los Altos Civic Association  
Stracener Dawn  
2824 Los Altos Place SW  
Albuquerque NM 87105

Westside Coalition of Neighborhood Assoc.  
Hendriksen Harry  
10592 Rio Del Sol NW  
Albuquerque NM 87114





CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district for Commercial Tract, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(17)(i)]

Special Exception No:..... **VA-2020-00143**  
Project No: ..... **Project#2020-003911**  
Hearing Date: ..... 08-18-20  
Closing of Public Record: ..... 08-18-20  
Date of Decision: ..... 09-02-20

On the 18th day of August, 2020, Modulus Architects, agent for property owners Jose Alfredo and Ailda Martinez (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district (“Application”) upon the real property located at 99999 Bridge Blvd SW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

**FINDINGS:**

1. Applicant is requesting a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district.
2. The City of Albuquerque Code of Ordinances Section 14-16-6-6(A)(3) (Review and Decision Criteria– Conditional Use) reads: *“An application for a Conditional Use Approval shall be approved if it meets all of the following criteria:*
  - (a) It is consistent with the ABC Comp. Plan, as amended;*
  - (b) It complies with all applicable provisions of the IDO, including, but not limited to any Use-Specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property;*
  - (c) It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community;*
  - (d) It will not create material adverse impacts on other land in the surrounding area, through increases in traffic congestion, parking congestion noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts;*
  - (e) It will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am;*
  - (f) It will not negatively impact pedestrian or transit connectivity without appropriate mitigation*
3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-6-4(N)(1).



4. Agent for property owner appeared and gave evidence in support of the application.
5. All property owners within 100 feet and affected neighborhood association(s) were notified.
6. The subject property is currently zoned MX-M.
7. The subject property is in a designated “area of change” within the ABC Comp. Plan.
8. The subject property is located within the Bridge/Tower Major Transit Corridor.
9. The ABC Comp. Plan and the IDO promote development and redevelopment within areas of change located on or along transit corridors.
10. Agent testified that Applicant is under contract to sell the subject property to gas station and convenience store owner and operator Murphy USA. A representative of Murphy USA testified in support of the Application.
11. Multiple community members testified in opposition to the Application, which opponents included many residents who live next-door or near the subject site.
12. IDO section 14-16-6-4(W)(1) provides that, “[u]nless specified otherwise on the permit or approval document for a specific type of development approval, permits and approvals run with the land and are not affected by changes in ownership or the form of ownership of the property.”
13. Regarding IDO section 14-16-6-6(A)(3)(a) (*It is consistent with the ABC Comp. Plan, as amended*), Applicant submitted evidence in support of the following ABC Comp. Plan Goals and Policies:

*2.4.6 FOCUSING GROWTH IN CENTERS & CORRIDORS - Existing and designated Centers and Corridors are intended to accommodate much of the anticipated future growth in the city and county. Instead of low density, single-use growth at our edges, new development and redevelopment will be encouraged in existing Centers connected by a strong transportation network that accommodates cars and trucks, transit, cyclists, and pedestrians.*

**Applicant Response (Bold): The subject site is located adjacent to the Tower Employment Center. The subject property sites squarely at the intersection of Tower/Bridge and Old Coors in the Tower/Bridge Corridor and is a designation Major Transit Corridor, which is a strong transportation network.**

*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.*

**Applicant Response (Bold): Future development on the subject site zoned NR-C and MX-M 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.**



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

Applicant Response (Bold): **The subject property is located in the Bridge/Tower Comprehensive Corridor along a Major Transit Corridor in "Area of Change" and would be an infill project in an area lacking investment and revitalization. it would encourage employment density and redevelopment and would further this policy as this is the most appropriate area to accommodate growth and discourage the need for development at the urban edge.**

*5.1.1.3 Evaluate existing land uses and development trends to identify opportunities for increased land use Intensity to support transit-oriented development within 660 ft of transit stations along Premium Transit Corridors.*

Applicant Response (Bold): **This furthers this policy by increasing the land use intensity to support infill development within a Transit Corridor as the subject site is located in the Tower Transit Corridor and is designated as a Major Transit Corridor.**

*5.1.1.4 Promote ongoing public-private cooperation necessary to create private market conditions that support intensified development of jobs and housing in Transit Corridors. ]*

Applicant Response (Bold): **The Property is located in a Transit Corridor on Albuquerque's Southwest area in which the jobs to housing balance is significantly low as is the availability of day-to-day goods as services without the need to cross the river. The location is most appropriate to accommodate development and encourage appropriate density in an infill location, in a Transit Corridor, and thus discourage the need for development at the urban edge.**

*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.*

Applicant Response (Bold): **The subject site is located in a designated Transit Corridor, and in an Area of Change that is intended to develop. The current zoning of MX-M zone allows for a wide array of moderate intensity retail and commercial uses that provide for the day to day goods and services of the community that is encouraged in Centers and Corridors.**



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

Applicant Response (Bold): **The proposed Conditional Use request would allow for a mix of goods and services to be available which are conveniently accessible. This will encourage redevelopment that brings goods and services within walking and biking distance of neighborhoods. The location within a transit corridor offers choice transportation to services. Characteristics of the community will be maintained since the requested use would occur in an existing commercial zone within a transit corridor.**

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

Applicant Response (Bold): **This request would support additional growth in an Area of Change with existing infrastructure and public facilities.**

*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.*

- 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.*
- b) Maintain the characteristics of distinct communities through zoning and design standards that are consistent with long-established residential development patterns.*
- c) Ensure appropriate setbacks, buffers, and/or design standards to minimize offsite impacts.*
- d) See Policy 5.2.1 for desired land uses to support 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.*

Applicant Response (Bold): **While the request for Conditional Use may be objectionable to immediate neighbors, it would be useful to society and will be equitable to ensure that social assets are distributed evenly and social responsibilities are borne fairly across the Albuquerque Area.**

**Murphy USA has a long-proven track record of strong enforcement of liquor sales regulations. Murphy has more than 1,500 stores throughout the United States and train their employees to monitor the**



**sales of alcohol to prevent sales to impaired individuals. Murphy USA currently has zero violations or complaints with the State Liquor Board. Tthe most recent Murphy that opened late last year had just 33 calls for service to-date in 2020 as compared to a Circle K across the street that saw 231 calls for service from the Albuquerque Police Department in that same time period. Murphy strives to operate their business's where employees and customers feel safe from potential crimes by implementing a thoughtful security and safety program In their stores, which begins with store layout and design.**

**Murphy follows the model of the Smart Policing Initiatives and has adopted the CPTED (Crime Prevention through Environmental Design) crime prevention program. CPTED is a concept that is data driven with a proven concept that considers the physical environment and its effect on crime prevention. There are four guiding principles.**

**Natural Surveillance:**

**People must be able to see illegal acts taking place to defend property or prevent crime. Surveillance puts the perpetrator(s) under the threat of being observed, and therefore identified and apprehended.**

**Territoriality:**

**Territoriality is all about defining what is public space, what semi-public space is, and what is private space. It involves establishing ownership of areas and can be encouraged by activities and management processes that reduce large impersonal spaces to smaller areas that can be personalized and protected.**

**Access Control:**

**This principle relates to territoriality by directing people where to go and denying them access to areas that they do not belong in. This is accomplished through having established vehicle and pedestrian entrances and exits, fencing, door and window locks, access control devices, and appropriate, visible signage.**

**Maintenance:**

**Poorly maintained and neglected areas attract unwanted people and activities. Proper maintenance of landscaping, lighting, and other features are essential CPTED principles. A positive community image is a significant deterrent to criminal behavior. Principles such as natural surveillance, access management, territoriality, physical maintenance, and order maintenance inform our design. Murphy USA pays particular**



**attention to parking lots, building entries, restrooms, stairs and railings, fencing, wayfinding signage, landscaping, artwork, and displays of student work to create a warm, welcoming environment that gives students a sense of ownership and pride.**

**Convenience stores are one of the few 24/7 businesses that provide much-needed food, fuel and refreshment for millions of Americans, especially first responders, police officers, firemen, factory workers, hospital workers and restaurant employees. First responders and shift workers rely on Murphy stores. Late-night and early-morning customers depend upon stores for essential items that are not readily available elsewhere, and top reasons for a visit are shopping for a snack or meal, coffee or beverage, gasoline and cold medicine or to use the ATM.**

**Murphy USA has an extensive security monitoring system with both interior and exterior surveillance systems in place that operates 24/7 that is monitored by the home office. There is a constant presence of security on the premises to prevent alcohol related crime in the area. Murphy USA feels it has a proven method and track record of mitigating any problems related to retail liquor sales. We believe that the actions above are sufficient to mitigate any potential adverse impacts on the surrounding area.**

Agent also submitted a “Retail Liquor Void Analysis Report”, containing, among other information, the following evidence:

Applicant Response (Bold):

- **There is only (1) Liquor Retail opportunity within a 1.5-mile radius of this location;**
- **The average number of Liquor Retail opportunities in Albuquerque per 1-mile radius is 5;**
- **The average number of liquor opportunities in Albuquerque per 2-mile radius is 17.25.**
- **The distance between the proposed site and the nearest Liquor Retail opportunity is 7,392 sq. ft. away;**
- **The market trade area for this use is underserved by more than 40% as compared to the Albuquerque average.**

*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.*

*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.*

Applicant Response (Bold): **The subject Property is located in an Area of Change and will direct growth and more intense development to this corridor where change is encouraged. Because the proposed request will encourage growth and high-quality future redevelopment in accordance with this policy in a Transit Corridor.**

*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.*

Applicant Response (Bold): **The proposed project will encourage economic development that will provide jobs, goods, and services which improve the life for new and existing members of the community and contribute to a diverse and vibrant economy by revitalizing an area with growth that is consistent with and enhances the establish character of existing development. This type of economic development is best suited for infill locations supported by commercial corridors. This subject site encompasses all aspects of successful economic development and furthers this Policy.**

*POLICY 8.1.3*

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

Applicant Response (Bold): **This request allows for future development 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.**

14. Regarding IDO section 14-16-6-6(A)(3)(a) (*It is consistent with the ABC Comp. Plan, as amended*), opponents submitted testimony and evidence that the requested use would:
  - **Increase crime in the area;**
  - **Increase noise caused by traffic and “boom boxes”;**
  - **Increase noxious fumes;**
  - **Increase drunk driving, which is already an issue of grave concern in Albuquerque and throughout New Mexico; and**
  - **Increase loitering and littering**
15. On balance, Applicant has met its burden of providing evidence that establishes that the requested Conditional Use is consistent with the ABC Comp. Plan, as amended, as required by IDO section 14-16-6-6(A)(3)(a)



16. As required by IDO section 14-16-6-6(A)(3)(b), Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval complies with all applicable provisions of the IDO, including, but not limited to any Use-Specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. No prior permits or approvals apply.
17. Regarding the requirement under IDO section 14-16-6-6(A)(3)(c), that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community, Applicant and opponents submitted the evidence cited under IDO section 14-16-6-6(A)(3)(a), above. On balance, Applicant has met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3)(c).
18. Regarding the requirement under IDO section 14-16-6-6(A)(3)(d), that the requested Conditional Use approval will not create material adverse impacts on other land in the surrounding area, through increases in traffic congestion, parking, congestion, noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts, Applicant and opponents submitted the evidence cited under IDO section 14-16-6-6(A)(3)(a), above. In addition:
  - a. Applicant and opponents submitted the evidence cited under IDO section 14-16-6-6(A)(3)(a), above.
  - b. Agent submitted evidence that the Bernalillo County public works department has jurisdiction over the traffic planning for the intersection and area surrounding the subject property, has redesigned the intersection at the subject property, and has approved the preliminary site plan regarding access to and from the subject property.
  - c. Agent's written submittals confirmed Applicant's willingness to hire an engineering firm to conduct a photometric study that will ensure that there is no light pollution from the subject property onto neighboring properties.
  - d. Agent's written submittals confirmed Applicant's willingness to add landscape buffers to ensure the safety and privacy of adjacent residential neighborhoods neighboring properties.
  - e. Agent's written submittals confirmed Applicant's plan to place and monitor security cameras in indoor and outdoor areas of the subject property, and to monitor such security cameras on a 24-hours a day, 7-days a week basis.
  - f. Agent testified that Applicant agrees to sell no intoxicating spirits and to limit its alcohol sales to beer and wine, only.
  - g. Agent stated in multiple written submittals and testimony that the requested use would be specific to Murphy USA and would not run with the land.

On balance, Applicant has met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3)(d).

19. Regarding the requirement under IDO section 14-16-6-6(A)(3)(d), which requires that the requested Conditional Use approval will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am:



- a. The subject property is located within 300 feet of a lot in a residential zone district.
- b. Applicant testified that non-residential activity would not increase in any prohibited manner, because the proposed Murphy USA gas station and store attract only “passerby” traffic that already exists, not destination shoppers. However, as to liquor sales, this testimony appears to be contradicted by the evidence Applicant provided that there are no liquor stores within a 1.5-mile radius of this location and that the average number of Liquor Retail opportunities in Albuquerque per 1-mile radius is 5. Given the relative lack of liquor sales, it would appear that liquor sales could create a destination that would increase traffic beyond merely passerby traffic.
- c. There is no commercial activity on the subject property currently, and therefore any commercial activity would be an increase in non-residential activity.
- d. Murphy testified and stated in written submittals that its store would be open 24 hours a day.
- e. If the liquor retail use were restricted to prohibit liquor sales between the hours of 8:00 pm and 6:00 am, there would appear to be no significant increase in non-residential activity during those times.

On balance, Applicant will have met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3)(d), if liquor retail use is restricted to prohibit liquor sales between the hours of 8:00 pm and 6:00 am.

20. Regarding the requirement under IDO section 14-16-6-6(A)(3)(e), Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result. No evidence was submitted to the contrary.
21. Applicable Use-Specific Standards include the following:

*4-3(D)(17) Light Vehicle Fueling Station*

*4-3(D)(17)(a) No inoperable vehicles shall be stored outside a building at any time.*

*4-3(D)(17)(b) This use must comply with stormwater quality requirements found in the DPM.*

*4-3(D)(17)(c) This use shall not be located where the only vehicle access to the lot is from a local street.*

*4-3(D)(17)(d) Each street that provides access to the lot shall have either 2 travel lanes in each direction or a center turn lane with access to the site.*

*4-3(D)(17)(e) Uses located on a corner lot with access from both streets shall have no more than one access point per frontage. Uses located mid-block or with access from only one street shall have no more than 2 access points from that street.*

*4-3(D)(17)(f) Access points shall be located no closer than 20 feet from any adjacent property that is not under common ownership.*

*4-3(D)(17)(g) Site access from a paved alley connecting to a public street is allowed provided that the access points from the site to the alley shall be a minimum of 25 feet from the intersection of the alley and the street.*

*4-3(D)(17)(h) For fueling station canopies, all under-canopy lighting shall be recessed so that no light lens projects below the canopy ceiling. The canopy fascia shall not be internally illuminated.*



*4-3(D)(17)(i) If located adjacent to any Residential zone district, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).*

*4-3(D)(17)(j) If located abutting or across an alley from any Residential zone district or lot containing a Residential use in any Mixed-use zone district, an opaque wall, fence, or vegetative screen at least 6 feet high is required.*

*4-3(D)(17)(k) In UC-AC-MS-PT-MT areas and the MX-H zone district, any building containing a retail use with 1,000 square feet or more of gross floor area shall have a maximum setback of 15 feet.*

*4-3(D)(17)(l) In UC-MS-PT areas, an opaque wall or vegetative screen at least 3 feet high shall be provided along all street frontages.*

*4-3(D)(17)(m) This use is prohibited within 330 feet of Major Public Open Space.*

Applicant provided testimony and written submittals stating that the Applicable Use-Specific Standards would be satisfied. No evidence was presented to the contrary.

#### DECISION:

APPROVAL WITH CONDITIONS of a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district.

#### CONDITIONS:

1. The approved conditional use is personal to Murphy USA and does not run with the land.
2. The subject property must adhere to the Use Specific Standards set forth in IDO 4-3(D)(17) Light Vehicle Fueling Station.
3. Murphy USA must follow the model of the Smart Policing Initiatives and adopt and comply with the CPTED (Crime Prevention through Environmental Design) crime prevention program Applicant, as described in its submittals, cited above.
4. Murphy USA must hire an engineering firm to conduct a photometric study that will ensure that there is no light pollution from the subject property onto neighboring properties.
5. Murphy USA must add landscape buffers to ensure the safety and privacy of adjacent residential neighborhoods neighboring properties.
6. Murphy USA must place and monitor security cameras in indoor and outdoor areas of the subject property, and to monitor such security cameras on a 24-hours a day, 7-days a week basis
7. Murphy USA may not sell any intoxicating spirit and must limit its alcohol sales to beer and wine, only.
8. Any liquor retail use is restricted to prohibit the sale of alcohol between 8:00 pm and 6:00 am.

#### APPEAL:

If you wish to appeal this decision, you must do so by September 17, 2020 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.



Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.

A handwritten signature in dark ink, appearing to read "Robert Lucero". The signature is fluid and cursive, with the first name "Robert" and last name "Lucero" clearly distinguishable.

---

Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
Angela Williamson, Modulus Architects, [awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)





CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for liquor sale within 500 feet of residential for Lot B, Block 5, Los Altos, located at 1021 Old Coors Dr SW, zoned MX-M [Section 14-16-4-3(D)(36)(c)]

Special Exception No:..... **VA-2020-00144**  
Project No: ..... **Project#2020-003911**  
Hearing Date: ..... 08-18-20  
Closing of Public Record: ..... 08-18-20  
Date of Decision: ..... 09-02-20

On the 18th day of August, 2020, Modulus Architects, agent for property owners Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for liquor sale within 500 feet of residential (“Application”) upon the real property located at 1021 Old Coors Dr SW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

**FINDINGS:**

1. Applicant is requesting a conditional use to allow for liquor sale within 500 feet of residential.
2. The City of Albuquerque Code of Ordinances Section 14-16-6-6(A)(3) (Review and Decision Criteria– Conditional Use) reads: *“An application for a Conditional Use Approval shall be approved if it meets all of the following criteria:*
  - (a) It is consistent with the ABC Comp. Plan, as amended;*
  - (b) It complies with all applicable provisions of the IDO, including, but not limited to any Use-Specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property;*
  - (c) It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community;*
  - (d) It will not create material adverse impacts on other land in the surrounding area, through increases in traffic congestion, parking congestion noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts;*
  - (e) It will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am;*
  - (f) It will not negatively impact pedestrian or transit connectivity without appropriate mitigation*
3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-6-4(N)(1).
4. Agent for property owner appeared and gave evidence in support of the application.



5. All property owners within 100 feet and affected neighborhood association(s) were notified.
6. The subject property is currently zoned MX-M.
7. The subject property is in a designated “area of change” within the ABC Comp. Plan.
8. The subject property is located within the Bridge/Tower Major Transit Corridor.
9. The ABC Comp. Plan and the IDO promote development and redevelopment within areas of change located on or along transit corridors.
10. Agent testified that Applicant is under contract to sell the subject property to gas station and convenience store owner and operator Murphy USA. A representative of Murphy USA testified in support of the Application.
11. Multiple community members testified in opposition to the Application, which opponents included many residents who live next-door or near the subject site.
12. IDO section 14-16-6-4(W)(1) provides that, “[u]nless specified otherwise on the permit or approval document for a specific type of development approval, permits and approvals run with the land and are not affected by changes in ownership or the form of ownership of the property.”
13. Regarding IDO section 14-16-6-6(A)(3)(a) (*It is consistent with the ABC Comp. Plan, as amended*), Applicant submitted evidence in support of the following ABC Comp. Plan Goals and Policies:

*2.4.6 FOCUSING GROWTH IN CENTERS & CORRIDORS - Existing and designated Centers and Corridors are intended to accommodate much of the anticipated future growth in the city and county. Instead of low density, single-use growth at our edges, new development and redevelopment will be encouraged in existing Centers connected by a strong transportation network that accommodates cars and trucks, transit, cyclists, and pedestrians.*

Applicant Response (Bold): **The subject site is located adjacent to the Tower Employment Center. The subject property sites squarely at the intersection of Tower/Bridge and Old Coors in the Tower/Bridge Corridor and is a designation Major Transit Corridor, which is a strong transportation network.**

*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.*

Applicant Response (Bold): **Future development on the subject site zoned NR-C and MX-M 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.**



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

Applicant Response (Bold): **The subject property is located in the Bridge/Tower Comprehensive Corridor along a Major Transit Corridor in "Area of Change" and would be an infill project in an area lacking investment and revitalization. it would encourage employment density and redevelopment and would further this policy as this is the most appropriate area to accommodate growth and discourage the need for development at the urban edge.**

*5.1.1.3 Evaluate existing land uses and development trends to identify opportunities for increased land use Intensity to support transit-oriented development within 660 ft of transit stations along Premium Transit Corridors.*

Applicant Response (Bold): **This furthers this policy by increasing the land use intensity to support infill development within a Transit Corridor as the subject site is located in the Tower Transit Corridor and is designated as a Major Transit Corridor.**

*5.1.1.4 Promote ongoing public-private cooperation necessary to create private market conditions that support intensified development of jobs and housing in Transit Corridors. ]*

Applicant Response (Bold): **The Property is located in a Transit Corridor on Albuquerque's Southwest area in which the jobs to housing balance is significantly low as is the availability of day-to-day goods as services without the need to cross the river. The location is most appropriate to accommodate development and encourage appropriate density in an infill location, in a Transit Corridor, and thus discourage the need for development at the urban edge.**

*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.*

Applicant Response (Bold): **The subject site is located in a designated Transit Corridor, and in an Area of Change that is intended to develop. The current zoning of MX-M zone allows for a wide array of moderate intensity retail and commercial uses that provide for the day to day goods and services of the community that is encouraged in Centers and Corridors.**



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

Applicant Response (Bold): **The proposed Conditional Use request would allow for a mix of goods and services to be available which are conveniently accessible. This will encourage redevelopment that brings goods and services within walking and biking distance of neighborhoods. The location within a transit corridor offers choice transportation to services. Characteristics of the community will be maintained since the requested use would occur in an existing commercial zone within a transit corridor.**

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

Applicant Response (Bold): **This request would support additional growth in an Area of Change with existing infrastructure and public facilities.**

*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.*

- 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.*
- b) Maintain the characteristics of distinct communities through zoning and design standards that are consistent with long-established residential development patterns.*
- c) Ensure appropriate setbacks, buffers, and/or design standards to minimize offsite impacts.*
- d) See Policy 5.2.1 for desired land uses to support 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.*

Applicant Response (Bold): **While the request for Conditional Use may be objectionable to immediate neighbors, it would be useful to society and will be equitable to ensure that social assets are distributed evenly and social responsibilities are borne fairly across the Albuquerque Area.**

**Murphy USA has a long-proven track record of strong enforcement of liquor sales regulations. Murphy has more than 1,500 stores throughout the United States and train their employees to monitor the**



sales of alcohol to prevent sales to impaired individuals. Murphy USA currently has zero violations or complaints with the State Liquor Board. The most recent Murphy that opened late last year had just 33 calls for service to-date in 2020 as compared to a Circle K across the street that saw 231 calls for service from the Albuquerque Police Department in that same time period. Murphy strives to operate their business's where employees and customers feel safe from potential crimes by implementing a thoughtful security and safety program in their stores, which begins with store layout and design.

Murphy follows the model of the Smart Policing Initiatives and has adopted the CPTED (Crime Prevention through Environmental Design) crime prevention program. CPTED is a concept that is data driven with a proven concept that considers the physical environment and its effect on crime prevention. There are four guiding principles.

**Natural Surveillance:**

People must be able to see illegal acts taking place to defend property or prevent crime. Surveillance puts the perpetrator(s) under the threat of being observed, and therefore identified and apprehended.

**Territoriality:**

Territoriality is all about defining what is public space, what semi-public space is, and what is private space. It involves establishing ownership of areas and can be encouraged by activities and management processes that reduce large impersonal spaces to smaller areas that can be personalized and protected.

**Access Control:**

This principle relates to territoriality by directing people where to go and denying them access to areas that they do not belong in. This is accomplished through having established vehicle and pedestrian entrances and exits, fencing, door and window locks, access control devices, and appropriate, visible signage.

**Maintenance:**

Poorly maintained and neglected areas attract unwanted people and activities. Proper maintenance of landscaping, lighting, and other features are essential CPTED principles. A positive community image is a significant deterrent to criminal behavior. Principles such as natural surveillance, access management, territoriality, physical maintenance, and order maintenance inform our design. Murphy USA pays particular



**attention to parking lots, building entries, restrooms, stairs and railings, fencing, wayfinding signage, landscaping, artwork, and displays of student work to create a warm, welcoming environment that gives students a sense of ownership and pride.**

**Convenience stores are one of the few 24/7 businesses that provide much-needed food, fuel and refreshment for millions of Americans, especially first responders, police officers, firemen, factory workers, hospital workers and restaurant employees. First responders and shift workers rely on Murphy stores. Late-night and early-morning customers depend upon stores for essential items that are not readily available elsewhere, and top reasons for a visit are shopping for a snack or meal, coffee or beverage, gasoline and cold medicine or to use the ATM.**

**Murphy USA has an extensive security monitoring system with both interior and exterior surveillance systems in place that operates 24/7 that is monitored by the home office. There is a constant presence of security on the premises to prevent alcohol related crime in the area. Murphy USA feels it has a proven method and track record of mitigating any problems related to retail liquor sales. We believe that the actions above are sufficient to mitigate any potential adverse impacts on the surrounding area.**

Agent also submitted a “Retail Liquor Void Analysis Report”, containing, among other information, the following evidence:

Applicant Response (Bold):

- **There is only (1) Liquor Retail opportunity within a 1.5-mile radius of this location;**
- **The average number of Liquor Retail opportunities in Albuquerque per 1-mile radius is 5;**
- **The average number of liquor opportunities in Albuquerque per 2-mile radius is 17.25.**
- **The distance between the proposed site and the nearest Liquor Retail opportunity is 7,392 sq. ft. away;**
- **The market trade area for this use is underserved by more than 40% as compared to the Albuquerque average.**

*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.*

*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.*

Applicant Response (Bold): **The subject Property is located in an Area of Change and will direct growth and more intense development to this corridor where change is encouraged. Because the proposed request will encourage growth and high-quality future redevelopment in accordance with this policy in a Transit Corridor.**

*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.*

Applicant Response (Bold): **The proposed project will encourage economic development that will provide jobs, goods, and services which improve the life for new and existing members of the community and contribute to a diverse and vibrant economy by revitalizing an area with growth that is consistent with and enhances the establish character of existing development. This type of economic development is best suited for infill locations supported by commercial corridors. This subject site encompasses all aspects of successful economic development and furthers this Policy.**

*POLICY 8.1.3*

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

Applicant Response (Bold): **This request allows for future development 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.**

14. Regarding IDO section 14-16-6-6(A)(3)(a) (*It is consistent with the ABC Comp. Plan, as amended*), opponents submitted testimony and evidence that the requested use would:
- **Increase crime in the area;**
  - **Increase noise caused by traffic and “boom boxes”;**
  - **Increase noxious fumes;**
  - **Increase drunk driving, which is already an issue of grave concern in Albuquerque and throughout New Mexico; and**
  - **Increase loitering and littering**
15. On balance, Applicant has met its burden of providing evidence that establishes that the requested Conditional Use is consistent with the ABC Comp. Plan, as amended, as required by IDO section 14-16-6-6(A)(3)(a)



16. As required by IDO section 14-16-6-6(A)(3)(b), Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval complies with all applicable provisions of the IDO, including, but not limited to any Use-Specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. No prior permits or approvals apply.
17. Regarding the requirement under IDO section 14-16-6-6(A)(3)(c), that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community, Applicant and opponents submitted the evidence cited under IDO section 14-16-6-6(A)(3)(a), above. On balance, Applicant has met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3)(c).
18. Regarding the requirement under IDO section 14-16-6-6(A)(3)(d), that the requested Conditional Use approval will not create material adverse impacts on other land in the surrounding area, through increases in traffic congestion, parking, congestion, noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts, Applicant and opponents submitted the evidence cited under IDO section 14-16-6-6(A)(3)(a), above. In addition:
  - a. Applicant and opponents submitted the evidence cited under IDO section 14-16-6-6(A)(3)(a), above.
  - b. Agent submitted evidence that the Bernalillo County public works department has jurisdiction over the traffic planning for the intersection and area surrounding the subject property, has redesigned the intersection at the subject property, and has approved the preliminary site plan regarding access to and from the subject property.
  - c. Agent's written submittals confirmed Applicant's willingness to hire an engineering firm to conduct a photometric study that will ensure that there is no light pollution from the subject property onto neighboring properties.
  - d. Agent's written submittals confirmed Applicant's willingness to add landscape buffers to ensure the safety and privacy of adjacent residential neighborhoods neighboring properties.
  - e. Agent's written submittals confirmed Applicant's plan to place and monitor security cameras in indoor and outdoor areas of the subject property, and to monitor such security cameras on a 24-hours a day, 7-days a week basis.
  - f. Agent testified that Applicant agrees to sell no intoxicating spirits and to limit its alcohol sales to beer and wine, only.
  - g. Agent stated in multiple written submittals and testimony that the requested use would be specific to Murphy USA and would not run with the land.

On balance, Applicant has met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3)(d).

19. Regarding the requirement under IDO section 14-16-6-6(A)(3)(d), which requires that the requested Conditional Use approval will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am:



- h. The subject property is located within 300 feet of a lot in a residential zone district.
- i. Applicant testified that non-residential activity would not increase in any prohibited manner, because the proposed Murphy USA gas station and store attract only “passerby” traffic that already exists, not destination shoppers. However, as to liquor sales, this testimony appears to be contradicted by the evidence Applicant provided that there are no liquor stores within a 1.5-mile radius of this location and that the average number of Liquor Retail opportunities in Albuquerque per 1-mile radius is 5. Given the relative lack of liquor sales, it would appear that liquor sales could create a destination that would increase traffic beyond merely passerby traffic.
- j. There is no commercial activity on the subject property currently, and therefore any commercial activity would be an increase in non-residential activity.
- k. Murphy testified and stated in written submittals that its store would be open 24 hours a day.
- l. If the liquor retail use were restricted to prohibit liquor sales between the hours of 8:00 pm and 6:00 am, there would appear to be no significant increase in non-residential activity during those times.

On balance, Applicant will have met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3)(d), if liquor retail use is restricted to prohibit liquor sales between the hours of 8:00 pm and 6:00 am.

- 20. Regarding the requirement under IDO section 14-16-6-6(A)(3)(e), Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result. No evidence was submitted to the contrary.
- 21. Applicable Use-Specific Standards include the following:

*4-3(D)(17) Light Vehicle Fueling Station*

*4-3(D)(17)(a) No inoperable vehicles shall be stored outside a building at any time.*

*4-3(D)(17)(b) This use must comply with stormwater quality requirements found in the DPM.*

*4-3(D)(17)(c) This use shall not be located where the only vehicle access to the lot is from a local street.*

*4-3(D)(17)(d) Each street that provides access to the lot shall have either 2 travel lanes in each direction or a center turn lane with access to the site.*

*4-3(D)(17)(e) Uses located on a corner lot with access from both streets shall have no more than one access point per frontage. Uses located mid-block or with access from only one street shall have no more than 2 access points from that street.*

*4-3(D)(17)(f) Access points shall be located no closer than 20 feet from any adjacent property that is not under common ownership.*

*4-3(D)(17)(g) Site access from a paved alley connecting to a public street is allowed provided that the access points from the site to the alley shall be a minimum of 25 feet from the intersection of the alley and the street.*

*4-3(D)(17)(h) For fueling station canopies, all under-canopy lighting shall be recessed so that no light lens projects below the canopy ceiling. The canopy fascia shall not be internally illuminated.*



*4-3(D)(17)(i) If located adjacent to any Residential zone district, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).*

*4-3(D)(17)(j) If located abutting or across an alley from any Residential zone district or lot containing a Residential use in any Mixed-use zone district, an opaque wall, fence, or vegetative screen at least 6 feet high is required.*

*4-3(D)(17)(k) In UC-AC-MS-PT-MT areas and the MX-H zone district, any building containing a retail use with 1,000 square feet or more of gross floor area shall have a maximum setback of 15 feet.*

*4-3(D)(17)(l) In UC-MS-PT areas, an opaque wall or vegetative screen at least 3 feet high shall be provided along all street frontages.*

*4-3(D)(17)(m) This use is prohibited within 330 feet of Major Public Open Space.*

Applicant provided testimony and written submittals stating that the Applicable Use-Specific Standards would be satisfied. No evidence was presented to the contrary.

#### DECISION:

APPROVAL WITH CONDITIONS of a conditional use to allow for liquor sales within 500 feet of residentially zoned property.

#### CONDITIONS:

1. The approved conditional use is personal to Murphy USA and does not run with the land.
2. The subject property must adhere to the Use Specific Standards set forth in IDO 4-3(D)(17) Light Vehicle Fueling Station.
3. Murphy USA must follow the model of the Smart Policing Initiatives and adopt and comply with the CPTED (Crime Prevention through Environmental Design) crime prevention program Applicant, as described in its submittals, cited above.
4. Murphy USA must hire an engineering firm to conduct a photometric study that will ensure that there is no light pollution from the subject property onto neighboring properties.
5. Murphy USA must add landscape buffers to ensure the safety and privacy of adjacent residential neighborhoods neighboring properties.
6. Murphy USA must place and monitor security cameras in indoor and outdoor areas of the subject property, and to monitor such security cameras on a 24-hours a day, 7-days a week basis
7. Murphy USA may not sell any intoxicating spirit and must limit its alcohol sales to beer and wine, only.
8. Any liquor retail use is restricted to prohibit the sale of alcohol between 8:00 pm and 6:00 am.

#### APPEAL:

If you wish to appeal this decision, you must do so by September 17, 2020 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.



Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.

A handwritten signature in dark ink, appearing to read "Robert Lucero". The signature is fluid and cursive, with the first name "Robert" and last name "Lucero" clearly distinguishable.

---

Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
Angela Williamson, Modulus Architects, [awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)



STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

ENDORSED  
FILED IN MY OFFICE THIS

MAY 22 2008

*Quentin M. Dixon*  
CLERK DISTRICT COURT

KENDRA GOERS

MICHAEL E. BAKER, OLD TOWN LIQUOR  
SHOPPE, INC., LUKE PARK, JAE HO PARK,  
SEOUNG CHOI, CHEUL KIM, JOHN CHOI,  
CHARLIE LEE, CIRCLE K STORES INC., and  
STADIUM L.L.C.,  
Plaintiffs,

vs.

CV-2008-02996

CITY OF ALBUQUERQUE,  
Defendant.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court following Plaintiffs' Motion for Temporary Restraining Order, in which they argue that Defendant does not have the authority to impose restrictions not found in the Liquor Control Act, NMSA 1978, §§ 60-3A-1 to 60-3A-19 (1981, as amended through 2007), on the sale of alcoholic beverages within its boundaries. On April 16, 2008, this Court granted Plaintiffs' motion and enjoined Defendant from enforcing the ordinances at issue. At a hearing before the Court on May 16, 2008, Plaintiffs seek to permanently enjoin Defendant from enforcing the ordinances in question. The Court grants the injunction; Defendant's ordinances are preempted by the Liquor Control Act.

The parties generally agree that there are no factual disputes present in this case. The Albuquerque City Council adopted an ordinance amending sections of the City's zoning code in 2005 to prohibit the sale of particular alcoholic beverage packages for off-premise consumption within 500 feet of specific sites. Plaintiffs' Exhibit A. These provisions, Albuquerque Revised



Code of Ordinances, § 14-16-2-15(B)(9) (2005) (Office and Institution Zone), Albuquerque Revised Code of Ordinances, § 14-16-2-17(A)(13)(a) (2005) (Community Commercial Zone), and Albuquerque Revised Code of Ordinances, § 14-16-3-4(A)(12) (2005) (Nonconformance Regulations), limit the sale of distilled spirits in any package that contains less than 750 milliliters, beer in single containers containing 16 or fewer ounces, and fortified wines with a volume of alcohol of greater than 13.5 percent, within 500 feet of pre-elementary, elementary, or secondary schools, religious institutions, residential zones, designated Metropolitan Redevelopment Areas, city-owned parks, or city-owned major public open space. *Id.*

Defendant apparently did not attempt to enforce these ordinances until December 2007, when it notified holders of retail liquor licenses that it would begin to issue citations to those in violation of the provisions. Plaintiffs note that Defendant has issued notices to several licensees, including Plaintiff Charlie Lee. Defendant argues that Lee's case is unique because it involves the approval of the transfer of a liquor license conditioned on compliance with these new ordinances. Defendant has filed criminal misdemeanor charges against Lee that are currently pending. Plaintiffs assert that they are all subject to the ordinances, but Defendant contends that some do not hold licenses, and notes that it may challenge standing, if necessary. In particular, at oral argument Defendant challenged Lee's standing to bring this action, the argument being that because his case has not yet been adjudicated in Metropolitan Court, and the proper procedure in District Court for Mr. Lee would be an appeal from any misdemeanor conviction. The Court rejects the argument that Mr. Lee is precluded from bringing this civil action because he faces misdemeanor charges in Metropolitan Court. In any case, Defendant apparently concedes that several of the plaintiffs do have standing.



Plaintiffs argue that the ordinances are unlawful because they create several new categories of prohibited products, extend the 300-foot statutory buffer to 500 feet, and add new locations from which the buffer zone must be measured, in conflict with the Liquor Control Act. They argue that the State reserves full control over the sale of liquor, the licenses required to sell liquor, the location of liquor establishments, the regulation of the liquor industry, and the manner of enforcement of those laws and regulations, and that the City does not have the power to enact contrary laws.

Plaintiffs argue that Defendant's enforcement of the ordinances would result in the compulsory vacating of the licensee's premises or the forced removal from the premises by Defendant, as well as fines and other sanctions, unless they comply and convert to a conforming use, ceasing to sell the prohibited items. Plaintiffs contend that the effect would be closure of the location and transfer of the license to another location outside the City, because the new buffer zone essentially limits the number of commercial retail locations that could operate under the ordinance to few or none. They assert that the harm would be irreparable, and that monetary damages would be difficult to establish with reasonable certainty, insufficiently compensating those who must close their business and sell the license.

In response, Defendant argues that Plaintiffs have not shown irreparable harm because they could have applied for a zoning variance, but they have not attempted to do so. Defendant asserts that Plaintiff Lee has not yet filed any pleadings in his criminal case. Regarding Plaintiffs' argument that the ordinance would allow the City to vacate a licensee's premises, Defendant agrees that it cannot deprive existing liquor licensees of all or even substantially all of the beneficial use of the licenses. Instead, Defendant contends that it could only remove prohibited items. Section 14-16-3-4(A)(12)(c), however, purports to provide that an establishment that sells the offending items "must



vacate the premises, be removed or convert to a conforming use by no later than July 1, 2005[,] or within one year after it becomes nonconforming, whichever is later."

Regarding the merits of the legal argument, Defendant notes that this case presents an issue of first impression. Defendant argues that adoption of the ordinance is a lawful exercise of its municipal zoning authority and that it is consistent with the Liquor Control Act. Defendant contends that the Act regulates licenses but not a municipality's power to enact ordinances that have an effect on the licensed activity. Defendant argues that it has the authority to enact the zoning ordinances at issue under its home rule power.

A municipality is authorized under Article X, § 6(D) of the New Mexico Constitution to "exercise all legislative powers and perform all functions not expressly denied by general law or charter." "[T]he home rule amendment was clearly intended to devolve onto home rule municipalities remarkably broad powers." New Mexicans for Free Enter. v. City of Santa Fe, 2006-NMCA-007, ¶ 16, 138 N.M. 785, 126 P.3d 1149 (NMFB). "But there are limits to this power. The exercise of municipal power cannot be 'expressly denied by general law. . . .'" Id. (quoting Art. X, § 6(D)).

Under NMFB, the Court must first determine whether the Liquor Control Act is a general law. See id. ¶ 18. "A general law 'applies generally throughout the state, or is of statewide concern as contrasted to "local" or "municipal" law.' A general law impacts all inhabitants of the state rather than just the inhabitants of a municipality." Id. (quoted authority omitted).

The Liquor Control Act is a general law that impacts all New Mexicans and relates to a matter of statewide concern. See id.

It is the policy of the Liquor Control Act that the sale, service and public



consumption of alcoholic beverages in the state shall be licensed, regulated and controlled so as to protect the public health, safety and morals of every community in the state; and it is the responsibility of the director to investigate the qualifications of all applicants for licenses under that act, to investigate the conditions existing in the community in which the premises for which any license is sought are located before the license is issued, to the end that licenses shall not be issued to persons or for locations when the issuance is prohibited by law or contrary to the public health, safety or morals.

NMSA 1978, § 60-3A-2(A) (1981).

The Supreme Court held that "when two statutes that are governmental or regulatory in nature conflict, the law of the sovereign controls." Casias v. City of Gallup, 106 N.M. 571, 573, 746 P.2d 1103, 1105 (1987). Although there is no express preemption by the Legislature in the Liquor Control Act, "any New Mexico law that clearly intends to preempt a governmental area should be sufficient without necessarily stating that affected municipalities must comply and cannot operate to the contrary." *Id.* Thus, the Court must analyze whether there has been preemption by implication. The question before this Court is whether the Liquor Control Act "evinces any intent to negate such municipal power, whether there is a clear intent to preempt that governmental area from municipal policymaking, or whether municipal authority to act would be so inconsistent with [the Liquor Control Act] that [it] is the equivalent of an express denial." NMEB, 2006-NMCA-007, ¶ 19.

Regarding conflict with or preemption by state law, "our Supreme Court articulated the test for determining whether an inconsistency exists as 'whether the ordinance permits an act the general law prohibits, or vice versa.'" NMEB, 2006-NMCA-007, ¶ 39 (quoted authority omitted). "If an ordinance merely complements a statute, instead of being 'antagonistic' to it, it is not in conflict with state law. Where an ordinance is more strict than a state law, it is effective unless it conflicts with



state law." *Id.* (quoted authority omitted).

As noted above, Plaintiffs argue that the ordinances conflict with the Liquor Control Act while Defendant contends that its ordinances are complementary. Plaintiffs note that the Legislature has provided that "[t]he alcohol and gaming division of the regulation and licensing department has authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act." NMSA 1978, § 60-3A-7 (2001). They argue that this statute and others addressing the authority over licenses, rules and administration demonstrates that the Legislature intended that the Liquor Control Act comprehensively govern all aspects of the sale of liquor. The Court agrees.

As Plaintiffs recount, municipalities historically had greater authority over liquor licenses. See *Sprunk v. Ward*, 51 N.M. 403, 405, 186 P.2d 382, 383 (1947). Following the repeal of prohibition, New Mexico's first liquor control act authorized municipalities and counties to issue liquor licenses, subject to the approval of a state board. *Id.* The Legislature modified these laws over subsequent years, allowing local option municipalities the power to regulate the sale of liquor by retailers, dispensers, and clubs in any manner consistent with state law. *Id.* at 408, 186 P.2d at 384. The statute which authorized municipalities and counties to regulate sales was repealed in 1981. NMSA 1978, § 60-6-1 (repealed 1981).

In *Sprunk*, the issue was whether a municipality must issue a local license when the city already had the maximum number allowed by ordinance. The Court reviewed the historical changes to the state liquor laws, noting that "[o]ne has only to compare the provisions of the corresponding sections of the 1939 and previous acts, . . . conferring on municipalities powers of regulation of the liquor traffic to note the revolutionary change wrought in respect thereof." 51 N.M. at 409, 186 P.2d



at 385. The Court concluded that the broad powers conferred on the state, along with "the significant omissions" from the newer law "of powers granted previously by express language unto municipalities in the matter of regulation of retail dealers, all combine in disposing us strongly to the view . . . that the power claimed by [the municipality] to limit the number of retail dealers within its corporate limits cannot be sustained." *Id.*

The wisdom of the policy which would take from municipalities and counties in the state the element of home rule so long associated with control of the liquor traffic is not ours to determine. . . . The legislature alone possesses power to fix the policy. It has done so in unmistakable language to which we must give effect in interpreting the same.

*Id.* at 410, 186 P.2d at 386.

Plaintiffs argue that Defendant is usurping the authority of the Director by substituting its judgment for that of the Director and by regulating types of sales that are otherwise authorized by state law. Plaintiffs note that Defendant's new categories of prohibited liquor differentiate in a manner inconsistent with the definitions in NMSA 1978, § 60-3A-3 (2004) (defining terms including "alcoholic beverages," "beer," "packages," "spirituous liquors," and "wine"). In a case involving a municipality attempting to disapprove the transfer of a liquor license, the Supreme Court expressed:

Could it be reasonably held, in the light of the state's presumption in the field of the regulation of liquor businesses, that the legislature intended local governing bodies to have a broader range of permitted action than the chief of the division? We think not. Without any statutory standard whatever, we do not feel that a local governing body could give vent to whatever whims they might choose.

Safeway Stores, Inc. v. City of Las Cruces, 82 N.M. 499, 500, 484 P.2d 341, 342 (1971) (rejecting a municipality's argument that it could properly reject the transferral of a license even if the licensee met all statutory requirements).



Defendant argues that Sprunk and Safeway are not analogous because they involved "a municipality's direct efforts by ordinance to limit the number of licenses operating within its city's limits," while in the present matter, Defendant is not attempting to regulate the state's licensing authority. Response, at 7. The Court rejects this argument. While the present matter does not involve the denial of a license directly, Defendant's ordinances place significant restrictions on licenses that were lawfully obtained, regulating the sale of specific products. The language of these cases demonstrate that the Supreme Court has recognized legislative "preemption in the field of the regulation of liquor businesses" and "legislative intent as to uniform, statewide regulation of the affected subject matter." Safeway, 82 N.M. at 500-01, 484 P.2d at 342-43 ("A local governing body does perform a valuable discretionary duty in the granting of liquor licenses or in their transfer, but only insofar as determining whether the statutory guidelines have been met locally.").

As Plaintiffs argue, the Legislature has given local governments limited authority to review license applications for issuance and transfer within its boundaries, but the authority to act is "in accordance with the provisions of the Liquor Control Act." NMSA 1978, § 60-6B-2(A)(8) (2007). Defendant correctly notes that the Legislature has given local governing bodies the authority to disapprove the issuance or transfer of a license if "the issuance or transfer would be in violation of a zoning or other ordinance of the governing body." NMSA 1978, § 60-6B-4(F)(2) (1981). However, local government has the power to approve or disapprove the location of the licensed premises under Section 60-6B-4(B); the Legislature has not given municipalities the power to impose limitations, restrictions, or conditions on a license. Defendant, through its new ordinances, is attempting to regulate package size and alcoholic content in a manner inconsistent with state statutes and without authority to do so.



Defendant argues that it has the power to enact the ordinances in question based on its home rule power, relying on the analysis of Smith v. City of Santa Fe, 2006-NMCA-048, 139 N.M. 410, 133 P.3d 866, aff'd, 2007-NMSC-055, 142 N.M. 786, 171 P.3d 300. This analysis is identical to the discussion applying NMEB, 2006-NMCA-007, and Causes, 106 N.M. 571, 746 P.2d 1103, above. The Court of Appeals, in Smith, concluded that a city had home rule power to prohibit the drilling of a domestic well within its boundaries and was not preempted by existing state law. 2006-NMCA-048, ¶26. The Court, id. ¶18, contrasted the matter before it with American Civil Liberties Union of N.M. v. City of Albuquerque, 1999-NMSC-044, 128 N.M. 315, 992 P.2d 866 (ACLU), in which the Supreme Court determined that the Legislature preempted municipal authority regarding a curfew law by comprehensively and exhaustively addressing juvenile delinquency and that the local law circumvented and frustrated the purpose of uniform delinquency laws by instead criminalizing particular behavior by children. The Court of Appeals, in Smith, concluded that the state law, "which results in an automatic and unrestricted permit, does not approximate a comprehensive or exhaustive regulation of such wells," and that the "local regulation, . . . is consistent with the state statute and, unlike the situation in ACLU, does not circumvent or frustrate the policy established by state law." 2006-NMCA-048, ¶18.

The Court believes that the present matter presents a case more analogous to ACLU than to Smith; the Legislature has comprehensively and exhaustively regulated the sale and consumption of alcohol, and the state statutes do not result in automatic and unrestricted licenses, as was the case in Smith. Defendant's ordinances are attempting to regulate alcohol retailers, and ultimately consumers, by prohibiting the sale of items, all as newly defined quantities or types, that are lawfully sold under state law. The Legislature has set out extensive provisions regarding licensing in the




Liquor Control Act, and it has also thoroughly regulated offenses regarding alcoholic beverages, including hours and days of business as well as Sunday sales. See, e.g., NMSA 1978, § 60-7A-1 (2002). The Supreme Court has recognized legislative preemption in the field of the regulation of liquor businesses, and Defendant's ordinances conflict with the Liquor Control Act.

Finally, Defendant contends that the ordinances are akin to municipal zoning laws that regulate fire occupancy loads, outdoor seating, litter, or parking regulations. The Court disagrees. These types of ordinances are not subject to the comprehensive and exhaustive laws the Legislature directs to the issue of the sale of alcohol.

Defendant's ordinances are preempted by state law. The Court concludes that Plaintiffs have demonstrated that they will suffer irreparable injury if an injunction is not granted. Plaintiffs' motion for permanent injunction is GRANTED, and the City of Albuquerque is ENJOINED from enforcing city ordinance Section 14-16-2-15(B)(9), Section 14-16-2-17(A)(13)(a), and Section 14-16-3-4(A)(12). This Memorandum Opinion and Order constitutes the findings of fact and conclusions of law by the Court.

**IT IS SO ORDERED.**

  
Geraldine E. Rivera  
District Judge

This is to certify that a true and correct copy of the foregoing was mailed to Alan R. Wilson and John B. Dubois/Peter H. Pierotti this 22nd day of May, 2008.





# **Modulus Architects & Land Use Planning**

## **Murphy Oil USA**

**APPEAL NO. AC-20-10 and AC-20-11**

**Project PR-2020-003911**

**VA-2020-00144, VA 2020-00315 (Liquor Retail)**

**VA-2020-00143, VA 2020-00313 (Light Vehicle Fueling Station)**





# PROJECT PR-2020-003911

## VA-2020-00144, VA 2020-00315

- On December 7, 2020, the City Council voted to remand this matter to the Zoning Hearing Examiner to **re-evaluate the enforceability** of the conditions of approval limiting liquor sales, and limiting the conditional use permit approval to a single operator.
- Both the original findings from the ZHE and the findings of the Land Use Hearing Officer state that the original conditions placed on the approval judiciously set very restrictive conditions on the approval of the Conditional Use permit request.
- As to the question of **ENFORCEABILITY**
- Per the Integrated Development Ordinance as amended and adopted in November 2020
- Chapter 14-16-6-2(A) Administration & Enforcement
  1. City Council is the zoning authority for the City of Albuquerque. The City Council has delegated some of its zoning authority to the Environmental Planning Commission (EPC) and Zoning Hearing Examiner (ZHE) as authorized by law, and the effect of those delegations is shown in the IDO
  2. **6-2(J) ZONING HEARING EXAMINER**

The ZHE conducts hearings and makes findings and final decisions on those types of applications shown as ZHE decision responsibilities in Table 6-1-1.



Table 6-1-1: Summary of Development Review Procedures														
X = Required R = Review and/or Recommend D = Review and Decide AR = Appeal Review and Recommend AD = Appeal Review and Decision [ ] = Public Meeting < > = Public Hearing														
Section	Public Notice <sup>541</sup>					Mtgs		Review and Decision-making Bodies						
	6-4(J)					6-4(B)	6-4(C)	6-2						
	Published	Mailed	Posted Sign	Electronic Mail	Web Posting	Pre-application	Neighborhood	City Staff <sup>[1]</sup>	ZHE	DRB	LC	EPC	LUHO	City Council <sup>[2]</sup>
Application Type														
Administrative Decisions <sup>542</sup>														
Archaeological Certificate								D					<AR>	<AD>
Historic Certificate of Appropriateness – Minor			X	X				D			<AD>		<AR>	<AD>
Permit – Sign														
<i>Permit</i>				X	X			D					<AR>	<AD>
<i>Alternative Signage Plan</i>			X	X	X			D					<AR>	<AD>
Permit – Temporary Use								D					<AR>	<AD>
Permit – Temporary Window Wrap <sup>543</sup>		X						D					<AR>	<AD>
Permit – Wall or Fence – Minor				X	X			D					<AR>	<AD>
Site Plan – Administrative <sup>[3]544</sup>			X	X	X			D					<AR>	<AD>
Wireless Telecommunications Facility Approval		X						D					<AR>	<AD>
Decisions Requiring a Public Meeting or Hearing														
Conditional Use Approval	X	X	X	X	X	X	X	R	<D>				<AR>	<AD>
Demolition Outside of an HPO <sup>[4]</sup>	X	X	X	X	X	X	X	R			<D>		<AR>	<AD>
Expansion of Nonconforming Use or Structure		X	X	X	X	X	X	R	<D>				<AR>	<AD>

- Conditional Use Definition per the IDO states, “A land use that is allowable in a particular zone district subject to conditional approval by the ZHE based on a review of the potential adverse impacts of the use and any appropriate mitigations to minimize those impacts on nearby properties. Pg. 579
- 6-4(Q) CONDITIONS ON APPROVALS**
- 6-4(Q)(2) If Table 6-1-1 authorizes the ZHE, EPC, DRB, LC, or City Council to make a decision on an application, **the decision-making body may impose conditions on the approval** necessary to bring the application into compliance with the requirements of this IDO, other adopted City regulations, or the specific review criteria for that type of application, provided that the following criteria are met:
  - 6-4(Q)(2)(a) All conditions are reasonably related to the purposes of this IDO or mitigating the negative impacts of the proposed development or land use as determined by the reviewing entity.**



# AS TO THE QUESTION OF ENFORCEABILITY

- I have clearly identified the legal parameters that provides the ZHE the authority to place conditions on decisions regarding an application for a Conditional Use Permit.
- Now as to **Enforceability** of those conditions:
- **14-16-6-9(C) ENFORCEMENT**
  - **6-9(C)(1) Authority to Enforce**
- 6-9(C)(1)(a) The ZEO has the authority and duty to enforce this IDO pursuant to Subsection 14-16-6-2(B)(1)(c) (Zoning Enforcement Officer).
- 6-9(C)(1)(c) In enforcing the requirements of this IDO the City may use any enforcement powers allowed by the State of New Mexico, in any order. The choice of one method of enforcement does not foreclose the City from pursuing others later if the violation is not remedied.
- 6-9(C)(1)(d) Without limiting the generality of Subsection (c) above, the City may enforce this IDO through any of the following powers:
  - 1) To institute proceedings to prevent the unlawful action.
  - 2) **To deny, delay, or withhold permits and approvals (*in this case, a Conditional Use Permit*).**
  - 3) **To revoke permits and approvals after giving the property owner or applicant notice of intent to revoke the permit or approval (*again, in this case a Conditional Use Permit*).**
  - 4) To issue a stop work order requiring that all work on a property or structure or operation of a use that is in violation of this IDO cease, or if a violation is suspected but not known, then until the existence or absence of the violation can be confirmed.
  - 5) To require the immediate abatement of any use or the vacation or removal of a structure that creates a threat to the public health and safety or to the health and safety of those in or around the use or structure.



# CITY COUNCIL REMAND TO THE ZHE

- C-20-11 Project PR-2020-003911, VA-2020-00144, VA-2020-00315: Los Altos Civic Association, Appeals The Zoning Hearing Examiners Decision To Approve A Conditional Use To Allow For Liquor Sale Within 500 Feet Of Residential For Commercial Tract, Block 5, Los Altos, Located At 99999 Bridge Blvd SW Zoned MX-M [Section 14-16-4-3(D)(36)(c)]
- On December 7, 2020, by a vote of 9 FOR and 0 AGAINST the City Council voted to remand this matter to the Zoning Hearing Examiner to re-evaluate the enforceability of the conditions of approval limiting liquor sales, and limiting the conditional use permit approval to a single operator.
- Response as to **ENFORCEABILITY** - It is my assertion that the Integrated Development Ordinance clearly provides for not only the legal parameters for the ZHE to place conditions on this Conditional Use approval but also establishes the legal mechanisms in place to enforce those Conditions.



# VA-2020-00143, VA 2020-00313

## (LIGHT VEHICLE FUELING STATION)

- On December 7, 2020, the City Council voted to remand this matter to the Zoning Hearing Examiner to address and enter findings on the IDO requirement that the light vehicle fueling use not increase non-residential activity within 300 feet of the adjacent Residential zone districts between the hours of 8:00 P.M. and 6:00 AM.
- The ZHE cited 21 findings in total for this request, finding number 19 addresses this issue as follows:
  - Regarding the requirement under IDO section 14-16-6-6(A)(3)(d), which requires that the requested Conditional Use approval will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am:
    - a. The subject property is located within 300 feet of a lot in a residential zone district.
    - c. There is no commercial activity on the subject property currently, and therefore any commercial activity would be an increase in non-residential activity.

d. Murphy testified and stated in written submittals that its store would be open 24 hours a day. *Note that Murphy has made the determination that they will not be open 24 hours and will limit the hours of operation to 5AM – Midnight.*

e. If the liquor retail use were restricted to prohibit liquor sales between the hours of 8:00 pm and 6:00 am, there would appear to be no significant increase in nonresidential activity during those times.

On balance, Applicant will have met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3)(d), if liquor retail use is restricted to prohibit liquor sales between the hours of 8:00 pm and 6:00 am.

The Land Use Hearing Officer findings state that the ZHE correctly applied the IDO's provisions to the conditional use applications, rationally and reasonably concluded that the applicants satisfied the IDO requirements and demonstrated that the conditional uses will achieve or further numerous policy objectives of the Comprehensive Plan. He also find that the ZHE judiciously set very restrictive conditions of operation to mitigate the potential for harm caused by the uses.



- As additional substantiation for the record, we (Applicants) assert that this request will not increase non-residential activity within 300 feet of a lot in any Residential zone district between the hours of 8:00 PM and 6:00 AM.
- Murphy is not a destination location, rather, consumers are “passerby” traffic. This will not **increase** the activity that is already active and present at this location. The property to the north, east and south are commercially zoned properties with commercial operations.
- Current DAILY traffic volumes of traffic on Bridge Blvd. as provided by the Mid Region Council of Governments shows that there are currently 23,900 cars traveling past this site daily.
- Old Coors traveling passerby's are more than 16,200 travelers per day
- Prohibiting alcohol sales between the hours of 8pm and 6 am further ensure there would be no significant increase in nonresidential activity during those times.



## MID-REGION Council of Governments





# CONCLUSION

This concludes my presentation of facts relating to the remand from City Council Project Number PR-2020-003911

As the Agent representing Murphy Oil USA and the property owner, I will stand for questions.

**Angela M. Williamson, CEO/Managing Partner**

**Modulus Architects & Land Use Planning**

100 Sun Ave NE., Suite 600

Albuquerque, New Mexico 87109







CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district for Commercial Tract, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(17)(i)]

Special Exception No:..... **VA-2020-00143**  
Project No: ..... **Project#2020-003911**  
Hearing Date: ..... 01-19-21  
Closing of Public Record: ..... 01-19-21  
Date of Decision: ..... 02-02-21

On the 19th day of January, 2021, Modulus Architects, agent for property owner Jose Alfredo and Ailda Martinez (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district (“Application”) upon the real property located at 99999 Bridge Blvd SW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

**FINDINGS:**

1. Applicant is requesting a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district.
2. This matter came before the ZHE on remand by the City Council, pursuant to the Notice of Decision issued by the City Council in Case No. DAC-20-10, December 16, 2020 (the “Remand Order”).
3. The Remand Order states that the City Council voted to remand this case to the ZHE for the ZHE to address and enter findings on the IDO requirement that the requested light vehicle fueling use not increase non-residential activity within 300 feet of the adjacent residential zone districts between the hours of 8:00 p.m. and 6:00 a.m.
4. At the January 19, 2021 ZHE hearing, the ZHE received testimony and evidence on the Application, addressing solely the non-increase non-residential activity stated in finding 3, above.
5. The ZHE incorporates all findings of its Notification of Decision dated September 2, 2020, as if fully set forth in this Notification of Decision, except as expressly stated differently in this Notification of Decision. If any conflict exists between the Notification of Decision dated September 2, 2020 and this Notification of Decision, then this Notification of Decision prevails.
6. After the Remand Order and up until the January 19, 2020 ZHE hearing, the ZHE received no written evidence from applicant, opponents, or any other party addressing the Application.



7. Agent appeared at the January 19, 2020 ZHE hearing and testified in support of the Application.
8. No other party presented testimony at the January 19, 2020 ZHE hearing.
9. Applicant stated that this request will not increase non-residential activity within 300 feet of a lot in any Residential zone district between the hours of 8:00 PM and 6:00 AM, for the following reasons:
  - a. The property to the north, east and south are commercially zoned properties with commercial operations.
  - b. The proposed Murphy gas station is not a destination location, rather, consumers are only “passerby” traffic. As such, the proposed light fueling station would not increase the activity that is already active and present at this location.
  - c. Calculations by the Mid Region Council of Governments Current estimate that daily traffic volumes on Bridge Blvd. are currently 23,900 cars traveling past this site daily, and on Old Coors more than 16,200 cars traveling past this site daily.
  - d. Applicant clarified that the proposed store and pumps would not be open 24 hours a day, but rather would be limited to hours of operation of 5AM – Midnight.
  - e. Although alcohol sales may create a destination location, prohibiting alcohol sales between the hours of 8:00 pm and 6:00 am would further ensure there would be no significant increase in nonresidential activity during those times.
10. On balance, Applicant will have met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3)(d), which requires that the proposed conditional use “*will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am,*” if liquor retail use is restricted to prohibit liquor sales between the hours of 8:00 pm and 6:00 am.
11. However, as discussed in more detail in the ZHE Notification of Decision in the companion case VA-2020-00144 dated February 2, 2021, questions have arisen regarding whether municipal restriction of the type and hours of sale of alcoholic beverages, as expressed in the ZHE conditions of approval to be considered on remand, may infringe upon the State of New Mexico’s preemption of the field of the regulation of alcoholic beverage sales.
12. The ZHE finds that this Application should be continued, to allow Applicant and the public to present evidence and legal argument regarding whether the ZHE conditions of approval to be considered on remand may infringe upon the State of New Mexico’s preemption of the field of the regulation of alcoholic beverage sales.

#### DECISION:

CONTINUANCE of the Application to be heard at the ZHE hearing at 9:00 a.m. on February 16, 2021.

#### APPEAL:

If you wish to appeal this decision, you must do so by February 17, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.



Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



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Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
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Bruce Stauder, 2909 Rio Vista Ct SW, 87105  
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Dan Goering, 2802 Los Altos PL NW, 87105  
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CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for liquor sale within 500 feet of residential for Lot B, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(36)(c)]

Special Exception No:..... **VA-2020-00144**  
Project No: ..... **Project#2020-003911**  
Hearing Date: ..... 01-19-21  
Closing of Public Record: ..... 01-19-21  
Date of Decision: ..... 02-02-21

On the 19th day of January, 2021, Modulus Architects, agent for property owner Jose Alfredo and Ailda Martinez (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for liquor sale within 500 feet of residential (“Application”) upon the real property located at 99999 Bridge Blvd SW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

**FINDINGS:**

1. Applicant is requesting a conditional use to allow for liquor sale within 500 feet of residential.
2. This matter came before the ZHE on remand by the City Council, pursuant to the Notice of Decision issued by the City Council in Case No. DAC-20-11, December 16, 2020 (the “Remand Order”).
3. The Remand Order states that the City Council voted to remand this case to the ZHE for the ZHE to reevaluate the enforceability of the conditions of approval limiting liquor sales, and limiting the conditional use approval to a single operator.
4. At the January 19, 2021 ZHE hearing, the ZHE received testimony and evidence on the Application, addressing solely the conditions stated in finding 3, above.
5. The ZHE incorporates all findings of its Notification of Decision dated September 2, 2020, as if fully set forth in this Notification of Decision, except as expressly stated differently in this Notification of Decision. If any conflict exists between the Notification of Decision dated September 2, 2020 and this Notification of Decision, then this Notification of Decision prevails.
6. After the Remand Order and up until the January 19, 2020 ZHE hearing, the ZHE received no written evidence from applicant, opponents, or any other party addressing the Application.
7. Agent appeared at the January 19, 2020 ZHE hearing and testified in support of the Application.
8. No other party presented testimony at the January 19, 2020 ZHE hearing.
9. The ZHE September 2, 2020 Notification of Decision adopted the following conditions of approval:



- a. The approved conditional use is personal to Murphy USA and does not run with the land.
  - b. The subject property must adhere to the Use Specific Standards set forth in IDO 4-3(D)(17) Light Vehicle Fueling Station.
  - c. Murphy USA must follow the model of the Smart Policing Initiatives and adopt and comply with the CPTED (Crime Prevention through Environmental Design) crime prevention program Applicant, as described in its submittals, cited above.
  - d. Murphy USA must hire an engineering firm to conduct a photometric study that will ensure that there is no light pollution from the subject property onto neighboring properties.
  - e. Murphy USA must add landscape buffers to ensure the safety and privacy of adjacent residential neighborhoods and neighboring properties.
  - f. Murphy USA must place and monitor security cameras in indoor and outdoor areas of the subject property, and to monitor such security cameras on a 24-hours a day, 7-days a week basis.
  - g. Murphy USA may not sell any intoxicating spirit and must limit its alcohol sales to beer and wine, only.
  - h. Any liquor retail use is restricted to prohibit the sale of alcohol between 8:00 pm and 6:00 am.
10. As to the ZHE September 2, 2020 Notification of Decision condition that “the approved conditional use is personal to Murphy USA and does not run with the land”:
  - a. IDO section 14-16-6-4(W)(1) provides that, “[u]nless specified otherwise on the permit or approval document for a specific type of development approval, permits and approvals run with the land and are not affected by changes in ownership or the form of ownership of the property.” (Emphasis added).
  - b. Thus, because an approval may “specif[y] otherwise,” the IDO expressly contemplates that a particular approval may be stated to break with the default rule that approvals run with the land, and instead require that an approval be personal to the proposed operator.
  - c. Pursuant to IDO section 14-16-6-4(W)(1), the ZHE September 2, 2020 Notification of Decision on the Application expressly states that the approval is conditioned such that it is personal to Murphy USA and does not run with the land. This appears clear and unambiguous.
  - d. This condition is enforceable, because the City routinely verifies the identity of applicants and the ownership of real property that is are subjects of zoning applications, and such verification would appear to continue to be feasible and reasonable into the future.
11. The ZHE September 2, 2020 Notification of Decision condition that the “subject property must adhere to the Use Specific Standards set forth in IDO 4-3(D)(17) Light Vehicle Fueling Station” is enforceable, because the standards are expressly stated in the IDO and are definite.
12. The ZHE September 2, 2020 Notification of Decision condition that “Murphy USA must follow the model of the Smart Policing Initiatives and adopt and comply with the CPTED (Crime Prevention through Environmental Design) crime prevention program Applicant, as described in its submittals, cited above,” may pose difficulties to enforcement. This is because the CPTED by its nature is more of a policy document than a list of particular and



definite measures to be taken. However, examining the evidence and testimony submitted by Murphy regarding its proposed measures to be taken pursuant to CPTED, the following conditions are enforceable and targeted to mitigate potential harm: (a) Murphy USA must install and maintain a security monitoring system, with both interior and exterior surveillance cameras in place, that operates 24 hours a day, 7 days a week, and that is monitored by the Murphy home office; and (b) Murphy USA must maintain a constant presence of security on the premises during business hours to help prevent alcohol-related crime in the area. These conditions are enforceable, because they are definite, express, and easily verifiable with a simple physical inspection of the subject property. As to the cameras operating 24 hours a day, 7 days a week, and are monitored by the Murphy home office, a simple requirement of a certification by Murphy verifying that those conditions are satisfied would appear to suffice.

13. The ZHE September 2, 2020 Notification of Decision condition that “Murphy USA must hire an engineering firm to conduct a photometric study that will ensure that there is no light pollution from the subject property onto neighboring properties” is enforceable, because it is definite and because City enforcement staff may easily verify the same. These types of engineering studies and reports are routinely reviewed by City technical staff.
14. The ZHE September 2, 2020 Notification of Decision condition that “Murphy USA must add landscape buffers to ensure the safety and privacy of adjacent residential neighborhoods and neighboring properties” is enforceable, because it is definite and because City enforcement staff may easily verify whether Murphy has added the required landscape buffers.
15. The ZHE September 2, 2020 Notification of Decision condition that “Murphy USA must place and monitor security cameras in indoor and outdoor areas of the subject property, and to monitor such security cameras on a 24-hours a day, 7-days a week basis” is enforceable, because it is definite and City enforcement staff may easily verify by a simple physical inspection of the subject property whether the required cameras are installed, and, as to the cameras operating 24 hours a day, 7 days a week, and are monitored by the Murphy home office, a simple requirement of a certification by Murphy verifying that those conditions are satisfied would appear to suffice.
16. The ZHE September 2, 2020 Notification of Decision conditions that:
  - (i) “Murphy USA may not sell any intoxicating spirit and must limit its alcohol sales to beer and wine, only;” and
  - (ii) “any liquor retail use is restricted to prohibit the sale of alcohol between 8:00 pm and 6:00 am.;would appear enforceable from a practical perspective, because they are definite and unambiguous, and because a simple physical inspection of the subject property by City enforcement staff would reveal whether Murphy is in compliance.
17. However, questions have arisen regarding whether municipal restriction of the type and hours of sale of alcoholic beverages, as expressed in the two ZHE conditions of approval to be considered on remand cited in finding 16, immediately above, may infringe upon the State of New Mexico’s preemption of the field of the regulation of alcoholic beverage sales.
18. Specifically, the Second Judicial District Court, Bernalillo County, New Mexico, in a case striking down a municipal ban on the sale of liquor miniatures, stated that “the Supreme Court of New Mexico has recognized legislative ‘preemption in the field of the regulation



of liquor businesses.”” *Baker, et al., v. City of Albuquerque* (also cited as *Lee Investments Inc., et al., v. City of Albuquerque*), Case No. D-202-2008-02996, Memorandum Opinion and Order, May 22, 2008 (decided under prior statute) (attached for reference as EXHIBIT A) (herein the “Miniatures Case”); *see also* New Mexico Attorney General Opinion 80-23, June 13, 1980 (decided under prior statute) (available at <https://nmonesource.com/nmos/ag/en/14713/1/document.do>) (discussing impermissible municipal restriction on hours or mode of operation of New Mexico liquor license as condition to granting licensee waiver) (herein, the “AG Opinion”).

19. Essentially, the Miniatures Case and the AG Opinion appear to provide authority for the proposition that a municipality, even a home rule municipality, may not, as a condition of approval related to a liquor license, limit the types of alcoholic beverages to be sold nor the hours of sales.
20. The Applicant, appellants, and the public have not addressed the questions posed by the Miniatures Case or the AG Opinion regarding state preemption of municipal conditions on liquor licenses and sales.
21. The ZHE finds that this Application should be continued, to allow Applicant, appellants, and the public to present evidence and legal argument regarding whether the ZHE conditions of approval to be considered on remand may infringe upon the State of New Mexico legislature’s apparent preemption of the field of the regulation of alcoholic beverage sales.

#### DECISION:

CONTINUANCE of the Application to be heard at the ZHE hearing at 9:00 a.m. on February 16, 2021.

#### APPEAL:

If you wish to appeal this decision, you must do so by February 17, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



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Robert Lucero, Esq.



Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement





CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district for Commercial Tract, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(17)(i)]

Special Exception No:..... **VA-2020-00143**  
Project No: ..... **Project#2020-003911**  
Hearing Date: ..... 02-16-21  
Closing of Public Record: ..... 02-16-21  
Date of Decision: ..... 03-02-21

On the 16th day of February, 2021, Modulus Architects, agent for property owner Jose Alfredo and Ailda Martinez (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district (“Application”) upon the real property located at 99999 Bridge Blvd SW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district.
2. The ZHE incorporates all findings of its Notification of Decision dated September 2, 2020, and its Notification of Decision dated February 2, 2021, as if fully set forth in this Notification of Decision, except as expressly stated differently in this Notification of Decision. If any conflict exists between the prior Notifications of Decision and this Notification of Decision, then this Notification of Decision prevails.
3. This matter came before the ZHE on continuance from the January 19, 2021 ZHE hearing, at which the ZHE received testimony and evidence on the Application addressing solely the non-increase non-residential activity.
4. The ZHE Notification of Decision dated February 2, 2021 continued this case to the ZHE’s February 16, 2021 hearing, to allow Applicant, appellants, and the public with the opportunity to address questions regarding state preemption of municipal conditions on liquor licenses and sales posed by *Baker, et al., v. City of Albuquerque* (also cited as *Lee Investments Inc., et al., v. City of Albuquerque*), Case No. D-202-2008-02996, Memorandum Opinion and Order, May 22, 2008 (decided under prior statute) (attached to the ZHE Notification of Decision dated February 2, 2021, as EXHIBIT A) (herein the “Miniatures Case”); and New Mexico Attorney General Opinion 80-23, June 13, 1980 (decided under prior statute) (available at <https://nmonesource.com/nmos/ag/en/14713/1/document.do>) (discussing impermissible municipal restriction on hours or mode of operation of New Mexico liquor license as condition to granting licensee waiver) (herein, the “AG Opinion”).



5. Other than Applicant's agent's testimony at the February 16, 2021 ZHE hearing that the Miniatures Case and the AG Opinion speak for themselves, the ZHE received no additional evidence, testimony or argument on the state preemption issue.
6. One resident of the neighborhood in the vicinity of the Subject Property appeared at the February 16, 2021 ZHE hearing and spoke against the Application for reasons already considered by the ZHE.
7. The ZHE finds that, on balance, Applicant would have met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3)(e), which requires that the proposed conditional use "*will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am,*" only if liquor retail use is restricted to prohibit liquor sales between the hours of 8:00 pm and 6:00 am.
8. However, as also discussed in the ZHE Notification of Decision in the companion case VA-2020-00144 dated February 2, 2021, the ZHE finds that the proposed liquor retail conditions of approval would impermissibly infringe upon the State of New Mexico's preemption of the field of the regulation of alcoholic beverage sales. *See* the Miniatures Case and the AG Opinion.
9. Essentially, the State has occupied the domain of regulation of liquor sales such that municipalities may act only as specifically authorized by statute. Here, the proposed conditions of approval are not specifically authorized by statute.
10. As stated in the Miniatures Case at page 8, while "local government has the power to approve or disapprove the location of the [liquor] licensed premises under [state statute]; the Legislature has not given municipalities the power to impose limitations, restrictions or conditions on a [liquor] license."
11. The proposed conditions of approval seek to impose "limitations, restrictions, or conditions" on a liquor license, and therefore those conditions of approval would be outside municipal authority to impose.
12. Because the proposed conditions of approval would be required to mitigate the negative impacts of the requested use, and because those conditions of approval would impermissibly infringe upon the State of New Mexico's preemption of the field of the regulation of alcoholic beverage sales, the ZHE finds that this Application should be denied.

#### DECISION:

DENIAL of a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district.

#### APPEAL:

If you wish to appeal this decision, you must do so by March 17, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when



you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



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Athena La Roux, [athenalaroux@gmail.com](mailto:athenalaroux@gmail.com)





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ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for liquor sale within 500 feet of residential for Lot B, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(36)(c)]

Special Exception No:..... **VA-2020-00144**  
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**FINDINGS:**

1. Applicant is requesting a conditional use to allow for liquor sale within 500 feet of residential.
2. The ZHE incorporates all findings of its Notification of Decision dated September 2, 2020, and its Notification of Decision dated February 2, 2021, as if fully set forth in this Notification of Decision, except as expressly stated differently in this Notification of Decision. If any conflict exists between the prior Notifications of Decision and this Notification of Decision, then this Notification of Decision prevails.
3. This matter came before the ZHE on continuance from the January 19, 2021 ZHE hearing, at which the ZHE received testimony and evidence on the Application addressing solely the enforceability of the conditions of approval limiting liquor sales, and limiting the conditional use approval to a single operator.
4. The ZHE Notification of Decision dated February 2, 2021 continued this case to the ZHE’s February 16, 2021 hearing, to allow Applicant, appellants, and the public with the opportunity to address questions regarding state preemption of municipal conditions on liquor licenses and sales posed by *Baker, et al., v. City of Albuquerque* (also cited as *Lee Investments Inc., et al., v. City of Albuquerque*), Case No. D-202-2008-02996, Memorandum Opinion and Order, May 22, 2008 (decided under prior statute) (attached to the ZHE Notification of Decision dated February 2, 2021, as EXHIBIT A) (herein the “Miniatures Case”); and New Mexico Attorney General Opinion 80-23, June 13, 1980 (decided under prior statute) (available at <https://nmonesource.com/nmos/ag/en/14713/1/document.do>) (discussing impermissible municipal restriction on hours or mode of operation of New Mexico liquor license as condition to granting licensee waiver) (herein, the “AG Opinion”).



5. Other than Applicant's agent's testimony at the February 16, 2021 ZHE hearing that the Miniatures Case and the AG Opinion speak for themselves, no additional evidence, testimony or argument was presented on the state preemption issue.
6. One resident of the neighborhood in the vicinity of the Subject Property appeared at the February 16, 2021 ZHE hearing and spoke against the Application for reasons already considered by the ZHE.
7. The ZHE finds that, on balance and in light of the ZHE's other findings, Applicant would have met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3) only if conditions of approval were instituted to restrict liquor retail use by prohibiting liquor sales between the hours of 8:00 p.m. and 6:00 a.m., and also prohibiting sale of any intoxicating spirit and limit alcohol sales to only beer and wine.
8. However, as also discussed in the ZHE Notification of Decision in the companion case VA-2020-00143 dated February 2, 2021, the ZHE finds that these proposed liquor retail conditions of approval would impermissibly infringe upon the State of New Mexico's preemption of the field of the regulation of alcoholic beverage sales. *See* the Miniatures Case and the AG Opinion.
9. Essentially, the State has occupied the domain of regulation of liquor sales such that municipalities may act only as specifically authorized by statute. Here, the proposed conditions of approval are not specifically authorized by statute.
10. As stated in the Miniatures Case at page 8, while "local government has the power to approve or disapprove the location of the [liquor] licensed premises under [state statute]; the Legislature has not given municipalities the power to impose limitations, restrictions or conditions on a [liquor] license."
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#### DECISION:

DENIAL of a conditional use to allow for liquor sale within 500 feet of residential.

#### APPEAL:

If you wish to appeal this decision, you must do so by March 17, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional



use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



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**Hearing on Special Exceptions  
to the Integrated Development Ordinance**

**MINUTES**

**February 16, 2021**

**600 2<sup>nd</sup> St NW, Albuquerque, NM 87102**

**CITY STAFF PRESENT:**

**Robert Lucero – Zoning Hearing Examiner**

**Lorena Patten-Quintana – ZHE Planner, Planning Department**

**Suzie Sanchez – Hearing Monitor**



ZHE Minutes  
VA-2020-00143-VA-2020-00144  
Jose Alfredo and Ailda Martinez  
Agent, Angela Williamson, Modulus Architects

ZHE: Let's go ahead and call agenda items 1 and 2. They're both listed under project PR-2020-003911, Jose Alfredo and Ailda Martinez through agent Modulus Architects, request a conditional use to allow for light vehicle fueling station adjacent to a residential zone district for Commercial Tract, Block 5, Los Altos, located on Bridge Boulevard Southwest, zoned MX-M. And, the same applicant and agent requesting a conditional use to allow for liquor sales within 500 feet of a residential for Lot B, Block 5, Los Altos on Bridge Boulevard, same zone. Do we have the agent this morning?

ANGELA WILLIAMSON: Good morning, Mr. Lucero, this is Angela Williamson with Modulus Architect but I want to let you know that Mr. Chavez will be presenting on our behalf, he is the attorney for our client.

ZHE: Good morning.

MR. CHAVEZ: Mr. Hearing Officer.

ZHE: Good morning, Mr. Chavez.

MR. CHAVEZ: Good morning, Mr. Lucero, Morris J. Chavez for the record. Working with the agent, Modulus Architect on behalf of the applicant.

ZHE: Thank you both. Before we go further, I just wanted to disclose for the record that in the past, I represented an entity of which Mr. Chavez was a principal, in a totally unrelated matter. I don't believe that this causes any sort of conflict of interest and I believe that I can decide this matter without bias and on the merit. I just wanted to disclose that for the record. Okay, so let's go ahead and - - Ms. Williamson, will you be providing testimony? Do you need to be sworn in or just Mr. Chavez?

ANGELA WILLIAMSON: Just Mr. Chavez, Mr. Lucero.

ZHE: Thank you. Okay, Mr. Chavez, would you please state your mailing address, let's go ahead and have you state your full name again and your mailing address for the record.

MR. CHAVEZ: Mr. Hearing Officer, my name is Morris J. Chavez, my mailing address is 800 Lomas Boulevard Northwest, Suite 200, Albuquerque, New Mexico, 87102.

ZHE: Thank you, sir. And, please raise your right hand. Do you affirm under penalty of perjury that your testimony will be true?

MR. CHAVEZ: I do.

ZHE: Thank you. So, just by way of context, I wanted to say the reason that I had continued these. I know I didn't say it at the last hearing but, you know, these matters came on remand from the City Council and the ZHE was asked to review and analyze the enforceability of conditions of approval that were in the Notices of Decision that were appealed. And, in doing so, I became aware of a district court case and an attorney general opinion that indicate that states



ZHE Minutes  
VA-2020-00143-VA-2020-00144  
Jose Alfredo and Ailda Martinez  
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preemption precludes the City from imposing conditions on the types of liquor that may be sold and the hours in which liquor may be sold under a New Mexico Liquor License and I didn't want to render a decision without giving the parties, the applicant, I'm sorry, the applicant's, opponents and any member of the public with the opportunity to address that given that it hadn't been addressed. So, that was why I continued it, to today and just to give that opportunity and so I welcome Mr. Chavez, you're - - any testimony that you would like to provide. Thank you.

MR. CHAVEZ: Thank you, Mr. Hearing Officer. Mr. Hearing Officer, we take the position that baker be the City of Albuquerque and the Attorney General's Opinion 80-23, clearly speak for themselves on this issue. Beyond that Mr. Hearing Officer, the Applicant has no further comment on this issue other than potential rebuttal communication or on the Hearing Officer's final decision. Thank you.

ZHE: Thank you, Mr. Chavez. Given that, that was really the only matter from my perspective that needed input, I'll go ahead and call for public comment. So again, these are agenda items 1 and 2 and it's VA-2020-00143 and 00144. Please raise your hand in Zoom if you're here to speak on either of those matters. Agenda items 1 and 2. I'm scrolling through the participant list and I don't see anyone raising their hand. Again, please raise your hand in Zoom if you're here to speak on agenda item 1 or agenda item 2. Scrolling through the participant list, I don't see anyone raising their hand. Last call for agenda items 1 and 2. Okay, well there - - having heard from the agent and there appearing no public - - that there's no public comment, we'll go ahead and take the - - Oh, I'm sorry, someone is raising their hand, it appears, 505-975-0662? I would ask you to unmute. Are you there?

UNKNOWN SPEAKER: Sorry, sir. Yes, I'm here but I hit the wrong button. No comment at this time.

ZHE: Okay, thank you. Let's double check if there's anyone else. Again, these are agenda items 1 and 2. Scrolling through the participant list, I see Gerard 1UECM0? Are you here to speak on 1 or 2? I see your hand raised.

GERARD GARCIA: I'm here to speak on 1 and 2.

ZHE: Okay, would you please state your full name and mailing address for the record?

GERARD GARCIA: Sure, Gerard Garcia, 5916 Rio Vista Drive SW, Albuquerque, 87121.

ZHE: Thank you, sir and would you please raise your right hand? And, do you affirm under penalty of perjury that your testimony will be true?

GERARD GARCIA: Yes, I do.

ZHE: Thank you, sir and are you here to speak on your own behalf or on behalf of a neighborhood association?



ZHE Minutes  
VA-2020-00143-VA-2020-00144  
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GERARD GARCIA: Both. Actually, we don't have - - in the Alamosa Neighborhood Association don't have a point of contact but I would like to speak on behalf of the Alamosa and the Los Altos Neighborhood Association.

ZHE: Okay, let's go ahead and - - let's go ahead and give you five minutes. Go ahead sir.

GERARD GARCIA: Okay, thank you very much. I appreciate the - - you, you folks providing this forum for us. First of all, a gas station that sells alcohol can end, can only end, for our neighborhoods, improprieties in other words, it brings in not good, but it brings bad into neighborhoods. We've had neighborhood's backyards that are a stones throw to this proposed site.

MR. CHAVEZ: I object, Mr. Hearing Officer.

ZHE: Yes, is that Mr. Chavez?

MR. CHAVEZ: Yes, Mr. Hearing Officer, with all due respect to Mr. Garcia and the neighborhood association, your, your decision, your discussion is very limited to the issues that were discussed in your decision and this is - - appears to be new discussion on issues that have already been discussed and ruled upon.

ZHE: Thank you, Mr. Chavez. Mr. Garcia?

GERARD GARCIA: Yes, sir.

ZHE: While I don't know that there's a specific rule that would, you know, prohibit that expanding on the matter called, we have a lengthy record in this case, you know, I don't know if you've been - - I believe you may have participated before and I'm well aware of the neighborhood concerns, they've been very well documented and if there's anything new, regardless of whether it pertains to this liquor limitation or not, I'd be happy to entertain your testimony on that but just for the sake of time, I think we ought to not repeat anything that has already been stated. Go ahead, sir.

GERARD GARCIA: Okay, I guess I misunderstood the whole purpose of this particular two items on the list. Maybe you explained it but I didn't quite understand why we put these two items on the list if we can't discuss. I understand what Mr. Chavez is saying about, we've talked about these items before and you've documented all of these items that you know, pros, cons for the gas station but, I just wanted to you know, express our, you know, our - - and I'm talking about both neighborhoods that our opinions, not our opinions but our - - just to reassure that we know that both these neighborhood associations oppose this, this site and I'm sorry, I didn't understand what the purpose of these two meetings were for, I guess.

ZHE: That's okay, sir. No need to apologize and you know, I just - - like I say, if it's something new, even it's outside of that, you know, I'm happy to hear it. I just, I - - like I said, just for the sake of time and efficiency, if there's anything new, please do testify to it but everything else, I will duly consider.



ZHE Minutes  
VA-2020-00143-VA-2020-00144  
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GERARD GARCIA: Thank you very much, sir. Given that, I have nothing else to add.

ZHE: Well thank you for your participation sir. I appreciate you appearing today.

GERARD GARCIA: Thank you very much.

ZHE: And, I do see another hand raised. Although, maybe this was the gentleman that I spoke with earlier. 505-975-0662? Did you want to speak on agenda items 1 or 2 or both?

UNKNOWN SPEAKER: No sir, I'm still trying to figure out Zoom. I apologize.

ZHE: No worries. Let's see. I'll hit the lower hand button, see if that worked.

UNKNOWN SPEAKER: Okay, there we go.

ZHE: There we go. Thank you. Okay, anyone else that would like to provide public comment to agenda items 1 or 2 or both? I'm scrolling through the participant list and I don't see anyone raising their hand. Last call for agenda items 1 and 2. Okay, it doesn't appear that there's any public comment. Mr. Chavez did you have any other response? Does the applicant have any other response to the public comment?

MR. CHAVEZ: Mr. Hearing Officer, the applicant has no further comment on this issue. Thank you very much.

ZHE: Thank you, sir. Well, with that we'll go ahead and close the record on agenda items 1 and 2 and I will take it all under consideration and render a written decision in 15 days. Thank you everyone for participating.





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**FINDINGS:**

1. Applicant is requesting a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district.
2. This matter came before the ZHE on remand by the City Council, pursuant to the Notice of Decision issued by the City Council in Case No. DAC-20-10, December 16, 2020 (the “Remand Order”).
3. The Remand Order states that the City Council voted to remand this case to the ZHE for the ZHE to address and enter findings on the IDO requirement that the requested light vehicle fueling use not increase non-residential activity within 300 feet of the adjacent residential zone districts between the hours of 8:00 p.m. and 6:00 a.m.
4. At the January 19, 2021 ZHE hearing, the ZHE received testimony and evidence on the Application, addressing solely the non-increase non-residential activity stated in finding 3, above.
5. The ZHE incorporates all findings of its Notification of Decision dated September 2, 2020, as if fully set forth in this Notification of Decision, except as expressly stated differently in this Notification of Decision. If any conflict exists between the Notification of Decision dated September 2, 2020 and this Notification of Decision, then this Notification of Decision prevails.
6. After the Remand Order and up until the January 19, 2020 ZHE hearing, the ZHE received no written evidence from applicant, opponents, or any other party addressing the Application.



7. Agent appeared at the January 19, 2020 ZHE hearing and testified in support of the Application.
8. No other party presented testimony at the January 19, 2020 ZHE hearing.
9. Applicant stated that this request will not increase non-residential activity within 300 feet of a lot in any Residential zone district between the hours of 8:00 PM and 6:00 AM, for the following reasons:
  - a. The property to the north, east and south are commercially zoned properties with commercial operations.
  - b. The proposed Murphy gas station is not a destination location, rather, consumers are only “passerby” traffic. As such, the proposed light fueling station would not increase the activity that is already active and present at this location.
  - c. Calculations by the Mid Region Council of Governments Current estimate that daily traffic volumes on Bridge Blvd. are currently 23,900 cars traveling past this site daily, and on Old Coors more than 16,200 cars traveling past this site daily.
  - d. Applicant clarified that the proposed store and pumps would not be open 24 hours a day, but rather would be limited to hours of operation of 5AM – Midnight.
  - e. Although alcohol sales may create a destination location, prohibiting alcohol sales between the hours of 8:00 pm and 6:00 am would further ensure there would be no significant increase in nonresidential activity during those times.
10. On balance, Applicant will have met its burden of providing evidence to satisfy IDO section 14-16-6-6(A)(3)(d), which requires that the proposed conditional use “*will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am,*” if liquor retail use is restricted to prohibit liquor sales between the hours of 8:00 pm and 6:00 am.
11. However, as discussed in more detail in the ZHE Notification of Decision in the companion case VA-2020-00144 dated February 2, 2021, questions have arisen regarding whether municipal restriction of the type and hours of sale of alcoholic beverages, as expressed in the ZHE conditions of approval to be considered on remand, may infringe upon the State of New Mexico’s preemption of the field of the regulation of alcoholic beverage sales.
12. The ZHE finds that this Application should be continued, to allow Applicant and the public to present evidence and legal argument regarding whether the ZHE conditions of approval to be considered on remand may infringe upon the State of New Mexico’s preemption of the field of the regulation of alcoholic beverage sales.

#### DECISION:

CONTINUANCE of the Application to be heard at the ZHE hearing at 9:00 a.m. on February 16, 2021.

#### APPEAL:

If you wish to appeal this decision, you must do so by February 17, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.



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3. The Remand Order states that the City Council voted to remand this case to the ZHE for the ZHE to reevaluate the enforceability of the conditions of approval limiting liquor sales, and limiting the conditional use approval to a single operator.
4. At the January 19, 2021 ZHE hearing, the ZHE received testimony and evidence on the Application, addressing solely the conditions stated in finding 3, above.
5. The ZHE incorporates all findings of its Notification of Decision dated September 2, 2020, as if fully set forth in this Notification of Decision, except as expressly stated differently in this Notification of Decision. If any conflict exists between the Notification of Decision dated September 2, 2020 and this Notification of Decision, then this Notification of Decision prevails.
6. After the Remand Order and up until the January 19, 2020 ZHE hearing, the ZHE received no written evidence from applicant, opponents, or any other party addressing the Application.
7. Agent appeared at the January 19, 2020 ZHE hearing and testified in support of the Application.
8. No other party presented testimony at the January 19, 2020 ZHE hearing.
9. The ZHE September 2, 2020 Notification of Decision adopted the following conditions of approval:



- a. The approved conditional use is personal to Murphy USA and does not run with the land.
  - b. The subject property must adhere to the Use Specific Standards set forth in IDO 4-3(D)(17) Light Vehicle Fueling Station.
  - c. Murphy USA must follow the model of the Smart Policing Initiatives and adopt and comply with the CPTED (Crime Prevention through Environmental Design) crime prevention program Applicant, as described in its submittals, cited above.
  - d. Murphy USA must hire an engineering firm to conduct a photometric study that will ensure that there is no light pollution from the subject property onto neighboring properties.
  - e. Murphy USA must add landscape buffers to ensure the safety and privacy of adjacent residential neighborhoods and neighboring properties.
  - f. Murphy USA must place and monitor security cameras in indoor and outdoor areas of the subject property, and to monitor such security cameras on a 24-hours a day, 7-days a week basis.
  - g. Murphy USA may not sell any intoxicating spirit and must limit its alcohol sales to beer and wine, only.
  - h. Any liquor retail use is restricted to prohibit the sale of alcohol between 8:00 pm and 6:00 am.
10. .As to the ZHE September 2, 2020 Notification of Decision condition that “the approved conditional use is personal to Murphy USA and does not run with the land”:
  - a. IDO section 14-16-6-4(W)(1) provides that, “[u]nless specified otherwise on the permit or approval document for a specific type of development approval, permits and approvals run with the land and are not affected by changes in ownership or the form of ownership of the property.” (Emphasis added).
  - b. Thus, because an approval may “specif[y] otherwise,” the IDO expressly contemplates that a particular approval may be stated to break with the default rule that approvals run with the land, and instead require that an approval be personal to the proposed operator.
  - c. Pursuant to IDO section 14-16-6-4(W)(1), the ZHE September 2, 2020 Notification of Decision on the Application expressly states that the approval is conditioned such that it is personal to Murphy USA and does not run with the land. This appears clear and unambiguous.
  - d. This condition is enforceable, because the City routinely verifies the identity of applicants and the ownership of real property that is are subjects of zoning applications, and such verification would appear to continue to be feasible and reasonable into the future.
11. The ZHE September 2, 2020 Notification of Decision condition that the “subject property must adhere to the Use Specific Standards set forth in IDO 4-3(D)(17) Light Vehicle Fueling Station” is enforceable, because the standards are expressly stated in the IDO and are definite.
12. The ZHE September 2, 2020 Notification of Decision condition that “Murphy USA must follow the model of the Smart Policing Initiatives and adopt and comply with the CPTED (Crime Prevention through Environmental Design) crime prevention program Applicant, as described in its submittals, cited above,” may pose difficulties to enforcement. This is because the CPTED by its nature is more of a policy document than a list of particular and



definite measures to be taken. However, examining the evidence and testimony submitted by Murphy regarding its proposed measures to be taken pursuant to CPTED, the following conditions are enforceable and targeted to mitigate potential harm: (a) Murphy USA must install and maintain a security monitoring system, with both interior and exterior surveillance cameras in place, that operates 24 hours a day, 7 days a week, and that is monitored by the Murphy home office; and (b) Murphy USA must maintain a constant presence of security on the premises during business hours to help prevent alcohol-related crime in the area. These conditions are enforceable, because they are definite, express, and easily verifiable with a simple physical inspection of the subject property. As to the cameras operating 24 hours a day, 7 days a week, and are monitored by the Murphy home office, a simple requirement of a certification by Murphy verifying that those conditions are satisfied would appear to suffice.

13. The ZHE September 2, 2020 Notification of Decision condition that “Murphy USA must hire an engineering firm to conduct a photometric study that will ensure that there is no light pollution from the subject property onto neighboring properties” is enforceable, because it is definite and because City enforcement staff may easily verify the same. These types of engineering studies and reports are routinely reviewed by City technical staff.
14. The ZHE September 2, 2020 Notification of Decision condition that “Murphy USA must add landscape buffers to ensure the safety and privacy of adjacent residential neighborhoods and neighboring properties” is enforceable, because it is definite and because City enforcement staff may easily verify whether Murphy has added the required landscape buffers.
15. The ZHE September 2, 2020 Notification of Decision condition that “Murphy USA must place and monitor security cameras in indoor and outdoor areas of the subject property, and to monitor such security cameras on a 24-hours a day, 7-days a week basis” is enforceable, because it is definite and City enforcement staff may easily verify by a simple physical inspection of the subject property whether the required cameras are installed, and, as to the cameras operating 24 hours a day, 7 days a week, and are monitored by the Murphy home office, a simple requirement of a certification by Murphy verifying that those conditions are satisfied would appear to suffice.
16. The ZHE September 2, 2020 Notification of Decision conditions that:
  - (i) “Murphy USA may not sell any intoxicating spirit and must limit its alcohol sales to beer and wine, only;” and
  - (ii) “any liquor retail use is restricted to prohibit the sale of alcohol between 8:00 pm and 6:00 am.;would appear enforceable from a practical perspective, because they are definite and unambiguous, and because a simple physical inspection of the subject property by City enforcement staff would reveal whether Murphy is in compliance.
17. However, questions have arisen regarding whether municipal restriction of the type and hours of sale of alcoholic beverages, as expressed in the two ZHE conditions of approval to be considered on remand cited in finding 16, immediately above, may infringe upon the State of New Mexico’s preemption of the field of the regulation of alcoholic beverage sales.
18. Specifically, the Second Judicial District Court, Bernalillo County, New Mexico, in a case striking down a municipal ban on the sale of liquor miniatures, stated that “the Supreme Court of New Mexico has recognized legislative ‘preemption in the field of the regulation



of liquor businesses.”” *Baker, et al., v. City of Albuquerque* (also cited as *Lee Investments Inc., et al., v. City of Albuquerque*), Case No. D-202-2008-02996, Memorandum Opinion and Order, May 22, 2008 (decided under prior statute) (attached for reference as EXHIBIT A) (herein the “Miniatures Case”); *see also* New Mexico Attorney General Opinion 80-23, June 13, 1980 (decided under prior statute) (available at <https://nmonesource.com/nmos/ag/en/14713/1/document.do>) (discussing impermissible municipal restriction on hours or mode of operation of New Mexico liquor license as condition to granting licensee waiver) (herein, the “AG Opinion”).

19. Essentially, the Miniatures Case and the AG Opinion appear to provide authority for the proposition that a municipality, even a home rule municipality, may not, as a condition of approval related to a liquor license, limit the types of alcoholic beverages to be sold nor the hours of sales.
20. The Applicant, appellants, and the public have not addressed the questions posed by the Miniatures Case or the AG Opinion regarding state preemption of municipal conditions on liquor licenses and sales.
21. The ZHE finds that this Application should be continued, to allow Applicant, appellants, and the public to present evidence and legal argument regarding whether the ZHE conditions of approval to be considered on remand may infringe upon the State of New Mexico legislature’s apparent preemption of the field of the regulation of alcoholic beverage sales.

#### DECISION:

CONTINUANCE of the Application to be heard at the ZHE hearing at 9:00 a.m. on February 16, 2021.

#### APPEAL:

If you wish to appeal this decision, you must do so by February 17, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



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Robert Lucero, Esq.



Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement





**Hearing on Special Exceptions  
to the Integrated Development Ordinance**

**MINUTES**

**January 19, 2021**

**600 2<sup>nd</sup> St NW, Albuquerque, NM 87102**

**CITY STAFF PRESENT:**

**Robert Lucero – Zoning Hearing Examiner**

**Lorena Patten-Quintana – ZHE Planner, Planning Department**

**Suzie Sanchez – Hearing Monitor**



ZHE Minutes  
VA-2020-00143-VA-2020-00144  
Jose Alfredo and Ailda Martinez  
Agent, Angela Williamson, Modulus Architects

ZHE: That concludes items 2 and 3 and brings us to the next two agenda items which will be heard together. Those are 4 and 5, VA-2020-00143 and VA-2020-00144, both listed under project number PR-2020-003911. This is Jose Alfredo and Ailda Martinez through agent Modulus Architects requesting a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district for Commercial Tract, Block 5, Los Altos, located at 99999 Bridge Boulevard SW, zoned MX-M. And, the same applicant's and agent requesting a conditional use to allow for liquor sale within 500 feet of residential for the same, I'm sorry, for Lot B, Block 5, Los Altos, located at 1021 Old Coors Drive SW, zoned MX-M. And, I want to note for everyone and for the record that this item is here on remand from the City Council and so we will have a limited scope of evidence and inquiry before us today and I want to go ahead and read what the remand directions are, for everyone's benefit. And so, as to agenda item, I'm sorry, as to VA-2020-00143, the fueling station matter, the matter had been remanded to the Zoning Hearing Examiner to address and enter findings on the IDO requirement that the light vehicle fueling use not increase non-residential activity within 300 feet of the adjacent residential zone district between the hours of 8 p.m. and 6 a.m. Okay, so that is one item that we will entertain evidence and argument on. And the second, as to VA-2020-00144, which is the liquor sale request, the City Council remanded this matter to the Zoning Hearing Examiner to reevaluate the enforceability of the conditions of approval limiting liquor sales and limiting the conditional use permit approval to a single operator. Okay, so those are the items before the ZHE today. I don't want to hear items other than those and so, with that, I do see that the agent is here. Ms. Williamson, can you hear me?

ANGELA WILLIAMSON: I can, good morning.

ZHE: Good morning, would you please state your full name and mailing address for the record?

ANGELA WILLIAMSON: Angela Williamson, Modulus Architects, 100 Sun Avenue, Suite 600, Albuquerque, New Mexico, 87109.

ZHE: Thank you and please raise your right hand and you affirm under penalty of perjury that your testimony will be true?

ANGELA WILLIAMSON: Yes, I do.

ZHE: Thank you, go ahead. Five minutes.

ANGELA WILLIAMSON: May I please share my screen so that I can - - I have 7 slides I'd like to go over.

ZHE: Yes.

ANGELA WILLIAMSON: Okay, great.

ZHE: Suzie, could you?



ZHE Minutes  
VA-2020-00143-VA-2020-00144  
Jose Alfredo and Ailda Martinez  
Agent, Angela Williamson, Modulus Architects

HEARING MONITOR: Yes, go ahead.

ANGELA WILLIAMSON: Okay, can you guys see that?

ZHE: Yes.

ANGELA WILLIAMSON: Okay. So, Modulus Architects and Land Use Planning is here on this remand from the City Council Appeal, number AC-20-10 and AC-20-11, project PR-2020-00391, liquor retail and light vehicle fueling station. Project PR-2020-00391, on December 7<sup>th</sup>, 2020, the City Council voted to remand this matter to the Zoning Hearing Examiner to reevaluate the enforceability of the conditions of approval limiting liquor sales and limiting the conditional use permit approval to a single operator. Both the original findings from the ZHE and the findings of the Land Use Hearing Officer state that the original conditions placed on the approved, approval judicially set very restrictive conditions on the approval of the conditional use permit request. As to the question of enforceability, per the Integrated Development Ordinance, as amended and adopted in November of 2020; Chapter 14-16-6-2(A), Administration and Enforcement. City Council is the zoning authority for the City of Albuquerque. The City Council has delegated some of its zoning authority to the Environmental Planning Commission and the Zoning Hearing Examiner, as authorized by law and the effect of those delegations is shown in the IDO. The Zoning Hearing Examiner conducts hearings and makes findings and final decisions on those types of applications shown as ZHE Decision Responsibilities in table 6-1-1. This is table 6-1-1 showing that the ZHE has the authority to issue decisions on conditional use approval requests, which is what this is. A conditional use definition per the IDO states that a land use that is allowable in a particular zone district subject to conditional approval by the ZHE, based on a review of the potential adverse impacts of the use and any appropriate mitigations to minimize those impacts on nearby properties. That's down on page 579 of the IDO. 6-4(Q) Conditions on Approvals, if Table 6-1-1 authorizes, in this case, the ZHE, which we've established it does, to make a decision on an application, the decision-making body which is the ZHE, may impose conditions on the approval which are necessary to bring the application into compliance with the requirements of this IDO, other adopted regulations or specific review criteria for that type of application provided that the following criteria are met, 6-4(Q)(2)(a). All conditions must reasonably be related to the purpose of this IDO or mitigating the negative impacts of the proposed development or land use as determined by the reviewing entity. As to the question of enforceability, I've clearly identified the legal parameters that provides the ZHE the authority to place conditions on a, on decisions regarding an application for conditional use permit. Now, as to enforceability of those conditions 14-16-6-9(C) of the IDO Enforcement: Authority to Enforce 6-9(C)(1)(a) gives the ZEO the authority and duty to enforce this IDO pursuant to this section 14-16-6-2(B)(1)(c), in enforcing the requirement to the IDO, the City must use any enforcement powers allowed by the State of New Mexico in any order. Specific to this request, some of those powers include to deny, delay or withhold a permit and approval in this case, a conditional use permit, or to revoke a permit over an approval after



giving the property owner or applicant notice of intent to revoke the permit or approval. Again, in this case, a conditional use permit, City Council remanded this to the ZHE with a vote of 9-4 and 0 against, voted to remand this matter to the Zoning Hearing Examiner to reevaluate the enforceability of the conditions placed on the approval of limiting liquor sales and limiting the conditional use permit of approval to a single operator. Our response to the question of enforceability; it is our assertion that as documented, that the Integrative Development Ordinance clearly provides for not only the legal parameters for the ZHE to place conditions on this conditional use approval, but also establishes the legal mechanism in place to enforce those conditions. That's all I have for that, that request Mr. Lucero. I don't know if you want me to stop for questions on that request.

ZHE: Yeah, that would be great. I did have one question.

ANGELA WILLIAMSON: Yes, sir?

ZHE: And, I just wanna make sure that I'm, I'm looking at the Notice of Decision and I want to make sure I'm looking at the right one. This is for the liquor sale. Okay, I have it up and then the conditions of approval, I just sort of wanted to go through them with you and see - - I know it's kind of asking you to argue the other side but see, you know, whether there would be any difficulty in enforcement and as I read through them, the one that looks - - maybe - - the one that would bring a question in my mind might be number three which would say that - - which says that Murphy USA must follow the model of the smart policing initiatives and adopt and comply with the (CPTED) Crime Prevention Through Environmental Design Crime Prevention Program applicant has described in its submittals stated above. Now, how would the ZEO or City staff enforce that condition?

ANGELA WILLIAMSON: So, it doesn't say what policies it has to comply with. It just simply states that we will follow CPTED or the C-P-T-E-D best practices and during the Land-Use Hearing Officer's hearing he asked for us to provide a copy of CPTED general practices because they are not specific to a site, a specific site, they are generalized to this use as a whole. There is a copy of those as part of the record. They provide things such as lighting, landscaping placement, height of landscaping, security cameras, some of the things that we volunteered to do that also are in here as part of the condition such as limiting the sale of alcohol to certain hours. Those are all part of the CPTED best practices in which, like as I stated, are part of this record. When we submit for a building permit, it is required that we provide a copy of the conditional use permit granted by, by the ZHE, assuming that it continues to be approved, and as part of that, they will see as part of the record that these are conditions and at that point it would be the burden of the City to, I believe, to review our site plan in relation to some of the best practices for CPTED design.

ZHE: Okay, very good. Thank you. That was my only question as to that item, if you'd like to proceed to the next one, unless you had anything further?



ANGELA WILLIAMSON: Not on this item agenda, no, no Mr. Examiner.

ZHE: Thank you, go ahead.

ANGELA WILLIAMSON: As to the next item, VA-2020-00143 and VA-2020-00313 for a light vehicle fueling station. On December 7, 2020 the City Council voted to remand this matter to the, to the Zoning Hearing Examiner to address and enter findings on the IDO requirements that the light vehicle fueling use not increase non-residential activity within 300 feet of the adjacent residential zone district between the hours of 8 PM and 6 AM. The ZHE cited 21 findings in total for this request. Finding number 19 address this issue as follows, regarding the requirement under the IDO Section 14-16-6(A)(3)(d), which requires that that requested conditional use approval will not increase non-residential activity within 300 feet of any lot in any residential zone district between the hours of 8 AM - - 8 PM and 6 AM. These were the findings; a. The subject property is located within 300 feet of any lot in a residential zone. There was no commercial activity on the subject property currently and therefore any commercial activity would be an increase in non-residential activity. Murphy stated and testified in written submittals that its store would be open 24 hours a day however; I'm noting for the record that Murphy has made a determination that this will not be a 24-hour store and will be limited in hours of operation to 5 AM to midnight. If the liquor retails use where restricted to prohibit liquor sales between the hours of 8 PM at 6 AM, there would appear to be no significant increase in non-residential activity during those times. On balance, the applicant will have met its burden of providing evidence to satisfy IDO Section 14-16-6(A)(3)(d), if liquor retail is used as restricted to prohibit liquor sales between the hours of 8 and 6. The Land Use Hearing Officer's findings state that the ZHE correctly applied the IDO's provisions to the conditional use applications, rationally and reasonably concluded that the applicant satisfied the IDO requirements and demonstrated that the conditional uses will achieve or further newer policy objectives of the Comprehensive Plan. He also found that the ZHE judiciously set very restrictive conditions of operation to mitigate the potential for harm caused by the uses. As an additional substantiation for the record, we as the applicant, assert that this request will not increase non-residential activity within 300 feet of a lot in any residentially zoned district between the hours of 8 and 6. Murphy is not a destination location rather, consumers are pass by traffic. This will not increase the activity that is already active and present at this location. The property to the north, east, and south are commercially zoned properties with commercial operations. Current daily volumes of traffic on Bridge Boulevard, as provided by The Mid-Region Council of Governments, shows that there are currently 23,900 cars traveling past this site on a daily basis on Bridge Boulevard alone. Old Coors traveling passerby's are more than 16,200 travelers per day. Prohibiting alcohol sales between the hours of 8 PM and 6 AM further ensure that there would be no significant increase in non-residential activity during those times. In conclusion, this concludes my presentation of the two facts remanded by City Council. Relating to the remand on project number PR-2020-003911, as the agent representing Murphy Oil USA, and the property owner's, I will stand for questions at this time.



ZHE Minutes  
VA-2020-00143-VA-2020-00144  
Jose Alfredo and Ailda Martinez  
Agent, Angela Williamson, Modulus Architects

ZHE: Thank you, Miss Williamson. I didn't have any questions at this point. Why don't we go ahead and call for public comment and then you will get the chance to respond to any public testimony. Thank you.

ANGELA WILLIAMSON: Thank you.

ZHE: Okay, everyone, so these are agenda items 4 and 5 and if you'd like to speak on either of those, please raise your hand. It's Jose Alfredo and Ailda Martinez through their agent, Modulus Architect's requesting a conditional use for light fueling station and to allow liquor sale. Please raise your hand if you'd like to speak on either or both of those matters, 4 and 5, strolling through the participant list and I don't see anyone raising their hand. Again, these are agenda items 4 and 5, VA-2020-00143 and 144, both listed under Project PR-2020-003911. Please raise your hand if you're here for agenda item 4 or 5. Last call for agenda items 4 or 5. I'm scrolling through the participant list and I don't see anyone raising their hand. Let's see, I see Francisco Trujillo who, I understand is an applicant later. Are you there Mr. Trujillo?

MR. TRUJILLO: Yes, sir, sorry about that I didn't know which - -

ZHE: Are you here to speak on agenda items 4 or 5?

MR. TRUJILLO: No, sir.

ZHE: Okay, no worries. We'll call you in just a minute. Thank you, sir. Okay, again, agenda item 4 or 5, last call. Scrolling through the participant list, I don't see it on raising her hand. Okay, well it appears that there's no one interested in providing public comment Miss Williams and thank you for your presentation. Would you mind emailing Suzie the documents that you shared via the screen share today?

ANGELA WILLIAMSON: Yes, sir, Mr. Lucero. I - - May I ask one question before we adjourn my cases?

ZHE: Yes.

ANGELA WILLIAMSON: As it relates to process, the Notice of Decision from the City Council remand, it stated that an appeal of the decision must be made to the Second Judicial District Court. Can you please clarify if that's their decision, the remand and the process moving forward, once I assume you make findings on this remand, are we able to be appealed again back to City Council or at this point does it go to the District Court?

ZHE: You know, I can't provide legal advice, you know, but the- - I think if you look carefully at the Notice of Decision from the City Council, it's talking about an appeal of that decision.

ANGELA WILLIAMSON: Okay.

ZHE: And then, so my decision will contain the right to appeal from my forthcoming decision.



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VA-2020-00143-VA-2020-00144  
Jose Alfredo and Ailda Martinez  
Agent, Angela Williamson, Modulus Architects

ANGELA WILLIAMSON: Okay. Thank you for that information.

ZHE: And, they will state that it's appealable to the City Council, my forthcoming decision, that is.

ANGELA WILLIAMSON: Okay, thank you.

ZHE: Yes, you're welcome. Okay, well thank you very much. Having heard the agent and reviewed the items submitted into the record, we'll take the matter under consideration and we'll issue the written decision on items 4 and 5 in 15 days. That concludes agenda items 4 and 5 and it also concludes the old business portion of the agenda.



***Planning Department***  
***Brennon Williams, Planning Director***  
***Development Review Division***  
600 2<sup>nd</sup> Street NW – 3<sup>rd</sup> Floor  
Albuquerque, NM 87102

## NOTICE OF APPEAL

March 19, 2021

### TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on March 17, 2021. You will receive a Notice of Hearing as to when the appeal will be heard by the **Land Use Hearing Officer**. If you have any questions regarding the appeal please contact Alfredo Salas, Planning Administrative Assistant at (505) 924-3370.

***Please refer to the enclosed excerpt from the City Council Rules of Procedure for Land Use Hearing Officer Rules of Procedure and Qualifications for any questions you may have regarding the Land Use Hearing Officer rules of procedure.***

Any questions you might have regarding Land Use Hearing Officer policy or procedures that are not answered in the enclosed rules can be answered by Crystal Ortega, Clerk to the Council, (505) 768-3100.

**CITY COUNCIL APPEAL NUMBER: AC-21-4 & 5**

**PLANNING DEPARTMENT CASE FILE NUMBER:**

**PR-2020-003911, VA-2020-00143, VA-2020-00144, VA-2021- 000072 , VA-2021-000073**

**APPLICANT: Jose Alfredo \* Ailda Martinez**  
**3500 Bareback PL SW**  
**Albuquerque NM, 87105**

**AGENT: Modulus Architects**  
**100 Sun Ave. NE**  
**Suite 600**  
**Albuquerque NM, 87109**

cc: Crystal Ortega, City Council, City county bldg. 9<sup>th</sup> floor  
Kevin Morrow/Legal Department, City Hall, 4<sup>th</sup> Floor-  
ZHE file  
Angela Williamson, Modulus Architects, [awilliamson@modulusarchitects.com](mailto:awilliamson@modulusarchitects.com)  
Athena La Roux, Los Altos Civic Association [athenalaroux@gmail.com](mailto:athenalaroux@gmail.com)  
Jose Alfredo, & Ailda Martinez, [zapateriapedrito@hotmail.com](mailto:zapateriapedrito@hotmail.com)  
Kelly Cockrell, [ninedogs@gmail.com](mailto:ninedogs@gmail.com)  
Diane Beserra, [dlbeserra@icloud.com](mailto:dlbeserra@icloud.com)  
Gerard Garcia, 5916 Rio Vista DR SW, Albuquerque, NM 87121  
Bruce & Patti Stouter, 2909 Rio Vista Ct SW, Albuquerque, NM 87105  
Dan Goering, 2802 Los Altos PL NW, Albuquerque NM 87105  
Diane & Victor Beserra, 814 Rio Vista Circle, Albuquerque, NM 87105  
Victor Prado, 1261 Cortez DR SW, Albuquerque NM 87121  
Jennifer Kepesh, Los Altos NA, 808 Rio Vista Cir SW, 87105  
Morris J. Chavez, 800 Lomas Blvd NW, Suite 200, Albuquerque, NM 87102





## **ZONING HEARING EXAMINER'S AGENDA**

TUESDAY, February 16, 2021 9:00 A.M.

Join Zoom Meeting

<https://cabq.zoom.us/j/7044490999>

**Meeting ID: 704 449 0999**

One tap mobile

+16699006833,,7044490999# US (San Jose)

+12532158782,,7044490999# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

Meeting ID: 704 449 0999

Find your local number: <https://cabq.zoom.us/j/7044490999>

*Robert Lucero, Esq., Zoning Hearing Examiner*

*Lorena Patten-Quintana, ZHE Planner*

*Suzie Sanchez, ZHE Administrative Assistant*

\*\*\*\*\*  
For Inquiries Regarding This Agenda, Please Call The Planning Dept. at (505) 924-3894.

\*\*\*\*\*  
**PLEASE ADDRESS ALL CORRESPONDENCE TO:**

**Robert Lucero, Esq., Zoning Hearing Examiner at [suzannasanchez@cabq.gov](mailto:suzannasanchez@cabq.gov)**

\*\*\*\*\*  
**NOTICE TO PEOPLE WITH DISABILITIES:** If you have a disability and you require special assistance to participate in this hearing, please contact Planning Information at (505) 924-3860.

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**CONTINUED:**

- |                  |                                |   |
|------------------|--------------------------------|---|
| 1. VA-2020-00143 | Project#<br>PR-2020-<br>003911 | Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district for Commercial Tract, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(17)(i)] |
| 2. VA-2020-00144 | Project#<br>PR-2020-<br>003911 | Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for liquor sale within 500 feet of residential for Lot B, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(36)(c)]   |



## NEW BUSINESS:

- |     |               |                            |  |
|-----|---------------|----------------------------|--|
| 3.  | VA-2020-00316 | Project#<br>PR-2020-004473 | Janet Garcia requests a variance of 3 feet to the 3 feet maximum wall height for Lot 8, Block 7, Loma Verde, located at 229 Grove St NE, zoned R-MH [Section 14-16-5-7-D]  |
| 4.  | VA-2020-00464 | Project#<br>PR-2020-004864 | Chase Bank (Agent, Carlos Iglesias) request a conditional use to allow a drive-through or drive up facility for Lot 1D1A1, Park Square Addn, located at 2125 Louisiana Blvd NE, zoned MX-M [Section 14-16-4-3(F)(4)]   |
| 5.  | VA-2020-00465 | Project#<br>PR-2020-004548 | Ann Cadier and Patrick Magee (Agent, Yolanda Montoya) request a variance of .0956 acres to allow a lot larger than the allowable contextual standards for Lot 27, Block 6, Volcano Cliffs Unit 22, located at 6205 Papagayo RD NW, zone R-1D [Section 14-16-5-1(C)(2)(b)]  |
| 6.  | VA-2020-00467 | Project#<br>PR-2020-004548 | Ann Cadier and Patrick Magee (Agent, Yolanda Montoya) request a variance of .0956 acres to allow a lot larger than the allowable contextual standards for Lot 28, Block 6, Volcano Cliffs Unit 22, located at 6201 Papagayo RD NW, zoned R-1D [Section 14-16-5-1(C)(2)(b)] |
| 7.  | VA-2020-00466 | Project#<br>PR-2020-004867 | Jerrell and Dinah Harvey request a variance of 2ft to the 8ft maximum structure height within a streetside setback for Lot 4, Block 3, Montano West Unit 1, located at 5917 Cochiti DR NW, zoned R-1B [Section 14-16-5-11-C-3-B]   |
| 8.  | VA-2020-00468 | Project#<br>PR-2020-004568 | Gerard Baca requests a variance of 3 feet to the 3 feet maximum wall height for Lot 16, Block 23, Inez Addn, located 2026 Utah ST NE, zoned R-1C [Section 14-16-5-7-D]   |
| 9.  | VA-2020-00470 | Project#<br>PR-2020-004881 | James Tilley requests a variance of 8 feet to the required 10 foot side yard setback for Lot 4, Block 13, Monterrey Hills Addn, located at 717 Carlisle Blvd SE, zoned R-1D [Section 14-16-2-3(H)]   |
| 10. | VA-2020-00472 | Project#<br>PR-2020-004889 | Chase Bank (Agent, Carlos Iglesias) request a conditional use to allow a drive-through or drive up facility for Lot C3A, Towne Park Plaza, located at 340 Eubank Blvd NE, zoned MX-L [Section 14-16-4-2]   |
| 11. | VA-2021-00001 | Project#<br>PR-2021-004900 | Teresa and John Martinez (Agent, Gilbert Austin) requests a permit to allow a carport in the front and side yard setback for Lot 20, Block 1, Foothills North, located at 1225 Willy's Knight DR NE, zoned R-1 [Section 14-16-5-5(F)(2)(a)2]                               |
| 12. | VA-2021-00002 | Project#<br>PR-2021-004910 | Emigdio and Anna Bustillos requests a conditional use to allow outdoor vehicle storage for Lot 12, Block 2, South Braodway Acres N M Credit Corp, located at 2945 Broadway Blvd SE, zoned NR-C [Section 14-16-4-2]   |
| 13. | VA-2021-00003 | Project#<br>PR-2021-004911 | Joshua Shapero request a variance of 3ft to the 3ft maximum wall height for Lot 7, Block 23, Parkland Hills Addn, located at 716 Carlisle Blvd SE, zoned R-1D [Section 14-16-5-7-D]  |
| 14. | VA-2021-00004 | Project#<br>PR-2021-004912 | Joseph Lucero requests a variance of 3ft to the 3ft maximum wall height for Lot 11, Block 39, Altamont Addn, located at 3629 Georgia ST NE, zoned R-1C [Section 14-16-5-7-D]   |





## **ZONING HEARING EXAMINER'S AGENDA**

TUESDAY, January 19, 2021 9:00 A.M.

Join Zoom Meeting

<https://cabq.zoom.us/j/7044490999>

**Meeting ID: 704 449 0999**

One tap mobile

+16699006833,,7044490999# US (San Jose)

+12532158782,,7044490999# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

Meeting ID: 704 449 0999

Find your local number: <https://cabq.zoom.us/j/7044490999>

*Robert Lucero, Esq., Zoning Hearing Examiner*

*Lorena Patten-Quintana, ZHE Planner*

*Suzie Sanchez, ZHE Administrative Assistant*

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For Inquiries Regarding This Agenda, Please Call The Planning Dept. at (505) 924-3894.

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### **PLEASE ADDRESS ALL CORRESPONDENCE TO:**

**Robert Lucero, Esq., Zoning Hearing Examiner at [suzannasanchez@cabq.gov](mailto:suzannasanchez@cabq.gov)**

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**NOTICE TO PEOPLE WITH DISABILITIES:** If you have a disability and you require special assistance to participate in this hearing, please contact Planning Information at (505) 924-3860.

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### **OLD BUSINESS:**

- |    |               |                                |  |
|----|---------------|--------------------------------|--|
| 1. | VA-2020-00389 | Project#<br>PR-2020-<br>004672 | Mario Valencia requests a variance of 3 feet to the 3 feet maximum wall height for Lot 8, Atlantic and Santa Fe, located at 216 Atlantic Ave SW, zoned R-ML [Section 14-16-5-7-D]                      |
| 2. | VA-2020-00390 | Project#<br>PR-2020-<br>004674 | Ray Messick and Donna Ortiz request a permit to allow a carport within the front and side setback for Lot 19, Block 3, Bel Air, located at 2742 Truman ST NE, zoned R-1C [Section 14-16-5-5(F)(2)(a)3] |



- |    |               |                            |   |
|----|---------------|----------------------------|---|
| 3. | VA-2020-00391 | Project#<br>PR-2020-004674 | Ray Messick and Donna Ortiz request a variance to allow a carport within 19 inches of the property line for Lot 19, Block 3, Bel Air, located at 2742 Truman ST NE, zoned R-1C [Section 14-16-5-5(F)(2)(a)3]  |
| 4. | VA-2020-00143 | Project#<br>PR-2020-003911 | Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district for Commercial Tract, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(17)(i)] |
| 5. | VA-2020-00144 | Project#<br>003911         | Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for liquor sale within 500 feet of residential for Lot B, Block 5, Los Altos, located at 1021 Old Coors Dr SW, zoned MX-M [Section 14-16-4-3(D)(36)(c)]   |

### NEW BUSINESS:

- |     |               |                            |  |
|-----|---------------|----------------------------|--|
| 6.  | VA-2020-00446 | Project#<br>PR-2020-004760 | Adam Becenti requests a variance of 5 feet 3 inches to the 3 feet height requirement for a wall on the corner side for Lot 1, Block N, New Holiday Park, located at 12301 Morocco RD NE, zoned R-1C [Section 14-16-5-7(D)]                               |
| 7.  | VA-2020-00448 | Project#<br>PR-2020-004768 | Kiera Homann (Agent, Chris Blaz) requests a conditional use to allow an accessory dwelling unit without a kitchen for Lot 24, Alvarado Gardens Unit 2, located at 2923 Trellis DR NW, zoned R-A [Section 14-16-4-2]                                      |
| 8.  | VA-2020-00449 | Project#<br>PR-2020-004772 | Francisco Trujillo requests a variance of 4 feet to the 3 feet maximum wall height for Lot 17, Block 131, Snow Heights Addn, located at 9100 Somervell Ct NE, zoned R-1B [Section 14-16-5-7-D]   |
| 9.  | VA-2020-00451 | Project#<br>PR-2020-004774 | Lowry Kinzer (Agent, Gilbert Austin) requests a permit to allow a carport within the required front/side setback for Lot 15, Block 11, Ridgcrest Addn, located at 1219 Truman ST SE, R-1 [Section 14-16-5-5-F-2]   |
| 10. | VA-2020-00452 | Project#<br>PR-2020-004775 | Archdiocese of Santa Fe Real Estate Corp (Agent, Douglas Wine) requests a variance of 3 feet to the 3 feet maximum wall height for Lot P, Block 1, Elder Homestead Addn Mankins Replat, located at 833 Arizona ST SE, zoned R-1C [Section 14-16-5-7-D]   |
| 11. | VA-2020-00453 | Project#<br>PR-2020-004775 | Archdiocese of Santa Fe Real Estate Corp (Agent, Douglas Wine) requests a variance of 3 feet to the 3 feet maximum wall height for Lot O, Block 1, Elder Homestead Addn Mankins Replat, located at 833 Arizona ST SE, zoned R-1C [Section 14-16-5-7-D]   |
| 12. | VA-2020-00454 | Project#<br>PR-2020-004775 | Archdiocese of Santa Fe Real Estate Corp (Agent, Douglas Wine) requests a variance of 3 feet to the 3 feet maximum wall height for Lot N, Block 1, Elder Homestead Addn Mankins Replat, located at 833 Arizona ST SE, zoned R-1C [Section 14-16-5-7-D]   |
| 13. | VA-2020-00455 | Project#<br>PR-2020-004775 | Archdiocese of Santa Fe Real Estate Corp (Agent, Douglas Wine) requests a variance of 3 feet to the 3 feet maximum wall height for Lot M, Block 1, Elder Homestead Addn Mankins Replat, located at 99999 Arizona ST SE, zoned R-1C [Section 14-16-5-7-D] |



- |     |               |                                |   |
|-----|---------------|--------------------------------|---|
| 14. | VA-2020-00456 | Project#<br>PR-2020-<br>004775 | Archdiocese of Santa Fe Real Estate Corp (Agent, Douglas Wine) requests a variance of 3 feet to the 3 feet maximum wall height for Lot L Block 1, Elder Homestead Addn Mankins Replat, located at 99999 Arizona ST SE, zoned R-1C [Section 14-16- 5-7-D]  |
| 15. | VA-2020-00458 | Project#<br>PR-2020-<br>004788 | Gerardo Martinez requests a variance of 3 ft to the 3 ft maximum wall height on the corner side yard for Lot 26, Block 12, Foothill Estates, located at 421 Panorama PL NE, zoned R-1B [Section 14-16-5-5(D)]   |
| 16. | VA-2020-00459 | Project#<br>PR-2020-<br>004795 | Lynn Johnson requests a variance of 7 ft 6 inches to the required 15 ft rear setback for Lot 20A, Inverness at Tanoan, located at 6544 Glen Oak NE, zoned R-1B [Section 14-16-5-1(D)]   |
| 17. | VA-2020-00460 | Project#<br>PR-2020-<br>004800 | Jeffrey McCampbell requests a permit to allow a carport within the front or side yard setback for Lot 4, Block 3, Wood--Beverly Addn, located at 1814 California ST NE, zoned R-1B [Section 14-16-5-5-F-2]  |
| 18. | VA-2020-00461 | Project#<br>PR-2020-<br>004804 | Paul & Josie Peloquin requests a variance of 4 ft to allow an accessory structure taller than the allowed wall height in a street side setback where wall height is allowed to be 6 ft in the street side yard, pre-IDO, and 5 ft in the front yard setback area per Conditional Use approval, 12ZHE-80388, Project # 1009535 for Lot 4, Block 11A, Mesa Del Norte Addn, located at 901 Grove ST NE, zoned R-1C [Section 14-16-5-11(C)(4)(b)] |
| 19. | VA-2020-00463 | Project#<br>PR-2020-<br>003336 | Sandia Foundation (Agent, TLC Elite YMS LLC/Tom Cordova) requests a variance of 5 feet to the required 3 foot wall height in the front setback for Lot JJ, Southwestern Construction Company, located at 1200 Lomas BLVD, zoned MX-H [Section 14-16-5-7-D]  |