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CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Planning Department

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM June 14, 2023

TO: Pat Davis, President, City Council

FROM: Alan Varela, Planning Director (RR) for Alan Varela

SUBJECT: AC-23-10, PR-2023-008175_RZ-2023-00007–VA-2023-00130:
Diana Dorn Jones, agent for Johnny & Nova Dorn, appeals the Environmental Planning Commission (EPC) decision to Approve a zoning map amendment from R-1A to R-ML, for all or a portion of Lot 07, Block 19, Eastern Addition, located at 1102 Edith Blvd. SE, between Garfield Ave. SE, and Lewis Ave. SE, approximately 0.2 acre (the "subject site") (L-14-Z). Staff Planner: Leroy Duarte (Catalina Lehner).

REQUEST

This is an appeal of the EPC's decision to approve a zone map amendment (zone change) from R-1A to R-ML on the subject site, which comprises the southeastern corner of the intersection of Edith Blvd. SE and Lewis Ave. SE. A triplex has existed there for many years; however, a triplex is not allowed in the R-1A zone and therefore is a nonconforming use. The applicant requested a zone change to a zone that allows the existing use, in order to remedy the use's nonconforming status.

ZONING

The subject site is currently zoned R-1A (Residential – Single-family Zone District), which was assigned upon adoption of the Integrated Development Ordinance (IDO) and pursuant to the conversion rules in City Council Resolution 18-29. The R-1A zone is the IDO equivalent of the former R-1 Residential zone; the A indicates a minimum lot size of 3,500 square feet.

Prior to the IDO, the subject site was zoned SU-2/MR (Mixed Residential) pursuant to the South Broadway Sector Development Plan (SBSDP). The SU-2/MR zone corresponded to the R-1 Residential Zone, except that it required that certain uses (such as R-2 uses, churches, nursing homes, etc) obtain a conditional use permit to be allowed (SDSDP, p. 45).

The request proposes to change the subject site's zoning to R-ML [Residential-Multi-family Low Density Zone District, IDO §14-16-2-3(E)], which would allow the existing triplex as a permissive use. The purpose of the R-ML zone district is to provide for a variety of low- to medium-density housing options. The primary land uses are townhouses and small-scale multi-family development, and some limited civic and institutional uses to serve the surrounding residential area. The subject site's small size (0.2 acre) limits

the viability of most new permissive uses. Also, the IDO's Use-Specific Standards would mitigate the impacts of uses that could be considered harmful.

EPC DECISION

The EPC heard and approved the proposed zone change to R-ML at its April 20, 2023 public hearing. The decision is based upon twelve findings of fact and testimony at the hearing. The findings are elaborated in the Official Notification of Decision dated April 20, 2023.

APPEAL

Appeal procedures are found in IDO §14-16-6-4(V). The appellant is a resident of the South Broadway Neighborhood and has standing to appeal.

The IDO's Criteria for Decision of an appeal [§14-16-6-4(V)(4)] is whether the decision-making body or the prior appeal body made one of the following mistakes:

a) The decision-making body or the prior appeal body acted fraudulently, arbitrarily, or capriciously.

b) The decision being appealed is not supported by substantial evidence.

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).

Though the appellant does not specifically cite a reason above, she alleges c- that the EPC erred because it: 1) failed to take IDO 14-16-6-8, Nonconformities, into consideration, and 2) failed to address Criterion H of IDO 14-16-6-7(G)(3), Review and Decision Criteria for Zone Map Amendments.

1) Whether or not to apply IDO 14-16-6-8, Nonconformities, was not the request before the EPC; this subsection is the purview of the Code Enforcement Division. To utilize IDO 14-16-6-8, Nonconformities, an applicant must be able to provide historical records that show definitively that the use was allowed by zoning regulations in place when it was first approved and can remain "as is" as a nonconforming use. Since the applicant could not obtain the necessary records, the Code Enforcement Division advised her to pursue a Zone Change in order to continue the use.

   Even if the records were located, the applicant could still have chosen to pursue the zone change as the preferred remedy. Financial institutions and insurance providers often require that uses and zoning align.

2) The EPC sufficiently addressed Criterion H of the Review and Decision Criteria for Zone Map Amendments and found that the request is a justifiable spot zone because it clearly facilitates implementation of applicable Comprehensive Plan Goals and policies and the nature of the structure already on the premises makes it unsuitable for uses allowed in the R-1A zone district. A discussion of Criterion H is found on p. 30 of the Staff report and is summarized in Finding 8.H of the Official Notification of Decision.

CONCLUSION

This is an appeal of the EPC's decision to approve a zone change from R-1A to R-ML for an approximately 0.2-acre site at 1102 Edith Blvd. SE, the southeastern corner of the intersection of Edith Blvd. SE and Lewis Ave. SE.

As indicated in the April 20, 2023 Official Notification of Decision, the EPC found that the applicant adequately justified the zone change request based on twelve findings of fact. The appellant believes that the EPC decision was made in error and that the zoning should remain R-1A; however, the record contains substantial evidence that the EPC's decision was neither arbitrary nor capricious and that the IDO regulations were applied correctly to the request.

APPROVED:

Catalina Lehner

Catalina Lehner, AICP- Principal Planner
Urban Design & Development Division- Current Planning
Planning Department

City of Albuquerque

DEVELOPMENT REVIEW APPLICATION

Effective 4/17/19

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
☐ Archaeological Certificate *(Form P3)*	☐ Site Plan – EPC including any Variances – EPC *(Form P1)*	☐ Adoption or Amendment of Comprehensive Plan or Facility Plan *(Form Z)*
☐ Historic Certificate of Appropriateness – Minor *(Form L)*	☐ Master Development Plan *(Form P1)*	☐ Adoption or Amendment of Historic Designation *(Form L)*
☐ Alternative Signage Plan *(Form P3)*	☐ Historic Certificate of Appropriateness – Major *(Form L)*	☐ Amendment of IDO Text *(Form Z)*
☐ Minor Amendment to Site Plan *(Form P3)*	☐ Demolition Outside of HPO *(Form L)*	☐ Annexation of Land *(Form Z)*
☐ WTF Approval *(Form W1)*	☐ Historic Design Standards and Guidelines *(Form L)*	☐ Amendment to Zoning Map – EPC *(Form Z)*
	☐ Wireless Telecommunications Facility Waiver *(Form W2)*	☐ Amendment to Zoning Map – Council *(Form Z)*
		Appeals
		☒ Decision by EPC, LC, ZHE, or City Staff *(Form A)*

APPLICATION INFORMATION

Applicant: Diana Dorn-Jones + Terence L. Jones		Phone: 505 991-0674
Address: 1108 Edith Blvd. S.E.		Email:
City: Albuquerque, NM	State: NM	Zip: 87102
~~Professional/~~Agent (if any): for Johnny + Nova Dorn		Phone:
Address: 1106 Edith Blvd. S.E		Email:
City: Albuquerque	State: NM	Zip:
Proprietary Interest in Site:	List all owners:	

BRIEF DESCRIPTION OF REQUEST

Appeal approval of EPC Decision of Zone Map Amendment
1102 Edith Blvd. S.E. ABQ. NM 87102

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

Lot or Tract No.:	Block:	Unit:
Subdivision/Addition:	MRGCD Map No.:	UPC Code:
Zone Atlas Page(s):	Existing Zoning: R-A	Proposed Zoning: R-ML
# of Existing Lots:	# of Proposed Lots:	Total Area of Site (acres):

LOCATION OF PROPERTY BY STREETS

Site Address/Street: 1102 Edith	Between: Garfield	and: Lewis

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

Signature: Diana Dorn-Jones	**Date:** 5/5/2023
Printed Name: Diana Dorn-Jones	☐ Applicant or ☐ 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: _____

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

✓ Project number of the case being appealed, if applicable: PR-2023-008175

___ Application number of the case being appealed, if applicable: RZ-2023-00007

___ Type of decision being appealed: Zone Map Amendment

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

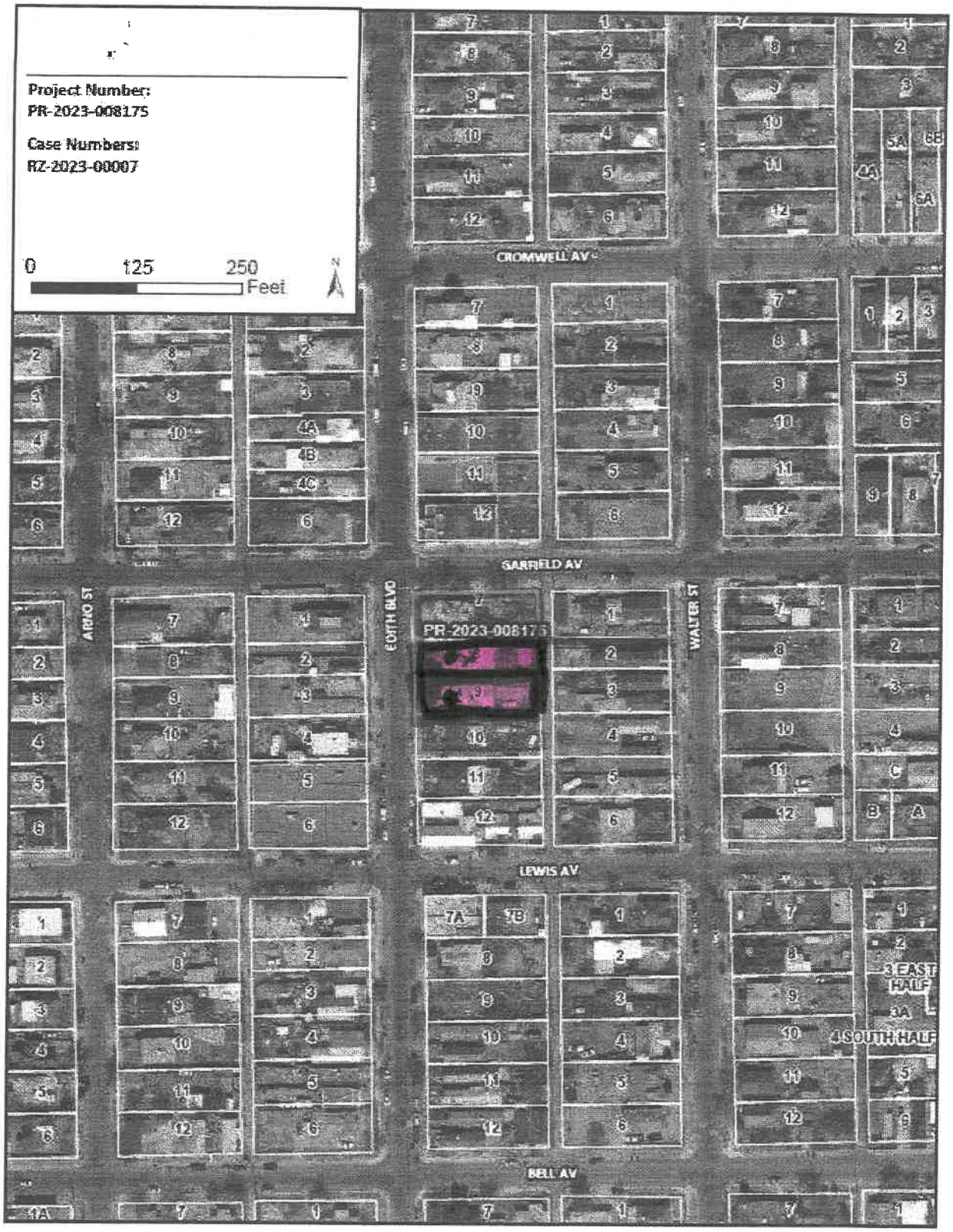
✓ Appellant's basis of standing in accordance with IDO Section 14-16-6-4(V)(2) See appeal (100ft of site)

✓ 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)

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

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.	
Signature: Diana Dorn	**Date:** 5/5/2023
Printed Name:	☐ Applicant or ☐ Agent
FOR OFFICIAL USE ONLY	
Case Numbers:	Project Number:
Staff Signature:	
Date:	

Revised 12/2/20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PR-2023-008175
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LEWIS AV
BELL AV
ARNO ST
EUTH BLVD
WALTER ST
PR-2023-008175
3 EAST HALF
4 SOUTH HALF

May 4, 2023

To whom it may concern:

This is to authorize Diana Dorn-Jones to represent me and my spouse Johnny R. Dorn in the following EPC case

Appealing Decision approving Zone Map Amendment case # RZ-2023-00007

Nova Dorn for : self and Johnny R. Dorn

Residing at 1106 Edith Blvd. SE

Albuquerque, NM 87102

Nova R. Dorn

BASIS OF STANDING:

APPEAL OF EPC DECISION DATED : APRIL 20, 2023

SITE: 1102 EDITH BLVD. SE

ALBUQUERQUE, NM 87102

PROJECT# PR-2023-008175

CASE# RZ-2023-00007 ZONE MAP AMENDMENT

APPEALLANTS ARE WITHIN 100 FEET OF PROPERTY

DIANA DORN-JONES AND TERENCE L. JONES

1108 EDITH BLVD SE 87102

AND

JOHNNY R. DORN AND NOVA DORN

1106 EDITH BLVD. SE 87102

May 5, 2023

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT

IN THE MATTER OF THE APPLICATION OF
KINLEY RACCOON LLC
REQUEST FOR ZONE MAP AMENDMENT (zone change)
LOCATION: 1102 EDITH BLVD., S.E.
ALBUQUERQUE, NEW MEXICO 87102

PROJECT # PR-2023-008175
CASE # RZ-2023-00007

REQUEST: APPEAL OF CITY OF ALBUQUERQUE-ENVIRONMENTAL PLANNING COMMISSION DECISION TO APPROVE REQUEST FOR ZONE MAP AMENDMENT FOR PROPERTY LOCATED AT 1102 EDITH BLVD. SE, ALBUQUERQUE, NM 87102 AND SITS ON APPROXIMATELY A 0.20 ACRE LOT.

APPLICANTS/APPELLANTS: JOHNNY R. AND NOVA DORN- 1106 EDITH BLVD. SE. ALBUQUERQUE, NM 87102 AND
TERENCE L. JONES AND DIANA DORN-JONES-1108 EDITH BLVD. SE. ALBUQUERQUE, NM 87102
This appeal is being filed by the above referenced applicants pursuant to the Integrated Development Ordinance (IDO), Section 6-4(V) (4), page 432.

Both applicants are next door to subject property (100 feet). Both applicants will be impacted by this decision and therefore have standing.

On April 20, 2023 the Environmental Planning Commission (EPC) voted to approve the above referenced project for a Zone Map Amendment.

Investors, Kinley Raccoon, LLC requested a zone map amendment to change the property from R-1A to R-ML to remedy a non-conforming use on the property

The property is in an Area of Consistency.
The property is not located along a Major Transit Corridor
The property is not located in an Activity Center

#PR-2023-008175

Background: Kinley Raccoon, LLC purchased this property in December 2021. The property is a triplex and the applicant currently operates it as a triplex.

On January 31, 2023, the agent for Kinley Raccoon sent letters to impacted neighbors stating that *applicants have no plans to operate the property differently than it has been operating for the last thirty years- as a triplex.*
The letter stated that they were seeking a zone map change because the current R-1A zoning meant they could not continue to **legally** operate the property as a triplex without changing to MX-T. (See attached letter) This request was later changed from MX-T to R-ML.

At a facilitated meeting with the South Broadway Neighborhood Association the agent for Kinley Raccoon, LLC again discussed the fact that applicants were only seeking a zone map change in order to gain "legal designation" to continue operating the property as a triplex.

During the facilitated session, I asked the agent three different times, what gave them the impression that the property was illegal and would have to cease operation of the property as a triplex. They never gave a direct response and I was told by the facilitator that I was "harassing" the applicant and that I could ask no further related questions.

Kinley Raccoon's letter insists that because the property was nonconforming their only option to operate as a legally conforming triplex was to apply for a zone map change.

These statements are incorrect and misleading and should not be the basis for a zone map change that brings more intensive conditional and permissive uses into a primarily residential area that has been designated as an Area of Consistency.

A review of the South Broadway Neighborhood Association's Response to the facilitated meeting evidences the confusion on the part of some members of the Association. For example the document references "M-RL" Zoning Change Request. There is no such zoning category. Perhaps they meant MX-T because that was the zoning being proposed by Kinley Raccoon, LLC, at the time. Later the request changed to R-ML, which attributes to the confusion.
The comments of the President of the Association speak to "reverting the property to its original triplex status".
The Vice President voted against the request due to concerns regarding what a zone change of this type might result in that will negatively impact the neighborhood and the fact that there were limited number of members present when the decision was made.
Another long-term member did not support the request because she felt the neighborhood association doesn't have enough knowledge about zoning issues to make an informed decision

Another member admitted that she had just recently read the report but had not reviewed the charts and other documents in the package. She voted approval because Kinley Raccoon, LLC told them that the City Planner that they spoke to.
One long-term member stated that she voted approval due to the amount of money that Kinley Raccoon, LLC indicated they had invested "to have a triplex *replaced* on the property"

Clearly, there was a bit of confusion regarding this request and frankly, our neighborhoods are just now beginning to address these more complex zoning requests.

GROUNDS FOR APPEAL:
The EPC decision was unnecessary and resulted in an overreach. Kinley Raccoon's request to operate a three unit (triplex) on the site is currently an allowable use under the IDO.

THE EPC SHOULD HAVE ADDRESSED THE REQUEST USING THE FOLLOWING:
(See attached IDO Part 14-16-6: Administration and Enforcement; 6-8: NONCONFORMITIES, pages 525-526)

Comments to the Official Notification of Decision:
(See attached copy: Official Notification of Decision)

The proposed "remedies" are not applicable to a request for a zone map amendment/change and are not in compliance with the IDO NONCONFORMING USES that should have been used to address the applicants request.

Because they are not applicable to the request, we dispute Comments and proposed remedies listed under Goals and Policies outlined in all sections listed in the EPC Decision: Chapter 4 Land Use; Chapter 5 Land Use; Chapter 9 Housing

The applicant has not adequately justified the request pursuant to the IDO in regard to Section 14-16-6-7-Review and Decision Criteria for Zoning Map Amendment. We dispute all assertions made in A. through H (not applicable to this request)

The applications response is not policy based and do not demonstrate a preponderance of applicable Goals and policies and they are in conflict with the IDO and the Comprehensive Plan. The request is not consistent with the City's health, safety, morals and general welfare.
(not applicable to this request)

GROUNDS FOR APPEAL (continued)

The EPC had no discussion, made no reference or gave any consideration to Section 6-8(C) NONCONFORMING USES, outlined in Items (1)-(5) of this this section of the IDO, as a means of addressing a nonconforming use of a property.

#PR-2023-001875

The Staff Planner recommended a zone map change to address a nonconforming property and the EPC accepted the recommendation without question. Failure to interpret and apply Section 6-8(C) led to a decision that subjects the neighborhood to Permissive and Conditional Use that are not currently allowed and put at risk the neighborhoods status under the IDO as a Neighborhood of Consistency.

The EPC failed to take into consideration the following section of the IDO in making the decision to approve the application in favor of Kinley Raccoon, LLC.

(Part 14-16-6-8; 6-8 NON CONFORMITIES; 6-8 (C) (1) speaks to Authority to Continue. This section specifically states that nonconforming use of land or a structure shall be allowed to continue.
Section 6-8(C) (2) allows for Repair and Maintenance.
Sections 6-8(C) (3) through Section 6-8(C) (Discontinuance of Nonconforming Use explains the proper and legal way to remedy a non-conforming use.
Section 6-8(C) (4)
Section 6-8(C)(5) Change in Nonconforming Use, specifically states that a nonconforming se of land or a structure may be changed to another use equally or more restrictive than the immediately preceding nonconforming use, as determined by the ZEO.

The above sections of the IDO address the concerns of the applicant as stated in their letters to the neighborhood therefore, the claims that a zone map amendment/change are a remedy to addressing a nonconforming property are unfounded.

There is no need to remedy a nonconforming use for the purposes requested by Kinley Raccoon, LLC with a zone map change as they can legally continue to operate the property as a triplex.

The granting of a zone map change from the existing R-1A zoning only serves to open the neighborhood to more intensive uses that allow greater "Permissive" uses such as higher density development and height allowances from 26 feet under the R-1A up to 38 feet under R-ML.
Permissive Uses under R-ML include: Community Residential Facility, small.
Conditional Uses under R-ML include: Group Home, small and medium.
Permissive Accessory (Motor Vehicle-related) under R-ML include: Paid parking lots, parking structures.

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Page 13 of 15 in the *Request for Zone Map Amendment* Report show the following new uses that would be permissively allowed in the R-ML zone that would not be allowed within the existing R-1A zone:
Townhouses, multi-family, assisted living facility or nursing homes, and large community residential facilities

Of equal concern is the EPC's failure to address Criterion H, item #8 in the Staff Planners Findings shown on page 23-24 of the application.
The request does not facilitate implementation of the Comprehensive Plan as shown in Criterion A.

In addressing Criterion H: the Staff Planner states *that the applicant adequately justified the request pursuant to the Integrated Development Ordinance (IDO) Section 14-16-6-7(G) (3)-Review and Decision Criteria for Zoning Map Amendments*.

Kinley Raccoon, LLC, response to Criterion H acknowledges that this request would result in a **"spot zone"** because it would apply a zone different from surrounding zone districts. R-1A zoning surrounds the subject site in all four directions. The justification given for allowing, what is termed as a "spot zone" is to remedy a "Nonconforming Use" is inappropriate.
Again, creating a spot-zone is not the prescribed way to address a NONCONFORMING USE in accordance with the IDO.
The justification provided, is not well founded, is confusing and is intended to promote approval of Kinley Raccoon's request.

It should be noted that during the EPC hearing, Ms. Catalina Lehner, AICP and principal planner, advised the Commissioners that R-ML and MX-T at this site would constitute "spot zoning".

Criterion G: Kinley Raccoon, LLC acknowledges that economic considerations are, in part, a factor in requesting a Zone Map Amendment. However, it appears that this is the motivating factor for requesting a zone map change to R-ML. In a letter to the members of the South Broadway Neighborhood, Kinley Raccoon, LLC provided the following information:
"Not being well financially resourced, we had a private lender lined up who would fund 80% of the purchase price and 100% of the renovations. We had to produce a plan and budget for those renovations prior to purchase and agreed to a high interest rate short term loan (13 months) where a Broker Price Option (BPO) took the place of a full appraisal. Instead an appraisal would occur after the completion of renovations when we would need to refinance to a standard 30 year mortgage. If we had had an appraisal, as is generally done with the sale of a property, we would have identified the zoning discrepancy then. "

Kinley Raccoon, LLC also discussed in the letter that they did not have the financial resources to obtain a Zonal Certification necessary and required by their lender.

According to the seller and the realtor, Kinley Raccoon, asserted that they were misled by them regarding the zoning designation of the property. The realtor was able to provide supporting documentation as proof of proper disclosure of the R-1A zoning designation.

Unfortunately, Kinley Raccoon, LLC's failure to undertake "due diligence" prior to purchase is not a reason to place the burden of that decision on the South Broadway neighborhood by forcing a change in zoning that will bring more intensive development uses into the neighborhood.
These investors have indicated that they have also purchased property in the Martineztown neighborhood and seek to make similar purchases as a means of investing in something other than the stock market. Again, neighborhoods like ours should not be required to change our zoning to allow for higher intensity land uses because of their failure to conduct due diligence in regards to their real estate investments.

The Planning Department could and should have referred Kinley Raccoon, LLC to the appropriate section of the IDO that address Nonconforming Properties instead, according to the applicant, it was suggested that they apply for a Zone Map Amendment to MX-T and later recommended R-ML.

As residents of the City of Albuquerque, and homeowners in the South Broadway community, we should be able to rely on the IDO to be properly and accurately interpreted and applied.

We should be able to rely on the City's Planning Staff to provide the appropriate protections of our neighborhood under the IDO. We should not have to defend our neighborhood against misguided investors that are seeking to invest in the historic downtown neighborhoods and doing so by applying for zone changes that better accommodate their investments.

I have attached page 11 of a study of the downtown historic neighborhoods that have historically been defined by the federal government as Albuquerque's Pocket of Poverty.

The City commissioned this study led by HR&A Advisor, Inc. a national economic development, real estate advisory and public policy consultant to conduct research, and analysis that led to a 2022 Comprehensive Plan for these neighborhoods.

The Plan addresses Real Estate Conditions and states *that while the real estate market in the Pocket is growing, these conditions have not improved the local residents' economic prospects. These pressures will only intensify as there are many new development projects in the pipeline that will impact the local real estate market, drive demand upward, and potentially place increasing cost pressures on low-income households and businesses.*

While these new developments are exciting for Albuquerque residents, they may create inhospitable economic conditions that produce neighborhood displacement of residents and small businesses and over gentrification. These projects include but are not limited to:

- *Rail Trail and Greater Downtown Urban Trail projects*
- *Rail Yards Development*
- *Proposed stadiums and other destination entertainment venues*

In summary, our neighborhoods are aware that there is money being made at the expense of the Pocket neighborhoods by everyone except the residents. We are also aware that as investors enter our neighborhoods, there will be request to change our zoning in a manner that allows for higher intensive development that supports outside investor interests.

We respectfully request that the decision of the Environmental Planning Commission be denied for failure to address the NONCONFORMING USE PROVISIONS outlined in the Independent Development Ordinance (IDO)

Diana Dorn-Jones for all appellants
ddj5050@att.net
505 991-0674

#PR-2023-008175

ATTACHMENTS:

COPY OF KINLEY RACCOON, LLC LETTER TO COMMUNITY REGARDING PLANS FOR PROPERTY

OFFICIAL NOTICE OF ENVIRONMENTAL PLANNING COMMISSION NOTIFICATION OF DECISION

REPORT REGARDING REAL ESTATE CONDITIONS IN POCKET OF POVERTY NEIGHBORHOODS

FROM IDO ADMINISTRATION AND ENFORCEMENT: 6-8 NONCONFORMITIES (Pages 525-527)

IDO: 4.2 ALLOWABLE USES (Pages 145-150)

COPY OF KINLEY RACCOON, LLC LETTERS TO NEIGHBORHOOD

January 31, 2023

Avalos, Jesus
1107 Edith Blvd SE
Albuquerque, NM 87102

RE: Public Notice of EPC Hearing // Zone Map Amendment

Dear Jesus,
We are excited to be a part of your neighborhood! Please see the following materials we are required to send. Please know, we have no plans to alter the use of the lot. We just look forward to gaining the legal designation to continue operating the property as a triplex.

We are writing to inform you of a Zone Map Amendment request from R-1A to MX-T for the property at 1102 Edith Blvd SE.

Property History, Renovations, Need for Zone Change & Future Plans:
Kinley Raccoon LLC purchased the triplex in December 2021. Prior to our ownership, the property was owned by the same family for over 30 years and we understand that it has operated as a triplex for the entire time.

Following purchase of the property, we painted and repaired the exterior, added a washer and dryer and did some cosmetic repairs inside the units. We have no plans to operate the building any differently than it has been operating for the last thirty years - as a triplex however, we currently are not legally confirming due to the extensive zone changes in the area done through the Integrated Development Ordinance (IDO) in 2017.

Our Attempts to be Legally Conforming Without a Zone Change:
We attempted to be grandfathered into the new zoning laws so that we would not have to do a zone change. However, since the request to be grandfathered in was not made within the required two-year time period following the 2017 IDO adoption, we were unable to do so. Therefore, zone change is our only option to operate as a legally conforming triplex.

January 31, 2023

United South Broadway CORP
PO Box 25242
Albuquerque, NM 87125

RE: Public Notice of EPC Hearing // Zone Map Amendment

Dear United South Broadway,
We are excited to be a part of your neighborhood! Please see the following materials we are required to send. Please know, we have no plans to alter the use of the lot. We just look forward to gaining the legal designation to continue operating this property as a triplex.

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OFFICIAL NOTICE OF DECISION -ENVIRONMENTAL PLANNING COMMISSION

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

OFFICIAL NOTIFICATION OF DECISION

April 20, 2023

Kinley Raccoon LLC
710 Roma Ave. NW
Albuquerque, NM 87102

Project # PR-2023-008175
RZ-2023-00007– Zoning Map Amendment

LEGAL DESCRIPTION:
Kinley Raccoon LLC, requests a zoning map amendment from R-1A to R-ML, for all or a portion of Lot 07, Block 19, Eastern Addition, located at 1102 Edith Blvd. SE, between Garfield Ave. SE, and Lewis Ave. SE, approximately 0.2 acre (L-14-Z)
Staff Planner: Leroy Duarte

On April 20, 2023 the Environmental Planning Commission (EPC) voted to APPROVE Project # PR-2023-008175, RZ-2023-00007– Zoning Map Amendment, based on the following Findings:

1. The request is for a zoning map amendment (zone change) for an approximately 0.2-acre site legally described as all or a portion of Lot 07, Block 19, Eastern Addition, located at 1102 Edith Blvd SE, between Garfield Ave. SE, and Lewis Ave. SE, (the "subject site").

2. The subject site is zoned R-1A (Residential- Single-family Zone District). The applicant is requesting a zone change to R-ML (Residential Multi-family Low Density Zone District) to remedy a non-conforming use on the property..

3. The subject site is in an area that the Comprehensive Plan designated an Area of Consistency and is within the boundaries of the Central Albuquerque Community Planned Area (CPA).

4. The City of Albuquerque Integrated Development Ordinance (IDO) and the Comprehensive Plan are incorporated herein by reference and made part of the record for all purposes.

5. The request furthers the following, applicable Goal and policies regarding Community Identity Chapter 4: Land Use:

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

   The request would remedy a non-conforming use that would enhance the community by establishing conformity on the property, which would protect the existing use and preserve the structures that currently serve as a triplex.

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

The request would protect the identity and cohesiveness of the South Broadway Neighborhood by ensuring the appropriate scale and location of the existing development would be consistent with the City's IDO; a non-conforming use would be conforming and the character of the building would remain undisturbed.

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

The request would enhance the current property by bringing the existing non-conforming use into conformity. As a result, the request would protect, and preserve the neighborhood and the traditional community by keeping uses similar to what is existing in the South Broadway Neighborhood.

6. The request furthers the following Goals and policy, and in Chapter 5-Land Use:

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

The subject site is well-served by existing infrastructure and public facilities; the request would remedy a non-conforming use (triplex) that would promote efficient development patterns and use of land.

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

The subject site is located in an Area of Consistency, where the character and intensity of the surrounding area is intended to be reinforced. The request would remedy a non-conforming use that would bring the existing triplex into conformity, that would reinforce the character and intensity of the surrounding area remaining the same.

7. The request furthers the following Goals and policies regarding Housing in Chapter 9:

A. Policy 9.1.1- Housing Options: Support the development, improvement, and conservation of housing for a variety of income levels and types of residents and households.

The request would support the conservation of an existing triples that has been in operation for over 50 years. The request would remedy the non-conforming use of the triplex which would provide different housing types for residents within the South Broadway Neighborhood.

B. Policy 9.1.2- Affordability: Provide for mixed-income neighborhoods by encouraging high quality, affordable and mixed income housing options throughout the area.

The request would remedy a non-conforming triplex that would provide housing within the South Broadway community at a variety of income levels.

C. Goal 9.3- Density: Support increased housing density in appropriate places with adequate services and amenities.

The request would remedy a non-conforming triplex that would support housing density that would be appropriate in the area and also be within walking distance to a family activity center.

D. Policy 9.3.2- Other Areas: Increase housing density and housing options in other areas by locating near appropriate uses and services and maintaining the scale of surrounding development.

The request would remedy a non-conforming triplex that would retain its current housing option within the South Broadway Neighborhood, that would provide residents with amenities and services within the surrounding area.

8. The applicant has adequately justified the request pursuant to the Integrated Development Ordinance (IDO) Section 14-16-6-7(G)(3)-Review and Decision Criteria for Zoning Map Amendments, as follows:

A. Criterion A: Consistency with the City's health, safety, morals and general welfare is shown by demonstrating that a request furthers applicable Comprehensive Plan Goals and policies (and other plans if applicable) and does not significantly conflict with them. The applicant's policy-based response demonstrates that the request clearly facilitates a preponderance of applicable Goals and policies regarding community identity, land use, and housing. Therefore, the request is consistent with the City's health, safety, morals and general welfare.

B. Criterion B: The subject site is located in an Area of Consistency. A different zone district would be more advantageous to the community. The request would remedy a non-conforming use on the property and would provide efficient implementation of patterns of land use, development density and intensity, and connectivity within the area that would be similar in use and scale and would clearly reinforce or strengthen the surrounding area.

C. Criterion C: The subject site is located wholly in an Area of Consistency, so this criterion does not apply.

D. Criterion D: The applicant compared the existing R-1A zoning and the proposed RM-L zoning and discussed each use that would become permissive. Townhouses, multi-family, assisted living facility or nursing homes, and large community residential facilities are new uses that would become permissive in the RM-L zone. (see IDO table 4-2-1: Allowable Uses p. 146).

Furthermore, the IDO has Use-Specific standards to mitigate the impacts of uses that could be considered harmful. Many of the new permissive uses allowed would still not be allowed due to the size and lot requirements.

E. Criterion E: The subject site is an infill site that is adequately served by existing infrastructure (requirement 1).

F. Criterion F: The justification for the requested zone change is to remedy a non-conforming use (triplex) and is not completely based on the property's location on a major street.

G. Criterion G: Economic considerations are a factor, but the applicant's justification is not completely or predominantly based upon them. Rather, the applicant wants to remedy a non-conforming use and has adequately demonstrated that the request clearly facilitates a

preponderance of applicable Comprehensive Plan Goals and policies and does not conflict with them.

H. Criterion H: The request would result in a spot zone because it would apply a zone different from surrounding zone districts. R-1A zoning surrounds the subject site in all four directions. There is some MX-T zoning within the area south of the subject site. The applicant acknowledges that the request would create a spot zone, but explains that it would be a justified spot zone because it would remedy a non-conforming use because the nature of structure already on the premises makes it unsuitable for the uses allowed in the R-1A zone district. The request clearly facilitates implementation of the Comprehensive Plan as shown in the response to Criterion A.

9. The applicant's policy-based response adequately demonstrates that the request clearly facilitates a preponderance of applicable Goals and policies and does not present any significant conflicts with the Comprehensive Plan. Therefore, the request is consistent with the City's health, safety, morals, and general welfare.

10. The affected neighborhood organization is the South Broadway Neighborhood Association which was notified as required. Property owners within 100 feet of the subject site were also notified as required.

11. A pre-application meeting was held on February 16, 2023 via zoom. Neighborhood concerns about the request included non-conformity issues, permissive uses under the proposed zoning and history of other zone map amendments within the area.

12. As of this writing, Staff has received two letters; one letter was received from the South Broadway Neighborhood Association in favor of the request and another letter received from 3 neighborhood residents was in opposition.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **May 5, 2023**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-6-4(V) of the Integrated Development Ordinance (IDO), Administration and Enforcement. A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed. It is not possible to appeal an EPC Recommendation to the City Council since this is not a final decision.

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

Sincerely,

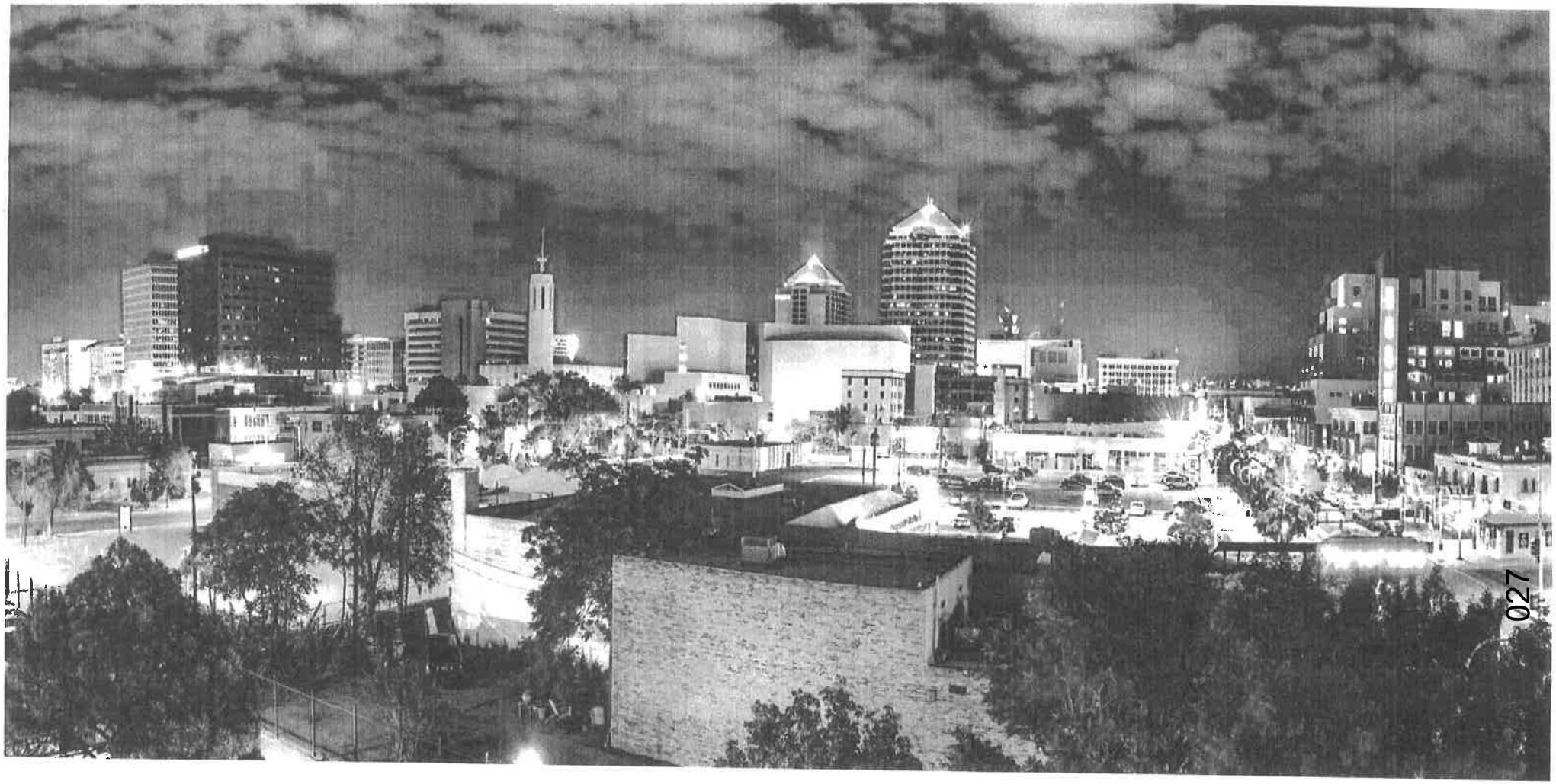
Catalina Lehner

for Alan M. Varela,
Planning Director

AV/CL/LD

cc: Kinley Raccoon LLC, jitka.dekojova@yahoo.com
South Broadway NA, Frances Armijo, fparmijo@gmail.com
South Broadway NA, Tiffany Broadous, tiffany.hb10@gmail.com
Diana Dorn-Jones, ddj5050@att.net
Legal, dking@cabq.gov
EPC File

REPORT REGARDING REAL ESTATE CONDITIONS IN POCKET OF POVERTY



HNEDF COMMITTEE PRESEN

ALBUQUERQUE POCKET OF POVERTY

HR&A Analyze. Advise. Act.

strata design llc.

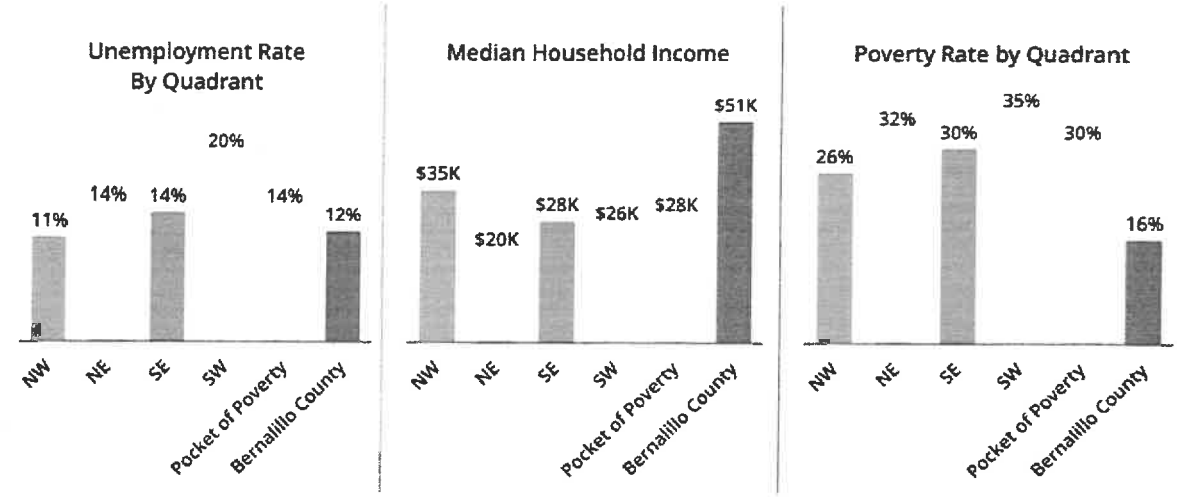
Inc

Housing and Neighborhood Economic Development Fund

2022 Comprehensive Plan

(12/14/21 HNEDF Committee Discussion DRAFT)

Figure 7: Data Analysis—Unemployment, Median Household Income, Poverty Rate



REAL ESTATE CONDITIONS

Higher rents, lower vacancies, and positive absorption of new product characterize the office, industrial, retail, and multi-family rental markets since 2002 and suggest that while the real estate market in the Pocket is growing, these conditions have not improved local residents' economic prospects.

These pressures will only intensify as there are many new development projects in the pipeline that will impact the local real estate market, drive demand upward, and potentially place increasing costs pressures on low-income households and local businesses. While these new developments are exciting for Albuquerque residents, they may create inhospitable economic conditions that produce neighborhood displacement of residents and small businesses and overall gentrification. These projects include but are not limited to:

- Rail Trail and Greater Downtown Urban Trail projects
- Rail Yards redevelopment
- Proposed stadium for the New Mexico United professional soccer team

In addition, increasing rents and intensifying pressures from the pandemic's economic effects have prompted concerns about housing affordability in the Pocket. As seen in Figure 8 below, across the Pocket, **more than half of households are rent-burdened (>30% of income dedicated to rent)**, and more than a quarter are severely rent-burdened (>50% of income dedicated to rent). With rising rent costs placing increasing pressure on household finances, the Pocket is facing a homelessness crisis, with **people of color disproportionately affected.**

IDO ADMINISTRATION AND ENFORCEMENT: 6-8 NONCONFORMITIES (Pages 525-527)

6-8 NONCONFORMITIES

6-8(A) PURPOSE

The purpose of this Section 14-16-6-8 is to regulate land uses, buildings, lots, signs, and site features that were legally established, but that do not conform to the requirements of this IDO due to some action of the government (collectively "nonconformities"). These regulations are intended to reduce or eliminate over time any nonconformity that does not meet the regulatory standards of the IDO and/or the goals of the ABC Comp Plan, as amended, and that creates adverse impacts on the surrounding area or the city.

6-8(B) APPLICABILITY

6-8(B)(1) General Applicability

The regulations in this Section 14-16-6-8 apply to land uses, buildings, lots, signs, and site features, including:

6-8(B)(1)(a) Those that were legally established prior to the effective date of this IDO but that become nonconforming due to the adoption of this IDO.

6-8(B)(1)(b) Those that were legally established after the effective date of this IDO but that become nonconforming due to the adoption of a future amendment to this IDO.

6-8(B)(2) Authority to Continue

6-8(B)(2)(a) **General Nonconformities**
Nonconformities that in general do no harm to the surrounding area may be allowed to continue or expand based on the regulations and criteria of this Section 14-16-6-8 in order to preserve the integrity of a neighborhood and prevent adverse impacts resulting from unused buildings or vacant lots.

6-8(B)(2)(b) **Timeframes for Compliance**
Where the IDO establishes timeframes for compliance, the effective date of this IDO shall mark the beginning of the timeframe unless specified otherwise in this IDO or another adopted City Ordinance in ROA 1994.

6-8(B)(2)(c) **Nonconforming Use of Land or a Structure in the APO Zone**
Notwithstanding Subsections (a) and (b) above, the City shall not grant any permit or approval under this IDO that would allow a nonconforming use of a lot or structure to become a greater hazard or obstruction to air navigation than it was on the effective date of this IDO or any relevant amendments to this IDO.

6-8(C) NONCONFORMING USES

6-8(C)(1) Authority to Continue

Unless specified otherwise in this Section 14-16-6-8 or elsewhere in this IDO, the nonconforming use of land or a structure shall be allowed to continue regardless of any change in ownership or occupancy of the use, until that use is discontinued or another provision of this Section 14-16-6-8 requires the termination of the use.

6-8(C)(2) Repair and Maintenance

A structure containing a nonconforming use may be maintained, repaired, or altered, with limits on expansion pursuant to Subsection 14-16-6-8(C)(4) (Expansion of Nonconforming Use).

6-8(C)(3) Discontinuance of Nonconforming Use

6-8(C)(3)(a) Except as noted in Subsection (b) below, when a nonconforming use of land or a structure is discontinued for a period of 2 years, any later use shall only be an allowable use as indicated in Table 4-2-1 for the zone district in which the property is located.

6-8(C)(3)(b) When a nonconforming residential use of a single-family detached dwelling located in any Mixed-use or Non-residential zone district is discontinued for 5 years, any later use shall only be an allowable use as indicated in Table 4-2-1 for the zone district in which the property is located.

6-8(C)(3)(c) Neither the intention of the owner nor that of anybody else to use a lot or part of a lot for any nonconforming use, nor the fact that the lot or part of a lot may have been used by a makeshift nonconforming use shall prevent the ZEO from determining that the use has been discontinued for the purposes of this Subsection 14-16-6-8(C)(3).

6-8(C)(4) Expansion of Nonconforming Use

A nonconforming use of land or a structure shall not be expanded, except that the portion of a structure or land containing a nonconforming use may be expanded in size if approved by the ZHE pursuant to Subsection 14-16-6-6(C).

6-8(C)(5) Change in Nonconforming Use

A nonconforming use of land or a structure may be changed to another use equally or more restrictive than the immediately preceding nonconforming use, as determined by the ZEO.

6-8(C)(6) Helipads

A helipad shown on a Site Plan approved by the EPC prior to March 5, 2000, shall be deemed conforming.

6-8(C)(7) Mobile Home Dwellings

6-8(C)(7)(a) A single mobile home dwelling on an individual lot outside of the R-MC zone district is a nonconforming use and shall be removed within 5 years.

6-8(C)(7)(b) A nonconforming use of land and incidental structures consisting of a mobile home development may remain for the life of the structures, which shall never be more than 30 years, but only if all of the following provisions apply.

1. This use does not cease operation for a period of 1 year.
2. Any private street system servicing the mobile home dwellings is paved at least to a standard approved by the City Engineer according to the applicable standards of this IDO and related

DPM standards and criteria, even though there may be no new subdivision.

3. Mobile home dwellings are skirted with materials similar in appearance and durability to the siding of the mobile home, or the unit is situated at ground level, within 2 years of the use becoming nonconforming.

6-8(C)(7)(c) Any additional development on a lot that includes 1 or more mobile home dwellings shall conform to the regulations in this IDO.

6-8(C)(7)(d) For changes of use or rezoning of developments that include mobile homes that will result in expiration or termination of resident occupancy, the standards in Subsection 14-16-2-3(C)(3)(g) (R-MC Zone District Standards) apply, regardless of the zone district the development is in.

6-8(D) NONCONFORMING STRUCTURES

6-8(D)(1) Authority to Continue

Unless specified otherwise in this Section 14-16-6-8, a nonconforming structure shall be allowed to continue to be used, regardless of any change in ownership or occupancy of the structure, until the structure is vacant for a period of 2 years, or until another provision of this Section 14-16-6-8 requires the termination of the use. Mobile home dwellings are subject to provisions in Subsection 14-16-6-8(C)(7) (Mobile Home Dwellings). Signs are subject to provisions in Subsection 14-16-6-8(F) (Nonconforming Signs).

6-8(D)(2) Repair and Maintenance

A nonconforming structure may be maintained, repaired, or altered, but no maintenance, repair, or alteration may increase the extent of nonconformance.

6-8(D)(3) Height Nonconformance

A structure nonconforming as to height regulations cannot be added to or enlarged unless the addition or enlargement conforms to all the regulations of the zone district in which it is located.

6-8(D)(4) Setback Nonconformance

A structure nonconforming as to setback regulations cannot be added to or enlarged unless the addition conforms to all the regulations of the zone district in which the structure is located.

6-8(D)(5) Expansion of Nonconforming Structure

A nonconforming structure may be expanded in size, provided that the expansion will not increase an existing nonconformity or create a new nonconformity, if approved by the ZHE pursuant to Subsection 14-16-6-6(C).

6-8(D)(6) Relocation of Nonconforming Structure

A nonconforming structure may be moved in whole or in part to another location on the lot, provided that the moving will make it nonconforming to a lesser extent.

IDO 4.2 ALLOWABLE USES (Pages 145-150)

4-2 ALLOWABLE USES

Table 4-2-1: Allowable Uses

P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory
CV = Conditional if Structure Vacant for 5+ years T = Temporary CT = Conditional Temporary
Blank Cell = Not Allowed

Zone District >>	Residential						Mixed-use				Non-residential								Use-specific Standards
Land Uses	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU	NR-PO A	NR-PO B	NR-PO C	
PRIMARY USES THAT MAY BE ACCESSORY IN SOME ZONE DISTRICTS																			
RESIDENTIAL USES																			
Household Living																			
Dwelling, single-family detached	P	P	P	P	P		P												4-3(B)(1)
Dwelling, mobile home			P																4-3(B)(2)
Dwelling, cluster development	P	P		P	P		P												4-3(B)(3)
Dwelling, cottage development	P	P	P	P	P		P												4-3(B)(4)
Dwelling, two-family detached (duplex)		P		P	P		P												4-3(B)(5)
Dwelling, townhouse				P	P	P	P	P	P	P									4-3(B)(6)
Dwelling, live-work				C	C	P	P	P	P	P	CA	CA							4-3(B)(7)
Dwelling, multi-family					P	P	P	P	P	P									4-3(B)(8)
Group Living																			
Assisted living facility or nursing home				C	P	P	P	P	P	P									
Community residential facility, small	P	P		P	P	P	P	P	P	P									4-3(B)(9)
Community residential facility, large					P	P	P	P	P	P									4-3(B)(9)
Dormitory						P	C	P	P	P									
Group home, small					C	P	P	P	P										4-3(B)(10)
Group home, medium					C	C	C	P	P	P									4-3(B)(10)
Group home, large						C			C	C									4-3(B)(10)
CIVIC AND INSTITUTIONAL USES																			
Adult or child day care facility			C	C	C	P	P	P	P	P	P	P	A	A					
BioPark																P (in D)			4-3(C)(7)
Cemetery															P				
Community center or library	C	P		P	P	P	P	P	P	P	C	C	C	C		P		C	4-3(C)(1)
Correctional facility															P				
Elementary or middle school	C	C		C	P	P	P	P	P	P	P	P	CV			P		C	4-3(C)(2)
Fire station or police station															P				
High school	C	C		C	C	P	P	P	P	P	P	P	C			P			4-3(C)(3)
Hospital									P	P	P	P							4-3(C)(4)
Museum				CV	CV	C	P	P	P	P	P	P	P	P		P	A		4-3(C)(5)
Overnight shelter									C	C	C	C	C	C					4-3(C)(6)
Parks and open space	P	P		P	P	P	P	P	P	P	P	P	C	C	A	P	P	P	4-3(C)(7)
Religious institution	P	P		P	P	P	P	P	P	P	P	P	CV	CV					4-3(C)(8)
Sports field							CV	C	P	P	P	P	P	C		P		C	

Table 4-2-1: Allowable Uses
P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory
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Zone District >>	Residential						Mixed-use				Non-residential								
Land Uses	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU	NR-PO A	NR-PO B	NR-PO C	Use-specific Standards
University or college						CV	CV	C	P	P	P	P	CV	CV					
Vocational school						CV	P	P	P	P	P	P	P	P					
COMMERCIAL USES																			
Agriculture and Animal-related																			
Community garden	P	P	P	P	P	P	P	P	P	P	P	P	C	C		A	A	A	4-3(D)(1)
Equestrian facility	P																P	C	4-3(D)(2)
General agriculture	P											C	P	P			P	A	4-3(D)(3)
Kennel	C							C	C		P	P	P	P					4-3(D)(4)
Nursery	P								A		P	P	P	P		A	A		
Veterinary hospital	C						C	P	P	P	P	P	P	P					4-3(D)(5)
Other pet services	C						C	P	P	P	P	P	P	P					
Food, Beverage, and Indoor Entertainment																			
Adult entertainment												P	P	P					4-3(D)(6)
Auditorium or theater						A	A	A	P	P	P	P	P	P					4-3(D)(7)
Bar							C	C	P	P	P	P	P	P					4-3(D)(8)
Catering service									P	P	P	P	P	P					
Health club or gym			A		A	A	P	P	P	P	P	P	P	A					4-3(D)(9)
Mobile food truck court							C	P	P	P	P	P	P	C					4-3(D)(10)
Nightclub									P	P	P	P	P						4-3(D)(8)
Residential community amenity, indoor	P	P	P	P	P	P	P	P	P	P								C	4-3(D)(11)
Restaurant							C	P	P	P	P	P	P	P					4-3(D)(8)
Tap room or tasting room							C	C	P	P	P	P	P	P					4-3(D)(8)
Other indoor entertainment							C	P	P	P	P	P	P	P		P		C	4-3(D)(12)
Lodging																			
Bed and breakfast	A	CA		A	A	P	P												4-3(D)(13)
Campground or recreational vehicle park									C		P	P					A	C	4-3(D)(14)
Hotel or motel							P	P	P	P	P	P	P	P					4-3(D)(15)
Motor Vehicle-related																			
Car wash								P	P	P	P	P	P	P					4-3(D)(16)
Heavy vehicle and equipment sales, rental, fueling, and repair											P	C	P	P					4-3(D)(17)
Light vehicle fueling station								C	P	P	P	P	P	P					4-3(D)(18)
Light vehicle repair								P	P	P	P	P	P	P					4-3(D)(19)
Light vehicle sales and rental								C	P	P	P	P	P	P					4-3(D)(20)
Outdoor vehicle storage											C	C	P	P			A		4-3(D)(21)
Paid parking lot			A		A	A	C	P	P	A	P	P	P	P	A	A	A		4-3(D)(22)
Parking structure			A		A	A	CA	P	P	P	P	P	P	P	A				4-3(D)(22)
Offices and Services																			
Bank							P	P	P	P	P	P	P	CV					4-3(D)(23)

Table 4-2-1: Allowable Uses
P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory
CV = Conditional if Structure Vacant for 5+ years T = Temporary CT = Conditional Temporary
Blank Cell = Not Allowed

Zone District >>	Residential						Mixed-use				Non-residential								
Land Uses	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU	NR-PO A	NR-PO B	NR-PO C	Use-specific Standards
Blood services facility									C	C	C	P	P	P					
Club or event facility							C	P	P	P	P	P	P	CV		P	P	C	4-3(D)(24)
Commercial services								P	P	P	P	P	P	P					
Construction contractor facility and yard										C	P	P	P	P					4-3(D)(25)
Crematorium															P				
Medical or dental clinic							P	P	P	P	P	P	P	P					4-3(D)(26)
Mortuary								C	P	P	P	P	C		A				
Office							P	P	P	P	P	P	P	P					
Personal and business services, small							P	P	P	P	P	P	P	P					4-3(D)(27)
Personal and business services, large									P	P	P	P	P	P					4-3(D)(27)
Research or testing facility							P	P	P	P	P	P	P	P					4-3(D)(28)
Self-storage								C	C	P	P	P	P	P			A		4-3(D)(29)
Outdoor Recreation and Entertainment																			
Amphitheater										C	C	C	C	C	A	P	A	C	
Balloon Fiesta Park events and activities																P			4-3(D)(30)
Drive-in theater									C	C	C	C	C						4-3(D)(31)
Fairgrounds															P				
Residential community amenity, outdoor	P	P	P	P	P	P	P	P	P	P								A	
Stadium or racetrack															P	P			
Other outdoor entertainment	CA	CA	CA	CA	CA	CA	A	A	A	A	P	P	P	A		P		P	4-3(D)(32)
Retail Sales																			
Adult retail										P		P	P	P					4-3(D)(6)
Art gallery	CV	CV	C	P	P	P	P	P	P	P	P		P	A					4-3(D)(33)
Bakery goods or confectionery shop							C	P	P	P	P	P	P	P					
Building and home improvement materials store									C	C	P	P	P	C					4-3(D)(34)
Cannabis retail							P	P	P	P	P	P	A	A					4-3(D)(35)
Farmers' market	T		T	T	T	T	T	P	P	P	P	P	CV	CV		P	A	CA	4-3(D)(36)
General retail, small			A			A	P	P	P	P	P	P	P	P					4-3(D)(37)
General retail, medium									P	P	P	C	C						4-3(D)(37)
General retail, large									C	C	P	P							4-3(D)(37)
Grocery store								P	P	P	P		P	P					4-3(D)(38)
Liquor retail							C	A	C	C	C	C	C	C					4-3(D)(39)
Nicotine retail							CA	A	C	C	C	C	C	C					4-3(D)(40)
Pawn shop								C	P	P	P	P	P	P					4-3(D)(41)

Table 4-2-1: Allowable Uses

P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory
CV = Conditional if Structure Vacant for 5+ years T = Temporary CT = Conditional Temporary
Blank Cell = Not Allowed

Zone District >>	Residential						Mixed-use				Non-residential								
Land Uses	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU	NR-PO A	NR-PO B	NR-PO C	Use-specific Standards
Transportation																			
Airport															P				4-3(D)(42)
Freight terminal or dispatch center												C	P	P					4-3(D)(43)
Helipad									CA	CA	A	P	P	P	A				4-3(D)(44)
Park-and-ride lot						C	C	C	P	C	C	P	C	C	A	A			4-3(D)(45)
Railroad yard												C	P	P					4-3(D)(46)
Transit facility						C	C	C	P	P	P	P	P	P					4-3(D)(47)
INDUSTRIAL USES																			
Manufacturing, Fabrication, and Assembly																			
Artisan manufacturing							C	P	P	P	P	P	P	P					4-3(E)(1)
Cannabis cultivation							C	P	P	P	P	P	P	P					4-3(E)(2)
Cannabis-derived products manufacturing							C	P	P	P	P	P	P	P					4-3(E)(3)
Light manufacturing										A	P	P	P	P					4-3(E)(4)
Heavy manufacturing														P					4-3(E)(5)
Natural resource extraction															P				4-3(E)(6)
Special manufacturing														C					4-3(E)(7)
Telecommunications, Towers, and Utilities																			
Drainage facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	C	
Electric utility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	A	4-3(E)(8)
Geothermal energy generation	A	A	A	A	A	A	A	A	A	A	A	P	P	P		A	A		4-3(E)(9)
Major utility, other	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	A	
Solar energy generation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	P	P	P	4-3(E)(10)
Wind energy generation							A	A	A	A	A	A	A	C	A	A	A		4-3(E)(11)
Wireless Telecommunications Facility (WTF)																			
Architecturally integrated	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			
Collocation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			
Freestanding							P	P	P	P	P	P	P	P	A				
Non-commercial or broadcasting antenna	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			4-3(E)(12)
Public utility collocation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			
Roof-mounted			A		A	A	A	A	A	A	A	A	A	A	A				
Small cell	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Waste and Recycling																			
Recycling drop-off bin facility						A	A	A	A	A	P	P	P	P					4-3(E)(13)
Salvage yard												C	C	P					4-3(E)(15)
Solid waste convenience center															P				4-3(E)(14)
Waste and/or recycling transfer station															P				4-3(E)(16)
Wholesaling and Storage																			

Table 4-2-1: Allowable Uses
P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory
CV = Conditional if Structure Vacant for 5+ years T = Temporary CT = Conditional Temporary
Blank Cell = Not Allowed

Zone District >>	Residential						Mixed-use				Non-residential								
Land Uses	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU	NR-PO A	NR-PO B	NR-PO C	Use-specific Standards
Above-ground storage of fuels or feed													C	P					
Outdoor storage								CA	C	C	C	A	P	P					4-3(E)(17)
Warehousing									C	C	P	P	P	P					4-3(E)(18)
Wholesaling and distribution center									C	C	P	P	P	P					4-3(E)(19)
ACCESSORY AND TEMPORARY USES																			
ACCESSORY USES																			**4-3(F)(1)**
Agriculture sales stand	A	A	A	A	A	A	A	A	A	A	A	A	CA	CA			A		4-3(F)(2)
Animal keeping	A	A	A	A	A	A	A	A	A	A	A	A	A	A				CA	4-3(F)(3)
Automated Teller Machine (ATM)			A		A	A	A	A	A	A	A	A	A	A		T	T		
Drive-through or drive-up facility								A	A	CA	A	A	A						4-3(F)(4)
Dwelling unit, accessory with kitchen		A		A	A	A	A	A	A		A	A	A	A	A		A		4-3(F)(5)
Dwelling unit, accessory without kitchen	CA	A		A	A	A	A	A	A		A	A	A	A	A		A		4-3(F)(5)
Family care facility	A	A	A	A	A	A	A	A	A	A									4-3(F)(6)
Family home day care	CA	CA	CA	CA	A	A	A												4-3(F)(7)
Garden	A	A	A	A	A	A	A	A	A	A	A	A	A				A		
Hobby breeder	A	A	A	A															4-3(F)(8)
Home occupation	A	A	A	A	A	A	A	A	A	A									4-3(F)(9)
Independent living facility				A	A	A	A	A	A	A									4-3(F)(10)
Mobile food truck	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			4-3(F)(11)
Mobile vending cart							A	A	A	A	A	A	A	A		A		A	4-3(F)(12)
Outdoor animal run	A							CA	CA		CA		A	A					4-3(F)(13)
Outdoor dining area							CA	A	A	A	A	A	A	A	A				4-3(F)(14)
Second kitchen in a dwelling	A	A	A	A	A	A	A												4-3(F)(15)
Other use accessory to non-residential primary use							A	A	A	A	A	A	A	A	A			A	4-3(F)(16)
Other use accessory to residential primary use	A	A	A	A	A	A	A	A	A	A									4-3(F)(17)
TEMPORARY USES																			
Temporary Uses That Require A Permit																			
Circus									T		T	T	T						4-3(G)(1)
Construction staging area, trailer, or office	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		4-3(G)(2)
Dwelling, temporary	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		4-3(G)(3)
Fair, festival, or theatrical performance	T	T	T	T	T	T	T	T	T	T	T	T			T	T	T		4-3(G)(4)
Open air market							T	T	T	T	T						T		4-3(G)(5)

Table 4-2-1: Allowable Uses
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CV = Conditional if Structure Vacant for 5+ years T = Temporary CT = Conditional Temporary
Blank Cell = Not Allowed

Zone District >>	Residential						Mixed-use				Non-residential								
Land Uses	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU	NR-PO A	NR-PO B	NR-PO C	Use-specific Standards
Park-and-ride facility, temporary						T	T	T	T	T	T	T	T	T	T		T		4-3(G)(6)
Real estate office or model home	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T				4-3(G)(7)
Safe outdoor space							CT	CT	CT	CT	T	T	T	T					4-3(G)(8)
Seasonal outdoor sales							T	T	T	T	T	T	T	T					4-3(G)(9)
Temporary use not listed			T			T	T	T	T	T	T	T	T	T	T		T		4-3(G)(10)
Temporary Uses That Do Not Require A Permit																			
Garage or yard sale	T	T	T	T	T	T	T												4-3(G)(10)
Hot air balloon takeoff/landing	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	4-3(G)(11)

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

OFFICIAL NOTIFICATION OF DECISION

April 20, 2023

Kinley Raccoon LLC
710 Roma Ave. NW
Albuquerque, NM 87102

Project # PR-2023-008175
RZ-2023-00007– Zoning Map Amendment

LEGAL DESCRIPTION:
Kinley Raccoon LLC, requests a zoning map amendment from R-1A to R-ML, for all or a portion of Lot 07, Block 19, Eastern Addition, located at 1102 Edith Blvd. SE, between Garfield Ave. SE, and Lewis Ave. SE, approximately 0.2 acre (L-14-Z)
Staff Planner: Leroy Duarte

On April 20, 2023 the Environmental Planning Commission (EPC) voted to APPROVE Project # PR-2023-008175, RZ-2023-00007– Zoning Map Amendment, based on the following Findings:

1. The request is for a zoning map amendment (zone change) for an approximately 0.2-acre site legally described as all or a portion of Lot 07, Block 19, Eastern Addition, located at 1102 Edith Blvd SE, between Garfield Ave. SE, and Lewis Ave. SE, (the "subject site").

2. The subject site is zoned R-1A (Residential- Single-family Zone District). The applicant is requesting a zone change to R-ML (Residential Multi-family Low Density Zone District) to remedy a non-conforming use on the property..

3. The subject site is in an area that the Comprehensive Plan designated an Area of Consistency and is within the boundaries of the Central Albuquerque Community Planned Area (CPA).

4. The City of Albuquerque Integrated Development Ordinance (IDO) and the Comprehensive Plan are incorporated herein by reference and made part of the record for all purposes.

5. The request furthers the following, applicable Goal and policies regarding Community Identity Chapter 4: Land Use:

   A. <u>Goal 4.1- Character</u>: Enhance, protect, and preserve distinct communities

      The request would remedy a non-conforming use that would enhance the community by establishing conformity on the property, which would protect the existing use and preserve the structures that currently serve as a triplex.

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

The request would protect the identity and cohesiveness of the South Broadway Neighborhood by ensuring the appropriate scale and location of the existing development would be consistent with the City's IDO; a non-conforming use would be conforming and the character of the building would remain undisturbed.

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

The request would enhance the current property by bringing the existing non-conforming use into conformity. As a result, the request would protect, and preserve the neighborhood and the traditional community by keeping uses similar to what is existing in the South Broadway Neighborhood.

6. The request furthers the following Goals and policy, and in Chapter 5-Land Use:

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

The subject site is well-served by existing infrastructure and public facilities; the request would remedy a non-conforming use (triplex) that would promote efficient development patterns and use of land.

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

The subject site is located in an Area of Consistency, where the character and intensity of the surrounding area is intended to be reinforced. The request would remedy a non-conforming use that would bring the existing triplex into conformity, that would reinforce the character and intensity of the surrounding area remaining the same.

7. The request furthers the following Goals and policies regarding Housing in Chapter 9:

A. Policy 9.1.1- Housing Options: Support the development, improvement, and conservation of housing for a variety of income levels and types of residents and households.

The request would support the conservation of an existing triples that has been in operation for over 50 years. The request would remedy the non-conforming use of the triplex which would provide different housing types for residents within the South Broadway Neighborhood.

B. Policy 9.1.2- Affordability: Provide for mixed-income neighborhoods by encouraging high quality, affordable and mixed income housing options throughout the area.

The request would remedy a non-conforming triplex that would provide housing within the South Broadway community at a variety of income levels.

C. Goal 9.3- Density: Support increased housing density in appropriate places with adequate services and amenities.

The request would remedy a non-conforming triplex that would support housing density that would be appropriate in the area and also be within walking distance to a family activity center.

D. Policy 9.3.2- Other Areas: Increase housing density and housing options in other areas by locating near appropriate uses and services and maintaining the scale of surrounding development.

The request would remedy a non-conforming triplex that would retain its current housing option within the South Broadway Neighborhood, that would provide residents with amenities and services within the surrounding area.

8. The applicant has adequately justified the request pursuant to the Integrated Development Ordinance (IDO) Section 14-16-6-7(G)(3)-Review and Decision Criteria for Zoning Map Amendments, as follows:

A. Criterion A: Consistency with the City's health, safety, morals and general welfare is shown by demonstrating that a request furthers applicable Comprehensive Plan Goals and policies (and other plans if applicable) and does not significantly conflict with them. The applicant's policy-based response demonstrates that the request clearly facilitates a preponderance of applicable Goals and policies regarding community identity, land use, and housing. Therefore, the request is consistent with the City's health, safety, morals and general welfare.

B. Criterion B: The subject site is located in an Area of Consistency. A different zone district would be more advantageous to the community. The request would remedy a non-conforming use on the property and would provide efficient implementation of patterns of land use, development density and intensity, and connectivity within the area that would be similar in use and scale and would clearly reinforce or strengthen the surrounding area.

C. Criterion C: The subject site is located wholly in an Area of Consistency, so this criterion does not apply.

D. Criterion D: The applicant compared the existing R-1A zoning and the proposed RM-L zoning and discussed each use that would become permissive. Townhouses, multi-family, assisted living facility or nursing homes, and large community residential facilities are new uses that would become permissive in the RM-L zone. (see IDO table 4-2-1: Allowable Uses p. 146).

Furthermore, the IDO has Use-Specific standards to mitigate the impacts of uses that could be considered harmful. Many of the new permissive uses allowed would still not be allowed due to the size and lot requirements.

E. Criterion E: The subject site is an infill site that is adequately served by existing infrastructure (requirement 1).

F. Criterion F: The justification for the requested zone change is to remedy a non-conforming use (triplex) and is not completely based on the property's location on a major street.

G. Criterion G: Economic considerations are a factor, but the applicant's justification is not completely or predominantly based upon them. Rather, the applicant wants to remedy a non-conforming use and has adequately demonstrated that the request clearly facilitates a

preponderance of applicable Comprehensive Plan Goals and policies and does not conflict with them.

H. Criterion H: The request would result in a spot zone because it would apply a zone different from surrounding zone districts. R-1A zoning surrounds the subject site in all four directions. There is some MX-T zoning within the area south of the subject site. The applicant acknowledges that the request would create a spot zone, but explains that it would be a justified spot zone because it would remedy a non-conforming use because the nature of structure already on the premises makes it unsuitable for the uses allowed in the R-1A zone district. The request clearly facilitates implementation of the Comprehensive Plan as shown in the response to Criterion A.

9. The applicant's policy-based response adequately demonstrates that the request clearly facilitates a preponderance of applicable Goals and policies and does not present any significant conflicts with the Comprehensive Plan. Therefore, the request is consistent with the City's health, safety, morals, and general welfare.

10. The affected neighborhood organization is the South Broadway Neighborhood Association which was notified as required. Property owners within 100 feet of the subject site were also notified as required.

11. A pre-application meeting was held on February 16, 2023 via zoom. Neighborhood concerns about the request included non-conformity issues, permissive uses under the proposed zoning and history of other zone map amendments within the area.

12. As of this writing, Staff has received two letters; one letter was received from the South Broadway Neighborhood Association in favor of the request and another letter received from 3 neighborhood residents was in opposition.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **May 5, 2023**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-6-4(V) of the Integrated Development Ordinance (IDO), Administration and Enforcement. A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed. It is not possible to appeal an EPC Recommendation to the City Council since this is not a final decision.

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

Sincerely,

Catalina Lehner

for Alan M. Varela,
Planning Director

AV/CL/LD

cc: Kinley Raccoon LLC, jitka.dekojova@yahoo.com
South Broadway NA, Frances Armijo, fparmijo@gmail.com
South Broadway NA, Tiffany Broadous, tiffany.hb10@gmail.com
Diana Dorn-Jones, ddj5050@att.net
Legal, dking@cabq.gov
EPC File

Agenda Number: 8
Project #: PR-2023-008175
Case #: RZ-2023-00007
Hearing Date: April 20, 2023

Environmental Planning Commission

Staff Report

Agent	Jitka Dekojova
Applicant	Kinley Raccoon LLC
Request	**Zoning Map Amendment (zone change)**
Legal Description	all or a portion of Lot 07, Block 19, Eastern Addition
Location	located at 1102 Edith Blvd SE, between Garfield Ave. SE, and Lewis Ave. SE
Size	Approximately 0.2 acre
Existing Zoning	R-1A
Proposed Zoning	R-ML

Staff Recommendation

APPROVAL of RZ-2023-00007, based on the Findings beginning on Page 22.

Staff Planner
Leroy Duarte, Planner

Summary of Analysis

The request is for a zoning map amendment for an approximately 0.2-acre site located at 1102 Edith Blvd. SE. The applicant wants to change the subject site's zoning to R-ML to remedy a non-conforming use on the property. The subject site is in an Area of Consistency. It is not located along a designated corridor or in an Activity Center.

The applicant has adequately justified the request pursuant to the IDO zone change criteria in 14-16-6-7(G)(3). The proposed zoning would generally be more advantageous to the community overall because it furthers a preponderance of applicable Comprehensive Plan Goals and policies.

The affected neighborhood organization is the South Broadway Neighborhood Association, which was notified as required and submitted a letter. Property owners within 100 feet of the subject site were also notified as required. As of this writing, Staff received one letter of opposition.

Staff recommends approval.

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Review and decision criteria for Zone Map amendments……..p. 14

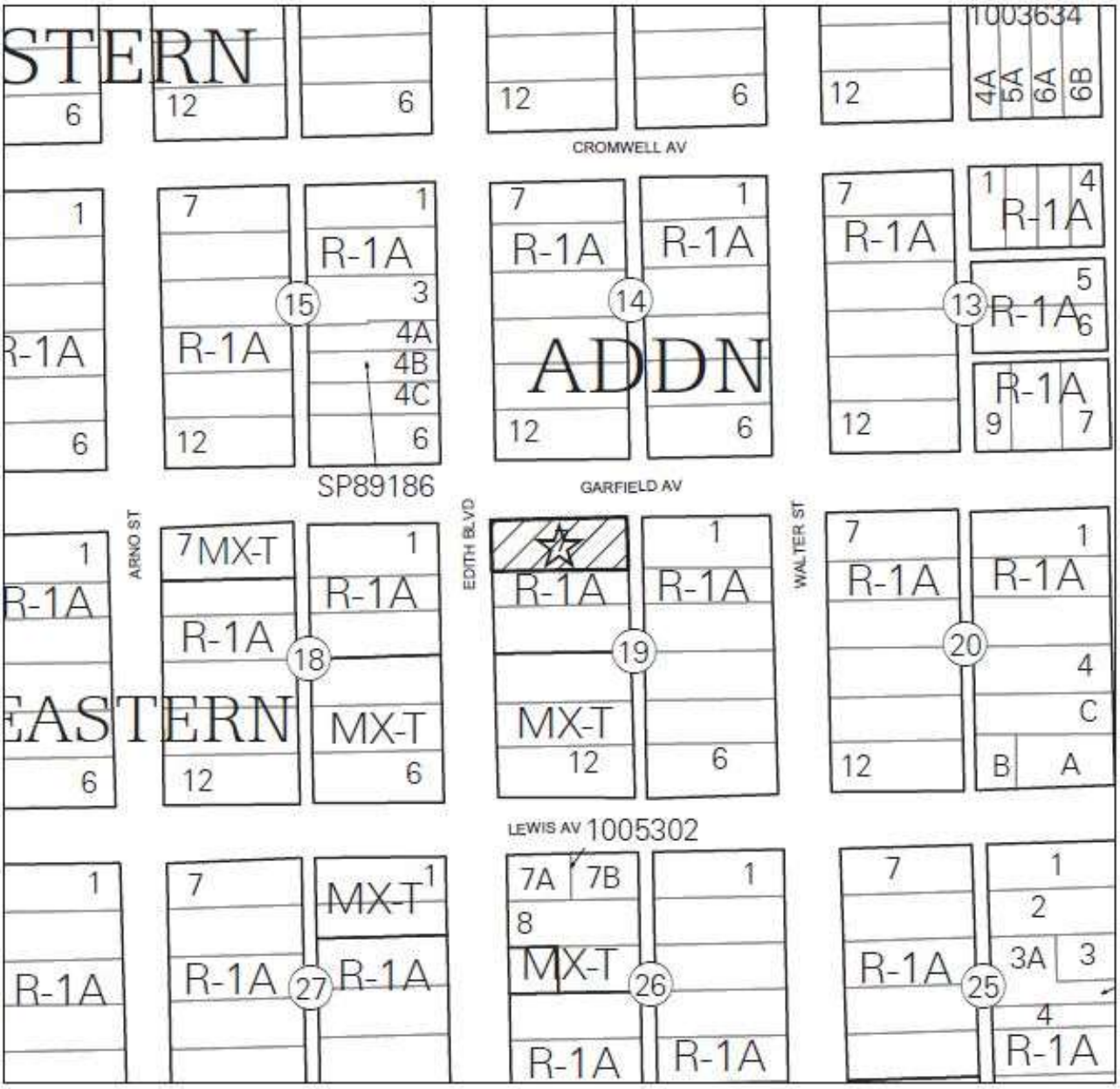
Agency and Neighborhood Concerns……..…..p. 20

Conclusion…….…....p. 21

Findings and Recommendation……..…....p. 22

Attachments
2-Photographs – Existing Conditions
3-Zoning
4-Applicant Information
5-Staff Information
6-Notification
7-Sign Posting

Hearing Date:
March 16, 2023
Project Number:
PR-2023-008175
Case Numbers:
RZ-2023-00007
0
125
250
Feet
N
CROMWELL AV
GARFIELD AV
LEWIS AV
BELL AV
ARNO ST
EDITH BLVD
WALTER ST
PR-2023-008175
3 EAST HALF
4 SOUTH HALF



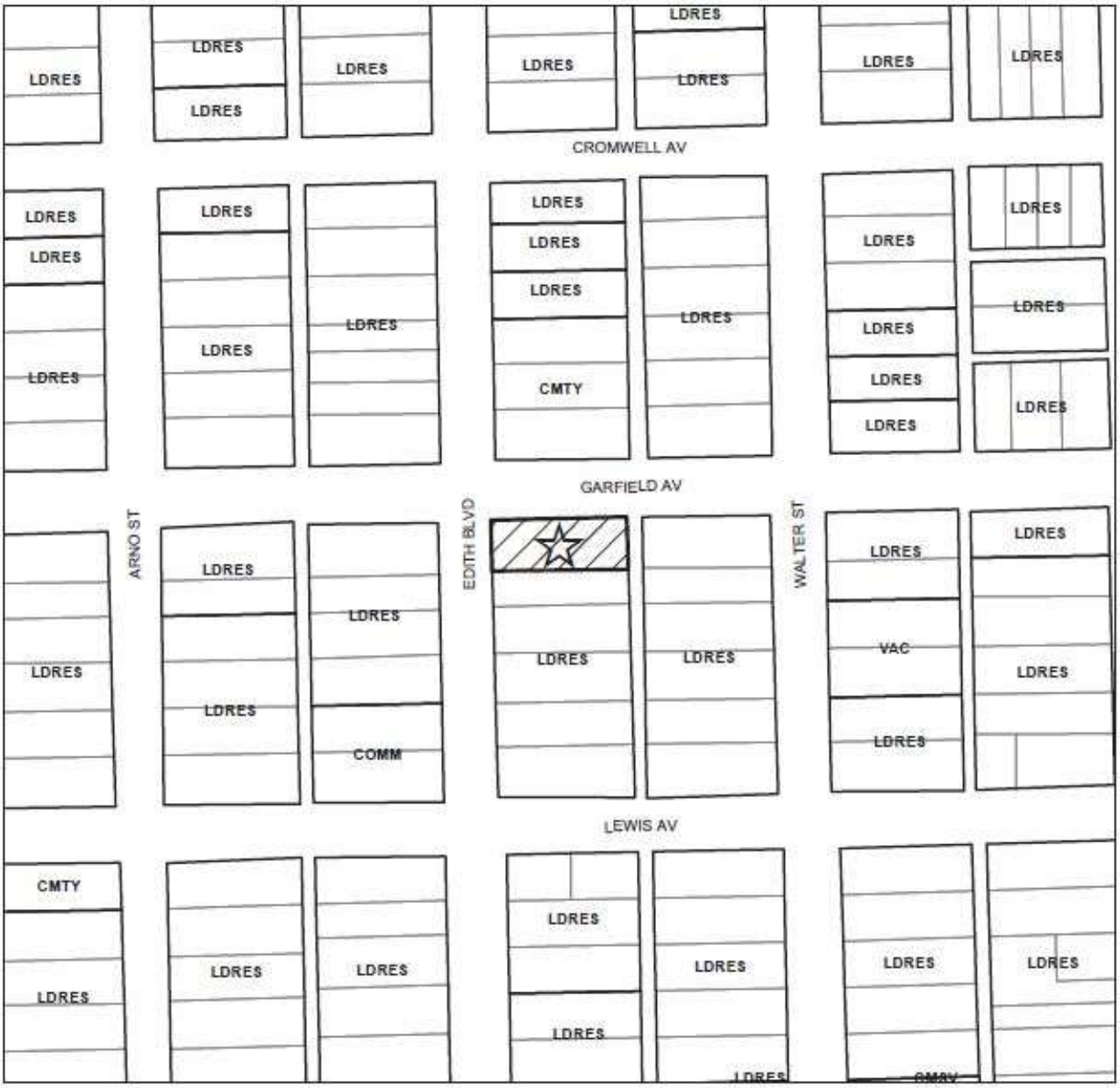
IDO ZONING MAP

Note: Gray shading indicates County.

1 inch = 150 feet

Hearing Date: 3/16/2023
Project Number: PR-2023-008175
Case Numbers: RZ-2023-00007

Zone Atlas Page: L-14



LAND USE MAP

Note: Gray shading indicates County.

Key to Land Use Abbreviations

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

1 inch = 150 feet

Hearing Date:
3/16/2023
Project Number:
PR-2023-008175
Case Numbers:
RZ-2023-00007

Zone Atlas Page:
L-14

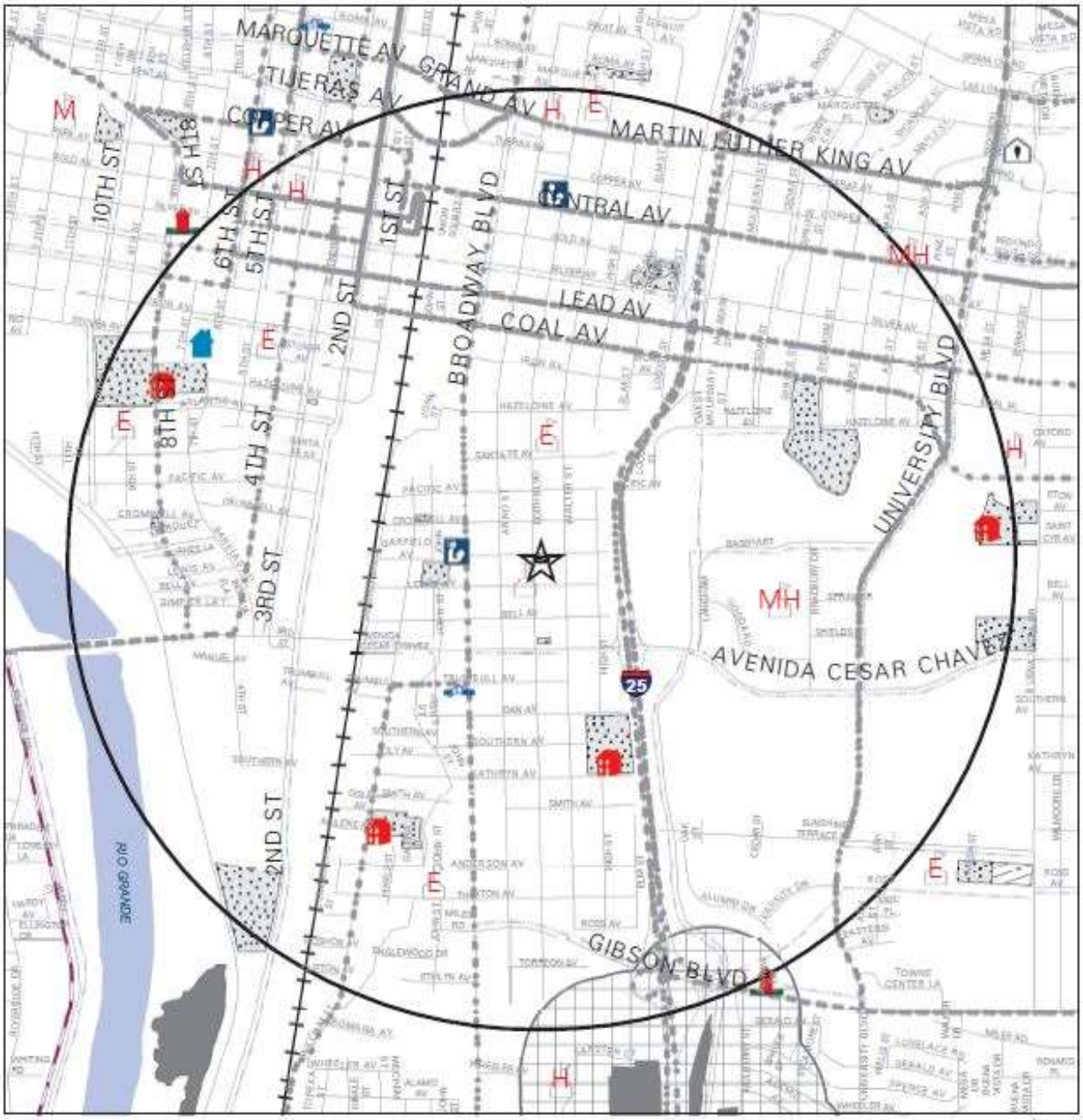
HISTORY MAP

Note: Gray shading indicates County.

1 inch = 150 feet

Hearing Date:
3/16/2023
Project Number:
PR-2023-008175
Case Numbers:
RZ-2023-00007

Zone Atlas Page:
L-14



Public Facilities Map with One-Mile Buffer

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

0 0.5 1 Miles

Project Number: PR-2023-008175

I. INTRODUCTION

Surrounding zoning, plan designations, and land uses:

	Zoning	*Comprehensive Plan Area*	*Land Use*
Site	R-1A	Area of Consistency	Dwelling, single-family
North	R-1A	Area of Consistency	Community, Non-profit Org.
South	R-1A	Area of Consistency	Dwelling, single-family
East	R-1A	Area of Consistency	Dwelling, single-family
West	R-1A	Area of Consistency	Dwelling, single-family

Request

The request is for a zoning map amendment (zone change) for an approximately 0.2-acre site legally described as all or a portion of Lot 07, Block 19, Eastern Addition, located at 1102 Edith Blvd. SE, between Garfield Ave. SE, and Lewis Ave. SE (the "subject site"). The subject site currently Contains a tri-plex, which has existed since about 1967.

The applicant is requesting a zone change to R-ML (Residential-Multi-family Low Density Zone District) to remedy a non-conforming use (triplex) on the property. The existing use is non-conforming because the subject site's R-1A zoning permissive uses only allow single-family dwellings.

EPC Role

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

Context

The subject site, located in the South Broadway Neighborhood, is bounded by Garfield Ave. SE to the north and Lewis Ave. SE to the south. Further north to the site lies a non-profit organization. To the south, east and west of the subject site lie small lot single-family residential homes with a community school located at the intersection of Lewis Ave. SE and Edith Blvd. SE.

History

The South Broadway area was developed at different times with the oldest settlement in San Jose around 1830 and was located along the Barelas ditch in the western and southern portions of the area. Later grid patterns of subdivision to the east and north of San Jose were laid out between 1880 and 1900 due to the establishment and growth of the railroad industry. San Jose Neighborhood is

comparable in age to Barelas- the neighboring community to the west, both Barelas and San Jose predate the railroad but were divided by the placement of the tracks. Around 1830, when settlement began, the construction of the Barelas ditch irrigated the southern portion of the area. Property lines in the older San Jose area were oriented to the ditch. Landowners divided the land into narrower strips ensuring each parcel had access to irrigation. This is what created the distinctive pattern of narrow lots perpendicular to the ditch that is typical of older Hispanic development throughout New Mexico.

As agricultural use of the land declined, the land was divided into smaller and smaller lots with little or no orientation to either streets or the ditch. The resulting pattern is one of very irregular lot sizes often with limited access. As a result, the density exceeded R-1 standards of one house per 6,000 sq. ft. lot. With the coming of the railroad, economic base shifted from toward a dependence on wage labor. Agricultural activity was no longer a community function.

South Broadway saw most of its growth between 1885 and 1925. Many of the subdivisions developed to the north and west, and then gradually filled the south and east through the 1920. The neighborhoods were primarily working-class residents employed by the railroad or iron foundry. Later growth of industrial and heavy commercial uses took place in the area after the decline of the railroad.

In 1986 the South Broadway Sector Development Plan (SBSDP) was adopted. The SBSDP area covered 1,008 acres and was bounded by Coal to the north, Woodward to the south, the railroad tracks to the west and Interstate-25 to the east.

The South Broadway Sector Development Plan was identified as a rank three plan and served as a guide for new development, redevelopment and conservation of the South Broadway Area. It was intended to promote an arrangement of land use, circulation services.

One of the goals for the South Broadway area was a conservation effort in order to improve and expand the housing available to low- and moderate-income families until all housing in the area meets City Housing code Standards. One of the key recommendations was zoning. In order to stabilize land use patterns zoning was issued more closely related to existing uses.

SU-2/ the special neighborhood zone was created. The SU-2 zone allowed a mixture of uses that combined to create appropriate land use categories in a given neighborhood, where conventional zone categories were inadequate to address special needs. SU-2 zoning was controlled by the description of land use categories in the sector development plan: MR- Mixed Residential Use, LCR- Limited Commercial Residential, NCR- Neighborhood Commercial Residential, HC- Heavy Commercial, HM-Heavy Manufacturing, SU-1- Special Use, and P-R- Reserve Parking. The South Broadway Sector Development was repealed upon the adoption of the IDO.

The property has been operating as a triplex since as early as 1967. The applicant was unable to obtain a zonal certification due to lack of records. The applicant had met with City staff and was recommended in order to remedy the non-conforming use on the property a zone change was needed.

Transportation System

The Long-Range Roadway System (LRRS) map, produced by the Mid-Region Metropolitan Region Planning Organization (MRMPO), identifies the functional classifications of roadways. Edith Blvd. SE is classified as a local street.

Comprehensive Plan Designations

The subject site is in an Area of Consistency as designated by the Comprehensive Plan and is within the boundaries of the Central ABQ Community Planning Assessment (CPA) area. The subject site is not located in an activity center or located along a corridor.

The Central Albuquerque CPA area is the location of the original Old Town settlement with surrounding agricultural lands, the New Town development during the railroad era (now known as Downtown), and the original residential subdivisions, many of which have been designated as historic neighborhoods.

With its varying architectural styles and building scale, depending on the historical era of each neighborhood ranging from historic adobe to Victorian architecture of the railroad era neighborhoods, small lots, proximity to the Rio Grande and mix of land uses are the characteristics of the Central Albuquerque CPA.

Trails/Bikeways

A proposed bicycle boulevard runs along Edith Blvd. SE, adjacent to the subject site. The proposed bike boulevard would share the street with vehicles and connect to existing bike lanes off of Pacific Ave. SE, Coal Ave. SE and Lead Ave. SE.

Transit

The subject has no transit service or bus stops.

Public Facilities/Community Services

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

II. ANALYSIS of APPLICABLE ORDINANCES, PLANS, AND POLICIES

Integrated Development Ordinance (IDO)

Definitions

Adjacent: Those properties that are abutting or separated only by a street, alley, trail, or utility easement, whether public or private. See also Alley, Multi-use Trail, Private Way, Right-of-way, and Street.

Low-density Residential Development: Properties with residential development of any allowable land use in the Household Living category in Table 4-2-1 other than multi-family dwellings. Properties with small community residential facilities are also considered low-density residential development. Properties that include other uses accessory to residential primary uses are still

considered low-density residential development for the purposes of this IDO. See also Dwelling Definitions for Dwelling, Cluster Development; Dwelling, Cottage Development; Dwelling, Live-work; Dwelling, Single-family Detached; Dwelling, Townhouse; and Dwelling, Two-family Detached (Duplex); Manufactured Home, and Other Uses Accessory to Residential Primary Uses.

Multi-family Residential Development: Residential development of multi-family dwellings or uses from the Group Living category (except small community residential facilities) in zone districts as allowed per Table 4-2-1. Properties that include both multi-family dwellings and low-density residential development are considered multi-family residential development for the purposes of this IDO. Properties with other uses accessory to residential primary uses allowed per Table 4-2-1 are still considered multi-family residential development for the purposes of this IDO. See also Other Uses Accessory to Residential Primary Uses.

Dwelling, Multi-family: A building, multiple buildings, or a portion of a building located on a single lot, containing 3 or more dwelling units, each of which is designed for or occupied by one family only, with separate housekeeping and cooking facilities for each, and that does not meet the definition of a townhouse dwelling. Within mixed-use development, a building containing 2 or more dwelling units is considered multi-family. See also Development Definitions for Multi-family.

Nonconforming Use: A use of a structure or land that does not conform to the IDO requirements for land uses in the zone district where it is located, but that was an approved use at the time the use began.

Nonconformity: A structure, use, lot, sign, or site feature that does not conform to applicable zoning but that did conform to applicable zoning in effect at the time it was built or developed.

Zoning

The subject site is zoned R-1A (Residential- Single-family Zone District), which was assigned upon adoption of the IDO. The purpose of the R-1 zone district is to provide for neighborhoods of single-family homes with a variety of lot sizes and dimensions. When applied in developed areas, an additional purpose is to require that redevelopment reinforce the established character of the existing neighborhood. Primary land uses include single-family detached homes on individual lots, with limited civic and institutional uses to serve the surrounding residential area. Allowable uses are shown in Table 4-2-1.

The request is to change the subject site's zoning to R-ML (Residential- Multi-family Low Density Zone District, IDO 14-16-2-4(D). The purpose of the R-ML zone district is to provide for a variety of low- to medium-density housing options. The primary land uses are townhouses and small-scale multi-family development, as well as civic and institutional uses to serve the surrounding residential area. Allowable uses are shown in Table 4-2-1.

In general, low density multi-family housing would become a permissive use in the R-ML zone, which would remedy the non-conforming use. R-1A zoning does not allow multi-family housing.

For a discussion of specific uses that would become permissive if the request is approved, please refer to the discussion of zone change criterion 14-16-6-7(G)(3)(d) in this report.

ALBUQUERQUE / BERNALILLO COUNTY COMPREHENSIVE PLAN

The subject site is located in an area that the 2017 Albuquerque/Bernalillo County Comprehensive Plan has designated an Area of Consistency. Applicable Goals and policies are listed below. Staff analysis follows in ***italics.***

Chapter 4: Community Identity

Goal 4.1- Character: Enhance, protect, and preserve distinct communities

The request would remedy a non-conforming use that would enhance the community by establishing conformity on the property, which would protect the existing use and preserve the structures that currently serve as a triplex. The request clearly facilitates Goal 4.1- Character.

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

The request would protect the identity and cohesiveness of the South Broadway Neighborhood by ensuring the appropriate scale and location of the existing development would be consistent with the City's IDO; a non-conforming use would be conforming and the character of the building would remain undisturbed. The request clearly facilitates Goal 4.1.2- Identity and Design.

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

The request would enhance the current property by bringing the existing non-conforming use into conformity. As a result, the request would protect, and preserve the neighborhood and the traditional community by keeping uses similar to what is existing in the South Broadway Neighborhood. The request clearly facilitates Goal 4.1.4- Neighborhoods.

Chapter 5: Land Use

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

The request would remedy a non-conforming use. The request would bring the existing triplex into conformity and would foster a place where residents can remain living in. Adjacent to the subject lies a family activity center where residents can learn and play together. The request partially facilitates Goal 5.2-Complete Communities.

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

The request would contribute to creating a healthy and sustainable community because it would remedy a non-conformity in an area characterized primarily by mixed-residential uses similar to the request. The request partially facilitates Policy 5.2.1-Land Uses.

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

The subject site is well-served by existing infrastructure and public facilities; the request would remedy a non-conforming use (triplex) that would promote efficient development patterns and use of land. The request clearly facilitates Goal 5.3-Efficient Development Patterns.

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

The subject site is located in an Area of Consistency, where the character and intensity of the surrounding area is intended to be reinforced. The request would remedy a non-conforming use that would bring the existing triplex into conformity, that would reinforce the character and intensity of the surrounding area remaining the same. The request clearly facilitates Goal 5.6-City Development Areas.

Chapter 8: Economic Development

Policy 8.1.1- Diverse Places: Foster a range of interesting places and contexts with different development intensities, densities, uses, and building scale to encourage economic development opportunities.

The request would remedy a non-conforming use that would foster a triplex that would be different in scale, and housing density housing, thereby supporting a range of interesting places and contexts. The request partially facilitates Policy 8.1.1- Diverse Places.

Chapter 9: Housing

Goal 9.1- Supply: Ensure a sufficient supply and range of high-quality housing types that meet current and future needs at a variety of price levels to ensure more balanced housing options.

The request would remedy a non-conforming use (triplex) that would help meet the current and future housing needs the City is currently facing. The request partially facilitates Goal 9.1 - Supply.

Policy 9.1.1- Housing Options: Support the development, improvement, and conservation of housing for a variety of income levels and types of residents and households.

The request would support the conservation of an existing triples that has been in operation for over 50 years. The request would remedy the non-conforming use of the triplex which would provide different housing types for residents within the South Broadway Neighborhood. The request clearly facilitates Policy 9.1.1-Housing Options.

Policy 9.1.2- Affordability: Provide for mixed-income neighborhoods by encouraging high quality, affordable and mixed income housing options throughout the area.

The request would remedy a non-conforming triplex that would provide housing within the South Broadway community at a variety of income levels. The request clearly facilitates Policy 9.1.2- Affordability.

Goal 9.3- Density: Support increased housing density in appropriate places with adequate services and amenities.

The request would remedy a non-conforming triplex that would support housing density that would be appropriate in the area and also be within walking distance to a family activity center. The request clearly facilitates Policy 9.3-Density.

Policy 9.3.2- Other Areas: Increase housing density and housing options in other areas by locating near appropriate uses and services and maintaining the scale of surrounding development.

The request would remedy a non-conforming triplex that would retain its current housing option within the South Broadway Neighborhood, that would provide residents with amenities and services within the surrounding area. The request clearly facilitates Policy 9.3.2-Other Areas.

Integrated Development Ordinance (IDO) 14-16-6-7(G)(3)-Review and Decision Criteria for Zone Map Amendments

Requirements
The review and decision criteria outline policies and requirements for deciding zone change applications. The applicant must provide sound justification for the proposed change and demonstrate that several tests have been met. The burden is on the applicant to show why a change should be made.

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

Justification & Analysis
The zone change justification letter analyzed here, received on March 31, 2023, is a response to Staff's request for a revised justification (see attachment). The subject site is currently zoned R-1A (Residential-Single-family Zone District). The requested zoning is R-ML (Residential- Multi-family Low Density Zone District). The reason for the request is to remedy a non-conforming use on the property.

The applicant believes that the proposed zoning map amendment (zone change) meets the zone change decision criteria in IDO §14-16-6-7(G)(3) as elaborated in the justification letter. The citation is from the IDO. The applicant's arguments are in *italics*. Staff analysis follows in plain text.

A. A proposed zone change must be found to be consistent with the health, safety, and general welfare of the City as shown by furthering (and not being in conflict with) a preponderance of applicable Goals and Policies in the ABC Comp Plan, as amended, and other applicable plans adopted by the City.

Applicant: The proposed zone change is consistent with the health, safety, and general welfare of the City as shown by furthering (and not conflicting with) a preponderance of applicable Goals and Policies in the ABC Comprehensive Plan, and other applicable plans adopted by the City. Please refer to the in-depth analysis of the applicable Goals and Policies.

Staff: Consistency with the City's health, safety, morals and general welfare is shown by demonstrating that a request furthers applicable Comprehensive Plan Goals and policies (and other plans if applicable) and does not significantly conflict with them.

Applicable citations: Goal 4.1-Character; Policy 4.1.2-Identity and Design; Policy 4.1.4-Neighborhoods; Goal 5.3-Efficient Development Patterns; Goal 5.6-City Development Areas; Policy 9.1.1-Housing Options; Policy 9.1.2-Affordability; and Goal 9.3-Density

The applicant's policy-based response adequately demonstrates that the request clearly facilitates a preponderance of applicable Goals and policies regarding Community Identity, Land Use, and Housing and does not present any significant conflicts with the Comprehensive Plan. Therefore, the request is consistent with the City's health, safety, morals and general welfare. The response to Criterion A is sufficient.

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

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

Applicant: The subject property is located within an Area of Consistency. and the proposed zone clearly reinforces the established character (keeping existing use on site) and would not permit development that is significantly different from the area's character.

The Applicant choses the following criteria: A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

A different zone district is more advantageous to the community as it would align the zoning with a long existing site use (directly supporting the Comprehensive Plan Policy 5.6.3) in a

manner that is consistent with existing patterns of land uses within the area. The request would allow provisions for affordable housing options within the established character of the area on a parcel that is directly adjacent and within ¼ of a mile of the Broadway Main Street Corridor. The site is located within an Area of Consistency where the Comp Plan promotes development that is complementary to the established scale and character of distinctive neighborhoods while accommodating new residents and jobs in areas already well served by infrastructure and transit. As described in 6-7(G)(3)(a) above the existing triplex is consistent with the historic neighborhood patterns and uses of the neighborhood. The building itself, which confirms with the underlying dimensional standards of the existing and proposed zoning district, will not be altered and is consistent with established historic development and architectural patterns of the area. From the outside, the building is not discernable as a triplex. If granted, this use would further Comprehensive Plan to provide a variety of housing options within the City, which is even more critical given our current housing crisis. This request also supports the Center and Corridor growth management vision to "grow as a community of strong Centers connected by a multi-modal network of Corridors" by allowing the continuance of affordable housing directly adjacent to the Broadway Main Street Corridor. The allowance for housing near this Corridor also furthers the goals for the creation of complete communities in which residents can live in locations where they can conveniently access goods and services by variable modes of transport.

Furthermore, the requested zone change is more advantageous to the community because it allows property to operate as it has been for over 50 years with no changes. If zone change is denied, the applicant will be forced to either sell the property to a cash buyer or terminate the tenants' leases in order to bring the property into compliance and refinance the mortgage which matures in spring 2023. In this case the tenants will likely have difficulty finding comparable rental properties at an affordable price within the same area.

Staff: The subject site is located in an Area of Consistency. A different zone district would be more advantageous to the community. The request would remedy a non-conforming use on the property and would provide efficient implementation of patterns of land use, development density and intensity, and connectivity within the area that would be similar in use and scale and would clearly reinforce or strengthen the surrounding area. The response to Criterion B is sufficient.

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

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

plan(s).

Applicant: The subject site is located in an Area of Consistency, so this criterion does not apply.

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

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

Applicant: The requested R-ML zone does not allow permissive uses that would be considered harmful to the adjacent property, neighborhood, or community. Table 1 (IDO Table 4-2-1) shows comparison of allowable uses between the existing R-1A and the proposed R-ML zones. The proposed R-ML zone provides an appropriate zone and facilitates several goals of the Comprehensive Plan. Additionally, the size of the lot restricts many uses that may be allowed in the R-ML zone that could otherwise be considered harmful – such as nursing home or a large residential facility.

IDO Zoning Comparison (IDO table 4-2-1)		
Allowable Use	**R-1A**	**R-ML**
Dwelling, single-family detached	P	P
Dwelling, mobile home		
Dwelling, cluster development	P	P
Dwelling, cottage development	P	P
Dwelling, two-family detached (duplex)	P	P
Dwelling, townhouse		P
Dwelling, live-work		C
Dwelling, multi-family		P
Assisted living facility or nursing home		P
Community residential facility, small	P	P
Community residential facility, large		P
Dormitory		
Group home, small		C
Group home, medium		C
Group home, large		

Table 1. IDO zoning comparison. P = Permissive Primary, C = Conditional Primary, blank cell = Not Allowed.

Live/work and small to medium group homes are the only uses that are allowed conditionally in

the RM-L zone district, but not allowed in the R-1A zone. Conditional uses require a Conditional

Use Permit through a public hearing in front of the Zoning Hearing Examiner to be allowed on a subject site. Similar to this zone map amendment request, the applicant must provide justification that these uses will not be injurious to the surrounding area and the impacted neighborhood and property owners are provided an opportunity to provide input. These uses would therefore be adequately vetted to ensure they are not harmful to the area.

Townhouses, multi-family, assisted living facility or nursing homes, and large community residential facilities are the only new uses that would be permissively allowed in the RM-L zone that would not be allowed within the existing R1-A zone. The subject site is only 0.1286 acres which significantly limits the viability of these uses. Particularly for a standard multi-family dwelling or assisted living facility, the site is not feasibly large enough to accommodate both the uses and their associated required off-street parking. The proposed RM-L zone districts requires a minimum lot size of 2,200 sq.ft. for townhouses which limits this use to two dwellings. This would generate units that are within the established development character with the established housing of the area. Community residential facilities are already allowed within the R1-A zone, this use would simply allow more residents and the IDO's use standards require the dwelling to be consistent with the standards of the underlying district which is still consistent with established patterns and therefore not harmful.

While R-ML allows for a taller building height (38 feet) than the existing R-1A (26 feet), the Applicant chose to apply for an R-ML zone change as opposed to the previously considered MX-T zone change. MX-T was initially considered because it only allows for 30-foot buildings. However, the neighbors in attendance at a neighborhood meeting on February 16, 2023 were more concerned about permissive uses than about building height which contributed to the decision to apply instead for R-ML which has more restrictive permissive uses.

Staff: The applicant compared the existing R-1A zoning and the proposed RM-L zoning and discussed each use that would become permissive. Townhouses, multi-family, assisted living facility or nursing homes, and large community residential facilities are new uses that would become permissive in the RM-L zone. (see IDO table 4-2-1: Allowable Uses p. 146).

Furthermore, the IDO has Use-Specific standards to mitigate the impacts of uses that could be considered harmful. Many of the new permissive uses allowed would still not be allowed due to the size and lot requirements. The response to Criterion D is sufficient.

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

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

Applicant: The City's existing infrastructure and public improvements have adequate capacity for the development made possible by the proposed zone amendment, so this request meets requirement Criteria 1. The site is already developed with three dwelling units that are proposed to remain and are served adequately by current infrastructure. These units are served by the existing roadway network sidewalks and nearby transit, water/sewer services, and storm drainage systems. No additional improvements are necessary and the zone amendment will not require major expenditures by the City to provide additional servicer and/or infrastructure.

Staff: The subject site is an infill site that is adequately served by existing infrastructure (requirement 1). The response to Criterion E is sufficient.

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

Applicant: The property is located on Edith Blvd SE, which is a local road; therefore, the Applicant's justification for the requested zone change is not completely based on the property's location on a major street. As previously stated, the primary purpose of this request is to bring the long-established use into compliance with the IDO.

Staff: The justification for the requested zone change is to remedy a non-conforming use (triplex) and is not completely based on the property's location on a major street. The response to Criterion F is sufficient.

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

Applicant: The Applicant's justification is not based completely or predominantly on the cost of land or economic considerations, since the cost of land or other economic considerations are not the determining factor for this zone change request. Instead, the requested zone amendment furthers numerous policies and goals of the ABC Comp Plan and will allow for the existing uses to become conforming in a manner that is consistent with the surrounding context and mixed density neighborhood. The request also addresses the imbalance of housing in Greater Downtown.

Staff: Economic considerations are a factor, but the applicant's justification is not completely or predominantly based upon them. Rather, the applicant wants to remedy a non-conforming use and has adequately demonstrated that the request clearly facilitates a preponderance of applicable Comprehensive Plan Goals and policies and does not conflict with them. The response to Criterion G is sufficient.

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

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

Applicant: The Applicant is aware that the requested zone amendment creates a "spot zone" since the surroundings zones in the area are R-1A, MX-T, and MX-L. Following requested meeting with the South Broadway Neighborhood Association on February 16, 2023 where concerns were raised about potential harmful uses allowed within existing MX-T properties in the neighborhood, the Applicant opted for RM-L zone.

While the area of the zone change for the subject site is different from surrounding land because it can function as a transition between adjacent zone districts MX-T and R1-A, the Applicant chooses following criteria:

Criteria 3: The nature of the structure already on the premises makes it unsuitable for the uses

of the existing R-1A zone district. The existing building on the site includes three units and the R ML district is the first zone district that permissively accommodates a triplex dwelling. The request will prevent the termination of existing leases for tenants living on the premises and allow for legal investment in the property, which provides "hidden" density and expanded affordable Missing Middle housing options as compared to alternative large-scale multi-family developments.

This zone amendment clearly facilitates the implementation of the Comprehensive Plan as shown above. It provides opportunities for individuals to live in a location that provides options for transportation, work areas, and lifestyles.

Staff: The request would result in a spot zone because it would apply a zone different from surrounding zone districts. R-1A zoning surrounds the subject site in all four directions. There is some MX-T zoning within the area south of the subject site. The applicant acknowledges that the request would create a spot zone, but explains that it would be a justified spot zone because it would remedy a non-conforming use because the nature of structure already on the premises makes it unsuitable for the uses allowed in the R-1A zone district. The request clearly facilitates implementation of the Comprehensive Plan as shown in the response to Criterion A. The response to Criterion H is sufficient.

III. AGENCY & NEIGHBORHOOD CONCERNS

Reviewing Agencies

City departments and other agencies reviewed this application. Few agency comments were received. Agency comments begin on p.26.

Neighborhood/Public

The affected neighborhood organization is the South Broadway Neighborhood Association which was notified as required. Property owners within 100 feet of the subject site were also notified as required. (see attachments).

A pre-application neighborhood meeting was held on February 16, 2023 via zoom with the Albuquerque South Broadway Neighbrohood Association and neigbors (see attachment). Neighbrohood concerns about the request included non-conformity issues, permissive uses under the proposed zoning and history of other zone map amendments within the area. The applicants answered the questions to the best of their abilities and acknowledged the concerns of the neighbors.

Staff has received two letters; one letter was received from the South Broadway Neighborhood Association in favor of the request and another letter received from 3 neighborhood residents was in opposition. (see attachment).

IV. CONCLUSION

The request is for a zoning map amendment (zone change) for an approximately 0.2-acre site legally described as all or a portion of Lot 07, Block 19, Eastern Addition, located at 1102 Edith Blvd SE, between Garfield Ave. SE, and Lewis Ave. SE, (the "subject site").

The applicant is requesting a zone change to R-ML (Residential-Multi-family Low Density Zone District) to remedy a non-conforming use (triplex) on the property.

The applicant has adequately justified the request based upon the proposed zoning being more advantageous to the community than the current zoning because it would clearly facilitate a preponderance of applicable Goals and policies.

The affected neighborhood organization is the South Broadway Neighborhood Association which was notified as required. Property owners within 100 feet of the subject site were also notified as required. A pre-application meeting was held was requested. Neighbors voiced their concerns regarding potential harmful uses and possible outcome if request was granted. The applicant decided to propose a different zone request and provided staff with a letter. The applicant wished to change their zoning request from MX-T-to-R-ML in order to limit the amount of permissive uses allowed on the property.

As of this writing, Staff has received two letters; one letter was received from the South Broadway Neighborhood Association in favor of the request and another letter received from 3 neighborhood residents was in opposition.

Staff recommends approval.

FINDINGS - RZ-2023-00007, April 20, 2023- Zoning Map Amendment (Zone Change)

1. The request is for a zoning map amendment (zone change) for an approximately 0.2-acre site legally described as all or a portion of Lot 07, Block 19, Eastern Addition, located at 1102 Edith Blvd SE, between Garfield Ave. SE, and Lewis Ave. SE, (the "subject site").

2. The subject site is zoned R-1A (Residential- Single-family Zone District). The applicant is requesting a zone change to R-ML (Residential Multi-family Low Density Zone District) to remedy a non-conforming use on the property..

3. The subject site is in an area that the Comprehensive Plan designated an Area of Consistency and is within the boundaries of the Central Albuquerque Community Planned Area (CPA).

4. The City of Albuquerque Integrated Development Ordinance (IDO) and the Comprehensive Plan are incorporated herein by reference and made part of the record for all purposes.

5. The request furthers the following, applicable Goal and policies regarding Community Identity Chapter 4: Land Use:

   A. <u>Goal 4.1- Character</u>: Enhance, protect, and preserve distinct communities

      The request would remedy a non-conforming use that would enhance the community by establishing conformity on the property, which would protect the existing use and preserve the structures that currently serve as a triplex.

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

      The request would protect the identity and cohesiveness of the South Broadway Neighborhood by ensuring the appropriate scale and location of the existing development would be consistent with the City's IDO; a non-conforming use would be conforming and the character of the building would remain undisturbed.

   C. <u>Policy 4.1.4- Neighborhoods</u>: Enhance, protect, and preserve neighborhoods and traditional communities as key to our long-term health and vitality.

      The request would enhance the current property by bringing the existing non-conforming use into conformity. As a result, the request would protect, and preserve the neighborhood and the traditional community by keeping uses similar to what is existing in the South Broadway Neighborhood.

6. The request furthers the following Goals and policy, and in Chapter 5-Land Use:

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

The subject site is well-served by existing infrastructure and public facilities; the request would remedy a non-conforming use (triplex) that would promote efficient development patterns and use of land.

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

The subject site is located in an Area of Consistency, where the character and intensity of the surrounding area is intended to be reinforced. The request would remedy a non-conforming use that would bring the existing triplex into conformity, that would reinforce the character and intensity of the surrounding area remaining the same.

7. The request furthers the following Goals and policies regarding Housing in Chapter 9:

A. Policy 9.1.1- Housing Options: Support the development, improvement, and conservation of housing for a variety of income levels and types of residents and households.

The request would support the conservation of an existing triples that has been in operation for over 50 years. The request would remedy the non-conforming use of the triplex which would provide different housing types for residents within the South Broadway Neighborhood.

B. Policy 9.1.2- Affordability: Provide for mixed-income neighborhoods by encouraging high quality, affordable and mixed income housing options throughout the area.

The request would remedy a non-conforming triplex that would provide housing within the South Broadway community at a variety of income levels.

C. Goal 9.3- Density: Support increased housing density in appropriate places with adequate services and amenities.

The request would remedy a non-conforming triplex that would support housing density that would be appropriate in the area and also be within walking distance to a family activity center.

D. Policy 9.3.2- Other Areas: Increase housing density and housing options in other areas by locating near appropriate uses and services and maintaining the scale of surrounding development.

The request would remedy a non-conforming triplex that would retain its current housing option within the South Broadway Neighborhood, that would provide residents with amenities and services within the surrounding area.

8. The applicant has adequately justified the request pursuant to the Integrated Development Ordinance (IDO) Section 14-16-6-7(G)(3)-Review and Decision Criteria for Zoning Map Amendments, as follows:

A. Criterion A: Consistency with the City's health, safety, morals and general welfare is shown by demonstrating that a request furthers applicable Comprehensive Plan Goals and policies (and other plans if applicable) and does not significantly conflict with them. The applicant's policy-based response demonstrates that the request clearly facilitates a preponderance of

applicable Goals and policies regarding community identity, land use, and housing. Therefore, the request is consistent with the City's health, safety, morals and general welfare.

B. Criterion B: The subject site is located in an Area of Consistency. A different zone district would be more advantageous to the community. The request would remedy a non-conforming use on the property and would provide efficient implementation of patterns of land use, development density and intensity, and connectivity within the area that would be similar in use and scale and would clearly reinforce or strengthen the surrounding area.

C. Criterion C: The subject site is located wholly in an Area of Consistency, so this criterion does not apply.

D. Criterion D: The applicant compared the existing R-1A zoning and the proposed RM-L zoning and discussed each use that would become permissive. Townhouses, multi-family, assisted living facility or nursing homes, and large community residential facilities are new uses that would become permissive in the RM-L zone. (see IDO table 4-2-1: Allowable Uses p. 146).

Furthermore, the IDO has Use-Specific standards to mitigate the impacts of uses that could be considered harmful. Many of the new permissive uses allowed would still not be allowed due to the size and lot requirements

E. Criterion E: The subject site is an infill site that is adequately served by existing infrastructure (requirement 1).

F. Criterion F: The justification for the requested zone change is to remedy a non-conforming use (triplex) and is not completely based on the property's location on a major street.

G. Criterion G: Economic considerations are a factor, but the applicant's justification is not completely or predominantly based upon them. Rather, the applicant wants to remedy a non-conforming use and has adequately demonstrated that the request clearly facilitates a preponderance of applicable Comprehensive Plan Goals and policies and does not conflict with them.

H. Criterion H: The request would result in a spot zone because it would apply a zone different from surrounding zone districts. R-1A zoning surrounds the subject site in all four directions. There is some MX-T zoning within the area south of the subject site. The applicant acknowledges that the request would create a spot zone, but explains that it would be a justified spot zone because it would remedy a non-conforming use because the nature of structure already on the premises makes it unsuitable for the uses allowed in the R-1A zone district. The request clearly facilitates implementation of the Comprehensive Plan as shown in the response to Criterion A.

9. The applicant's policy-based response adequately demonstrates that the request clearly facilitates a preponderance of applicable Goals and policies and does not present any significant conflicts with the Comprehensive Plan. Therefore, the request is consistent with the City's health, safety, morals, and general welfare.

10. The affected neighborhood organization is the South Broadway Neighborhood Association which was notified as required. Property owners within 100 feet of the subject site were also notified as required.

11. A pre-application meeting was held on February 16, 2023 via zoom. Neighborhood concerns about the request included non-conformity issues, permissive uses under the proposed zoning and history of other zone map amendments within the area.

12. As of this writing, Staff has received two letters; one letter was received from the South Broadway Neighborhood Association in favor of the request and another letter received from 3 neighborhood residents was in opposition.

RECOMMENDATION - RZ-2022-00007, April 20, 2023

APPROVAL of Project #: 2023-008175, Case#: RZ-2023-00007, a zone change from R-1A to R-ML, for Lot 07, Block 19, Eastern Addition, located at 1102 Edith Blvd SE, between Garfield Ave. SE, and Lewis Ave. SE., an approximately 0.2-acre site, based on the preceding Findings.

Leroy Duarte
Current Planner

Notice of Decision cc list:

Kinley Raccoon LLC, Jitka.dekojova@yahoo.com
Kinley Raccoon LLC, Chelsea.gulling@gmail.com
South Broadway NA, Frances Armijo, fparmijo@gmail.com
South Broadway NA, Tiffany Broadous, tiffany.hb10@gmail.com
Legal, dking@cabq.gov
EPC file

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Zoning Enforcement

Long Range Planning

CITY ENGINEER

Transportation Development

PR- 2023-008175, RZ-2023-00007

Zoning Map Amendment

The Transportation has no objection to the Zoning Map Amendment for this item

Hydrology Development

New Mexico Department of Transportation (NMDOT)

DEPARTMENT of MUNICIPAL DEVELOPMENT

Transportation Planning

Traffic Engineering Operations (Department of Municipal Development)

Street Maintenance (Department of Municipal Development)

No Comments.

RECOMMENDED CONDITIONS FROM THE CITY ENGINEER:

WATER UTILITY AUTHORITY

RZ-2023-00007– Zoning Map Amendment (Zone Change)

1. No adverse comment.

2. For informational purposes only:

2a. This site is currently receiving water and sewer service from ABCWUA.

2b. For any future buildout that increases water usage please make a request for availability.

2c. Request for availability link: https://www.abcwua.org/info-for-builders-availability-statements/

Utility Services

ENVIRONMENTAL HEALTH DEPARTMENT

Air Quality Division

Environmental Services Division

PARKS AND RECREATION

Planning and Design

Open Space Division

City Forester

POLICE DEPARTMENT/Planning

SOLID WASTE MANAGEMENT DEPARTMENT

Project # PR-2023-008175 RZ-2023-00007– Zoning Map Amendment (Zone Change) -No comments at this time.

FIRE DEPARTMENT/Planning

TRANSIT DEPARTMENT

No comments.

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY

ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY (AMAFCA)

No adverse comments.

ALBUQUERQUE PUBLIC SCHOOLS

1. Project #2023-008175
   a. EPC Description: RZ-2023-00007, Zoning Map Amendment (Zone Change).
   b. Site Information: Eastern Addition, Tract 007, Block 019.
   c. Site Location: Located at 1102 Edith Blvd. SE, between Garfield Ave. SE and Lewis Ave. SE.
   d. Request Description: The applicant is requesting approval of a Zoning Map Amendment to change the zoning from R-1A to MX-T (Mixed-Use Transition) to allow for the existing triplex use to conform with the current IDO.
   e. APS Comments: Existing residential development at this location impacts Eugene Field Elementary School, Washington Middle School, and Albuquerque High School.
      a. Residential Units: 3
      b. Est. Elementary School Students: 1

c. Est. Middle School Students: 1
d. Est. High School Students: 1
e. Est. Total # of Students from Project: 3

*The estimated number of students from the proposed project is based on an average student

School Capacity

School	2022-2023 (40th Day) Enrollment	Facility Capacity	Space Available
Eugene Field Elementary School	137	350	213
Washington Middle School	275	650	375
Albuquerque High School	1,727	1,950	223

To address overcrowding at schools, APS will explore various alternatives. A combination or all of the following options may be utilized to relieve overcrowded schools.

- Provide new capacity (long term solution)
  - Construct new schools or additions
  - Add portables
  - Use of non-classroom spaces for temporary classrooms
  - Lease facilities
  - Use other public facilities
- Improve facility efficiency (short term solution)
  - Schedule Changes
    - Double sessions
    - Multi-track year-round
  - Other
    - Float teachers (flex schedule)
- Shift students to Schools with Capacity (short term solution)
  - Boundary Adjustments / Busing
  - Grade reconfiguration
- Combination of above strategies

All planned additions to existing educational facilities are contingent upon taxpayer approval.

MID-REGION METROPOLITAN PLANNING ORGANIZATION (MRMPO)

MRMPO has no adverse comment.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

PUBLIC SERVICE COMPANY OF NEW MEXICO

Figure 1: Sign posting looking from Edith Blvd.

Figure 2: Sign posting looking from Garfield Av.

Figure 3: Looking east to subject site.

Figure 4: Looking south to subject site.

Figure 7: Looking west from within subject site.

HISTORY

CITY OF ALBUQUERQUE

CODE ENFORCEMENT
Plaza Del Sol Building, Suite 500
600 2nd Street NW
Albuquerque, NM 87102
Tel: (505) 924-3850 Fax: (505) 924-3847

Date: April 11, 2022

VIA Email, jitka.dekojova@yahoo.com
Jitka Dekojova
710 Roma Ave NW
Albuquerque, NM 87102

RE: 1102 Edith Blvd. SE – the "property".
UPC: 101405642351014613

To Whom It May Concern:

This letter will certify that according to the map on file in this office on April 11, 2022, the referenced property, legally described as: * 007 019EASTERN ADD Albuquerque, Bernalillo County, New Mexico, is Zoned: RESIDENTIAL – SINGLE-FAMILY ZONE DISTRICT (R-1)

The current use of the property is Dwelling, Multi-family, which is not a permissive use in the R-1 Zone.

This property has been inspected and it was found not to be in compliance with the applicable provisions of the Integrated Development Ordinance. This site is not controlled by an approved site development plan, and there are no special exceptions associated with this site. The overlays associated with this site are, South Broadway Area, Railroad and Spur Area.

If you have any questions regarding this matter please contact me at (505) 924-3301 or by email at ametzgar@cabq.gov.

Sincerely:

Angelo Metzgar,
Code Compliance Manager, Code Enforcement, Planning Department

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

EXISTING ZONING

Please refer to IDO Section 14-16-2-3(B) for the R-1A Zone District

PROPOSED ZONING

Please refer to IDO Section 14-16-2-3(E) for the R-ML Zone District

APPLICANT INFORMATION

City of Albuquerque

DEVELOPMENT REVIEW APPLICATION

Effective 4/17/19

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
☐ Archaeological Certificate *(Form P3)*	☐ Site Plan – EPC including any Variances – EPC (*Form P1*)	☐ Adoption or Amendment of Comprehensive Plan or Facility Plan *(Form Z)*
☐ Historic Certificate of Appropriateness – Minor *(Form L)*	☐ Master Development Plan *(Form P1)*	☐ Adoption or Amendment of Historic Designation *(Form L)*
☐ Alternative Signage Plan *(Form P3)*	☐ Historic Certificate of Appropriateness – Major *(Form L)*	☐ Amendment of IDO Text *(Form Z)*
☐ Minor Amendment to Site Plan *(Form P3)*	☐ Demolition Outside of HPO *(Form L)*	☐ Annexation of Land *(Form Z)*
☐ WTF Approval *(Form W1)*	☐ Historic Design Standards and Guidelines *(Form L)*	☒ Amendment to Zoning Map – EPC *(Form Z)*
	☐ Wireless Telecommunications Facility Waiver *(Form W2)*	☐ Amendment to Zoning Map – Council *(Form Z)*
		Appeals
		☐ Decision by EPC, LC, ZHE, or City Staff *(Form A)*

APPLICATION INFORMATION

Applicant: Kinley Raccoon LLC		Phone: 505-730-4016
Address: 710 Roma Ave NW		Email: jitka.dekojova@yahoo.com
City: Albuquerque	State: NM	Zip: 87102
Professional/Agent (if any): N/A		Phone:
Address:		Email:
City:	State:	Zip:
Proprietary Interest in Site:	List all owners:	

BRIEF DESCRIPTION OF REQUEST

The Applicant is requesting approval of a Zoning Map Amendment to change the zoning from R-1A to MX-T (Mixed-Use Transition) in order to make the existing use conforming.

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

Lot or Tract No.: 007	Block: 019	Unit:
Subdivision/Addition: Eastern Adddition	MRGCD Map No.:	UPC Code:
Zone Atlas Page(s): L-14-Z	Existing Zoning: R-1A	Proposed Zoning: MX-T
# of Existing Lots: 1	# of Proposed Lots: 1	Total Area of Site (acres): 0.1286

LOCATION OF PROPERTY BY STREETS

Site Address/Street: 1102 Edith Blvd SE	Between: Garfield Ave SE	and: Lewis Ave SE

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

Signature:	**Date:** 01/31/2023
Printed Name: Jitka Dekojova	☒ Applicant or ☐ Agent

FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees	Case Numbers	Action	Fees

Meeting/Hearing Date:		Fee Total:
Staff Signature:	Date:	Project #

Form Z: Policy Decisions

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

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

❑ ***INFORMATION REQUIRED FOR ALL POLICY DECISIONS (Except where noted)***

__ Interpreter Needed for Hearing? NO if yes, indicate language: _____

NA Proof of Pre-Application Meeting with City staff per IDO Section 14-16-6-4(B)

NA Letter of authorization from the property owner if application is submitted by an agent

06 Traffic Impact Study (TIS) form *(not required for Amendment to IDO Text)*

03 Zone Atlas map with the entire site/plan amendment area clearly outlined and labeled *(not required for Amendment to IDO Text)* NOTE: For Annexation of Land, the Zone Atlas must show that the site is contiguous to City limits.

❑ **ADOPTION OR AMENDMENT OF COMPREHENSIVE PLAN**

❑ **ADOPTION OR AMENDMENT OF FACILITY PLAN**

__ Plan, or part of plan, to be amended with changes noted and marked

__ Letter describing, explaining, and justifying the request per the criteria in IDO Sections 14-16-6-7(A)(3) or 14-16-6-7(B)(3), as applicable

__ Required notices with content per IDO Section 14-16-6-4(K)(6)

__ Office of Neighborhood Coordination notice inquiry response, notifying letter, and proof of first class mailing

__ Proof of emailed notice to affected Neighborhood Association representatives

__ Buffer map and list of property owners within 100 feet (excluding public rights-of-way), notifying letter, and proof of first class mailing

❑ **AMENDMENT TO IDO TEXT**

__ Section(s) of the Integrated Development Ordinance to be amended with changes noted and marked

__ Justification letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-7(D)(3)

__ Required notices with content per IDO Section 14-16-6-4(K)(6)

__ Office of Neighborhood Coordination notice inquiry response, notifying letter, and proof of first class mailing

__ Buffer map and list of property owners within 100 feet (excluding public rights-of-way), notifying letter, and proof of first class mailing

■ **ZONING MAP AMENDMENT – EPC**

❑ **ZONING MAP AMENDMENT – COUNCIL**

__ Proof of Neighborhood Meeting per IDO Section 14-16-6-4(C)

__ Letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-7(F)(3) or Section 14-16-6-7(G)(3), as applicable

__ Required notices with content per IDO Section 14-16-6-4(K)(6)

__ Office of Neighborhood Coordination notice inquiry response, notifying letter, and proof of first class mailing

__ Proof of emailed notice to affected Neighborhood Association representatives

__ Buffer map and list of property owners within 100 feet (excluding public rights-of-way), notifying letter, and proof of first class mailing

__ Sign Posting Agreement

❑ **ANNEXATION OF LAND**

__ Application for Zoning Map Amendment *Establishment of zoning must be applied for simultaneously with Annexation of Land.*

__ Petition for Annexation Form and necessary attachments

__ Letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-7(E)(3)

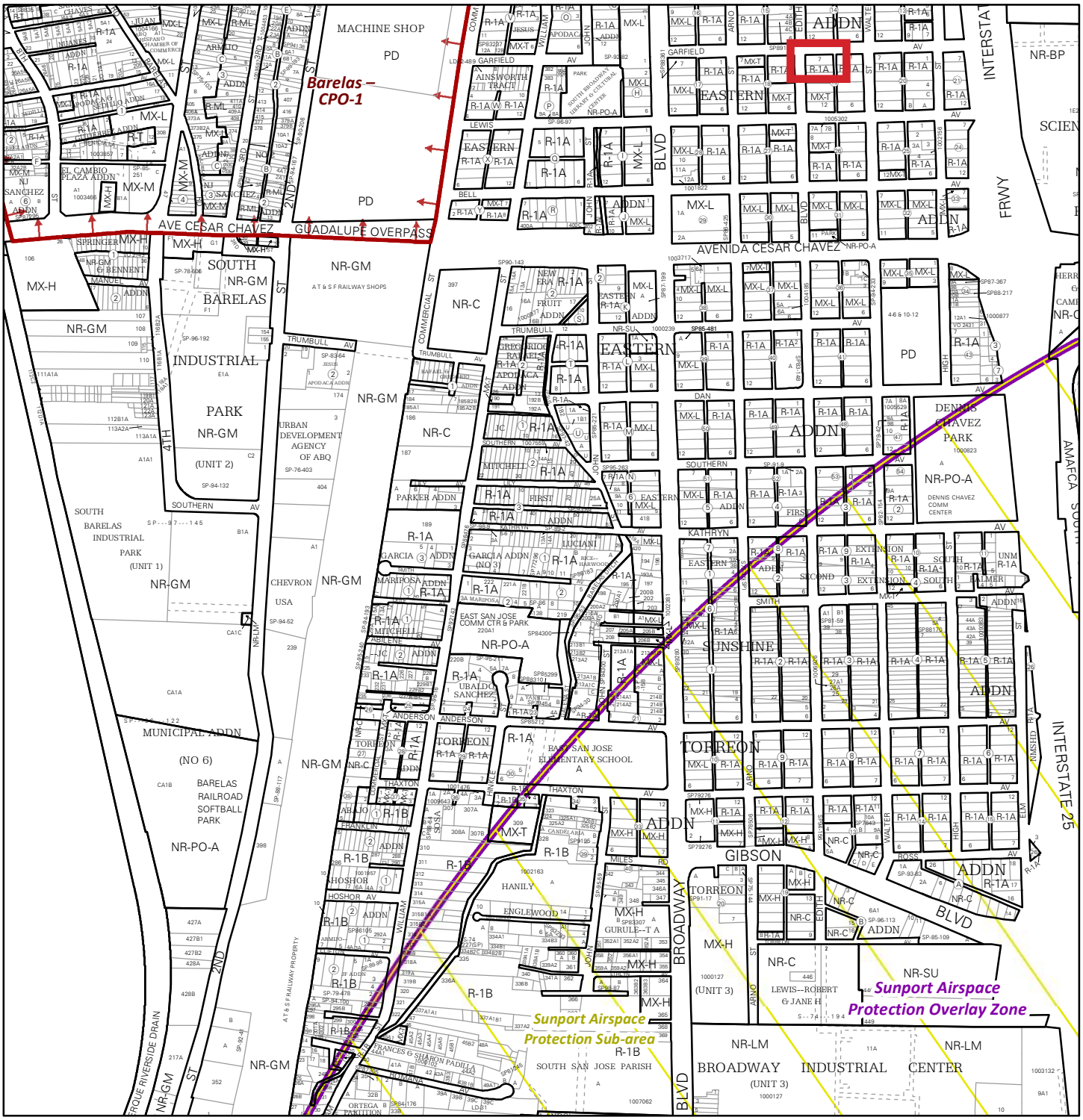
__ Board of County Commissioners (BCC) Notice of Decision

I, 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.

Signature:	**Date:** 01/31/2023
Printed Name: Jitka Dekojova	■ Applicant or ☐ Agent

FOR OFFICIAL USE ONLY

Project Number:	Case Numbers
	-
	-
	-
Staff Signature:	
Date:	



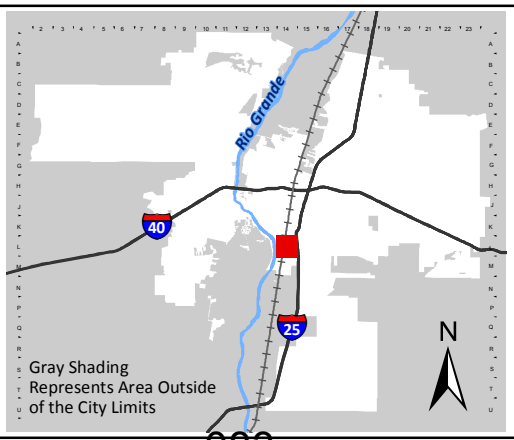
For more details about the Integrated Development Ordinance visit: http://www.cabq.gov/planning/codes-policies-regulations/integrated-development-ordinance

IDO Zone Atlas
May 2018

Albuquerque Geographic Information System

IDO Zoning information as of May 17, 2018

The Zone Districts and Overlay Zones are established by the Integrated Development Ordinance (IDO).



Zone Atlas Page:

L-14-Z

- 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

Feet: 0 250 500 1,000

City of Albuquerque

Planning Department
Development Review Services Division

Traffic Scoping Form (REV 12/2020)

Project Title: _____ Building Permit #: _____ Hydrology File #: _____
Zone Atlas Page: L-14-Z DRB#: _____ EPC#: _____ Work Order#: _____
Legal Description: 007 019 Eastern Addition
City Address: 1102 Edith Blvd SE, Albuquerque, NM 87102

Applicant: Kinley Raccoon LLC Contact: Jitka Dekojova
Address: 710 Roma Ave NW, Albuquerque, NM 87102
Phone#: 505.730.4016 Fax#: _____ E-mail: jitka.dekojova@yahoo.com

Development Information

Build out/Implementation Year: _____ Current/Proposed Zoning: R-1A/MX-T

Project Type: New: ( ) Change of Use: ( ) Same Use/Unchanged: (X) Same Use/Increased Activity: ( )

Proposed Use (mark all that apply): Residential: (X) Office: ( ) Retail: ( ) Mixed-Use: ( )

Describe development and Uses:
existing triplex

Days and Hours of Operation (if known): _____

Facility

Building Size (sq. ft.): 1,787 sf

Number of Residential Units: 3

Number of Commercial Units: 0

Traffic Considerations

Expected Number of Daily Visitors/Patrons (if known):* Zoning change traffic N/A

Expected Number of Employees (if known):* _____

Expected Number of Delivery Trucks/Buses per Day (if known):* _____

Trip Generations during PM/AM Peak Hour (if known):* _____

Driveway(s) Located on: Street Name

Adjacent Roadway(s) Posted Speed: Street Name Garfield Ave SE Posted Speed 25 MPH
Street Name Edith Blvd SE Posted Speed 25 MPH

** If these values are not known, assumptions will be made by City staff. Depending on the assumptions, a full TIS may be required*

Roadway Information (adjacent to site)

Comprehensive Plan Corridor Designation/Functional Classification: Garfield Ave SE, Edith Blvd SE - local
(arterial, collecdtor, local, main street)

Comprehensive Plan Center Designation: N/A
(urban center, employment center, activity center)

Jurisdiction of roadway (NMDOT, City, County): city

Adjacent Roadway(s) Traffic Volume: _____ Volume-to-Capacity Ratio: _____
(if applicable)

Adjacent Transit Service(s): bus stop Nearest Transit Stop(s): Route 16, bus stop at Garfield Ave SE and Broadway Blvd SE

Is site within 660 feet of Premium Transit?: no

Current/Proposed Bicycle Infrastructure: Edith Blvd SE - bikes and cars share the road
(bike lanes, trails)

Current/Proposed Sidewalk Infrastructure: existing municipal sidewalks

Relevant Web-sites for Filling out Roadway Information:

City GIS Information: http://www.cabq.gov/gis/advanced-map-viewer

Comprehensive Plan Corridor/Designation:https://abc-zone.com/document/abc-comp-plan-chapter-5-land-use (map after Page 5-5)

Road Corridor Classification: https://www.mrcog-nm.gov/DocumentCenter/View/1920/Long-Range-Roadway-System-LRRS-PDF?bidId=

Traffic Volume and V/C Ratio: https://www.mrcog-nm.gov/285/Traffic-Counts and https://public.mrcog-nm.gov/taqa/

Bikeways: http://documents.cabq.gov/planning/adopted-longrange-plans/BTFP/Final/BTFP%20FINAL_Jun25.pdf (Map Pages 75 to 81)

TIS Determination

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

Traffic Impact Study (TIS) Required: Yes [ ] No [✓] Borderline [ ]

Thresholds Met? Yes [ ] No [✓]

Mitigating Reasons for Not Requiring TIS: Previously Studied: [ ]

Notes: Zoning amendment, TIS not required

P.E. 1/31/2023

TRAFFIC ENGINEER DATE

Submittal

The Scoping Form must be submitted as part of any building permit application, DRB application, or EPC application. See the Development Process Manual Chapter 7.4 for additional information.

Submit by email to the City Traffic Engineer mgrush@cabq.gov . Call 924-3362 for information.

Site Plan/Traffic Scoping Checklist

Site plan, building size in sq. ft. (show new, existing, remodel), to include the following items as applicable:

1. Access -- location and width of driveways
2. Sidewalks (Check DPM and IDO for sidewalk requirements. Also, Centers have wider sidewalk requirements.)
3. Bike Lanes (check for designated bike routes, long range bikeway system) *(check MRCOG Bikeways and Trails in the 2040 MTP map)*
4. Location of nearby multi-use trails, if applicable *(check MRCOG Bikeways and Trails in the 2040 MTP map)*
5. Location of nearby transit stops, transit stop amenities (eg. bench, shelter). Note if site is within 660 feet of premium transit.
6. Adjacent roadway(s) configuration (number of lanes, lane widths, turn bays, medians, etc.)
7. Distance from access point(s) to nearest adjacent driveways/intersections.
8. Note if site is within a Center and more specifically if it is within an Urban Center.
9. Note if site is adjacent to a Main Street.
10. Identify traffic volumes on adjacent roadway per MRCOG information. If site generates more than 100 vehicles per hour, identify v/c ratio on this form.

March 29, 2023

David Shaffer, Chairman
Environmental Planning Commission
City of Albuquerque
600 Second Street NW
Albuquerque, New Mexico 87102

RE: Zoning Map Amendment for 1102 Edith Blvd SE

Dear Mr. Chairman and members of the Environmental Planning Commission,

Kinley Raccoon, LLC (Applicant) submits this request for approval of a Zone Map Amendment from R1-A to RM-L for a site located at 1102 Edith Blvd SE. The requested zone map amendment is needed to remove an existing non-conformity and bring the property into compliance with the use regulations of the IDO. The purpose of this letter is to provide justification of the Applicant's request by responding to the decision criteria specified in Integrated Development Ordinance (IDO) Section 14-16-6-7(G)(3).

The subject site is located on the southeast corner of Edith Blvd SE and Garfield Ave SE and legally described as 007 019 Eastern Addition (Figure 1).

Figure 1. Subject site (shown in red) and its context within the South Broadway Neighborhood.

1. LAND USE CONTEXT

The subject site is 0.1286 acres in size (approximately 5,600 square feet) and is developed with one two-story building. The subject site is zoned Single-family R-1A which accommodates the smallest lot sizes of a minimum 3,500 sq. ft. Prior to the IDO, the lot was zoned SU-2/ MR which was the equivalent of R-1 within the South Broadway Sector Development Plan. This plan was repealed with the adoption of the IDO in 2018. The Applicant was informed that the zone change would amend a sector development plan and therefore officially be called a "sector development plan amendment" – however for the purpose of this justification letter, the Applicant uses the understood term "zone change" or "zone map amendment".
The site is located within the South Broadway Metropolitan Redevelopment Area (MRA) Plan boundary that guides redevelopment within the area (Figure 2).

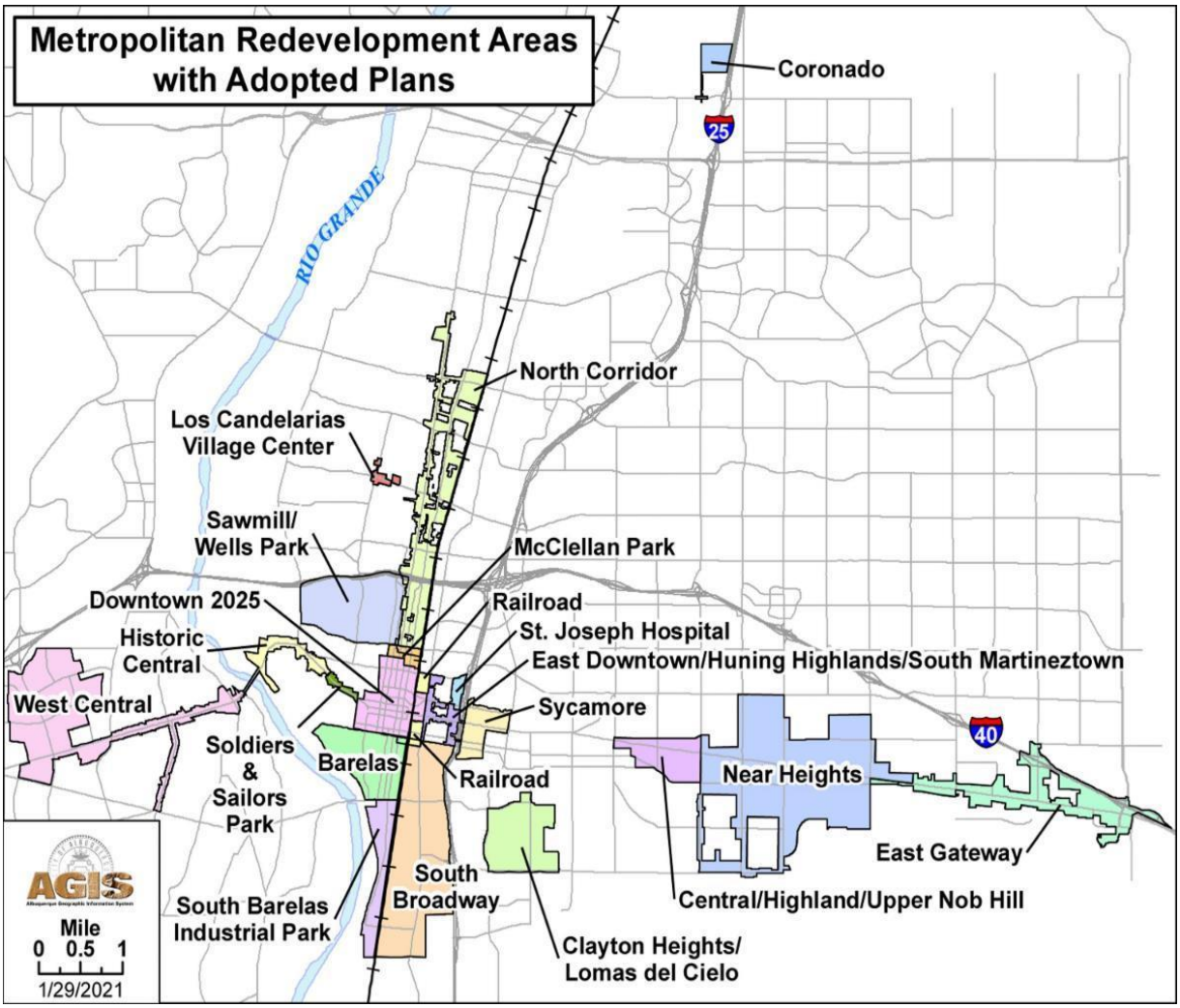


Figure 2. Metropolitan Redevelopment Areas within the City. Subject's property is part of South Broadway MRA.

The zone amendment directly addresses below goals listed for this MRA:

- The conservation and renewal of neighborhoods and the improvement of living conditions of low- and moderate-income families.
- To promote an arrangement of land use, circulation and services which will contribute to the economic, social and physical and safety, welfare and convenience of the people who live in the area within the larger framework of the city and abutting County area.
- Conservation, improvement and expansion of the housing available to low- and moderate-income families.

The South Broadway Sector Development Plan shows the subject property located within the John Marshall neighborhood. The neighborhood has historically exhibited mixed use and development densities. The MRA plan describes land use patterns in neighborhoods at the time of its adoption in 1986 as containing high to medium density residential housing consisting of duplexes to fourplexes that developed with no regular pattern. Commercial and industrial uses were found interspersed or contiguous to this residential area (Figure 3).

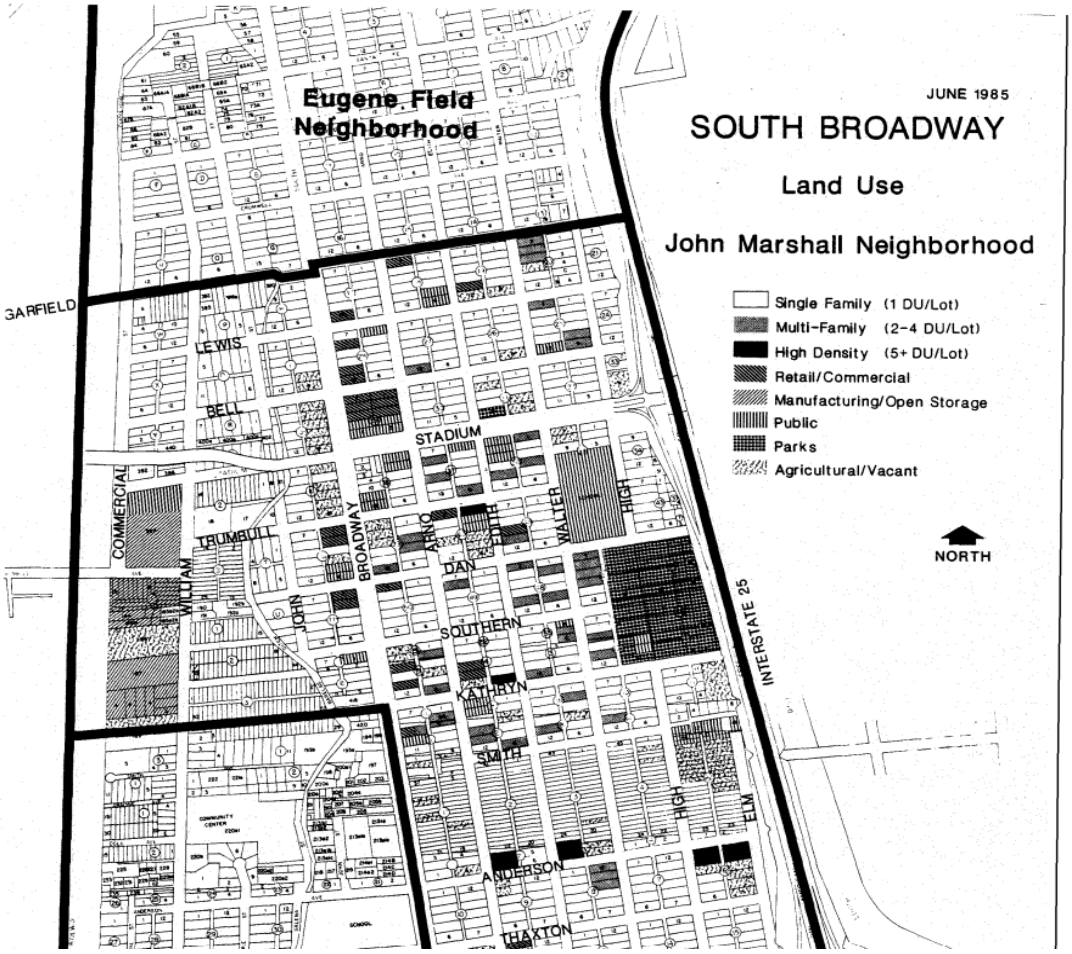


Figure 3. Land use in John Marshall Neighborhood as listed in the South Broadway Sector Development Plan.

This mixed fabric of commercial and residential uses intermingled is documented on the 1959 aerial image of the site (Figure 4). Across from the subject property is a two-story church, down the same block is a charter school. Much of the neighborhood today includes homes and lots that have historically been subdivided to accommodate more units. The neighborhood today is characterized by a mixture of housing types including duplexes, accessory dwelling units, and some larger developments.

Figure 4. Subject site (shown in red) and its land use context from 1959 aerial view.

Today, the zoning within the area of the subject site is a mix of R-1A, MX-T, and MX-L (Figure 5). The subject site is directly adjacent to the Broadway Main Street Corridor Area located within 1/4 mile of the designated Main Street Corridor Area. The site is not located within a designated Historic or Character Protection Area.

Approval of the requested zone change will remove a non-conformity while preserving the existing mixed nature of the neighborhood and ensuring the continuance of affordable housing options during a major housing crisis all of which supports numerous adopted City goals, including recent Housing Forward ABQ policies.

Figure 5. Subject site (shown in red) and its land use context.

2. SITE HISTORY AND ZONING

The Applicant purchased the subject property in December 2021 and since then did several repairs to enhance curb appeal and renovate the building and its units (Figure 6).

Figure 6. Property showing before and after exterior work.

In 2017 the city underwent a major overhaul of its current zoning when the IDO was adopted. In the South Broadway Neighborhood properties were blanketly rezoned by default to R-1 with R-2 zoning granted on conditional basis for SU-2/MR properties. Several small multifamily properties were rezoned to MX-T while the subject property was rezoned to R-1A. The previous owner purchased the property as a multi-family home in 1985 in its existing state as a triplex. In fact, the previous owner actually rented one of the units himself in early 1970s and stated that the house operated as multi-family as far back as 1967. Below is a timeline that the Applicant was able to construct from available records and conversations with the previous owner:

- Property was built in 1944 prior to first zoning laws.
- City has initial aerial shots available from 1959.
- Property has been operated as multi-family since at least 1967 with no long-term vacancy.
- Previous owner was renting the upstairs unit in 1972/1973.
- Previous owner purchased property in 1985 as multi-family.
- Neighbors acknowledge property has always been used as multi-family.
- Property has had two active gas meters since at least 2003.
- Property has had two active electric meters since at least 2003.
- The South Broadway Sector Development Plan was repealed in 2017
- During the time of the purchase by the Applicant in 2022, the subject property has been listed Land Use Code at the BernCo Assessor's website as Multifamily Res U4U.
- Comcast has multiple accounts and unit separations (A,B,C) for drop cable service.
- House inspector at Veterans Plus Home Solutions attests that beyond any reasonable doubt the property's interior has not been renovated for at least 10 years and therefore has been operating as multi-family at least since 2012.
- There are several other properties in the South Broadway area operating as low-density multifamily comparable to 1102 Edith Blvd SE.

The current R-1A (Residential Single-family, small lot) zoning does not allow for the existing use of the dwelling as three-unit property, so the property is considered non-conforming. The Applicant worked with the Planning Department, Code Enforcement Division, and previous property owner, and even though the property operated and was designed as multi-family dwelling since at least 1967, the Applicant was unable to obtain Zonal Certification due to lack of available records. After a meeting with The Code Compliance Manager Angelo Metzgar, Senior Code enforcement Specialist Jeffrey Palmer, and Planning Officer Christian Moore, it was recommended that the Applicant apply for a zone change with the Environmental Planning Commission (EPC)

The Applicant is requesting approval of a Zoning Map Amendment to change the zoning from R-1A to Multi-Family Low Density Zone District (R-ML) in order to make the existing use conforming.

3. SUMMARY

The Applicant for this request is a local, female-operated, small company that owns another property in Martineztown. The subject site was purchased by the Applicant in December 2021. Since the property has always been divided into multiple units, it was overlooked through the resale process by many parties and we closed on the property without understanding that it was non-conforming.

The Applicant became aware of the zoning issue when contacting the city to acquire address designations. The property sits in an area with postal service operating “block mail slots” so no official multiple address designations exist on property. As soon as the Applicant was made aware of this situation, they immediately started to communicate with the Code Enforcement and were being proactive in addressing this issue while accommodating existing renters on property.

It is the Applicant's belief that the proposed zone change is more advantageous to the community and justified. This request is supported by the Mayoral goals to add housing units in downtown areas and meets the requirements for a Zoning Map Amendment – EPC per IDO Section 14-16-6-7(G) as described below.

4. JUSTIFICATION PER IDO

This request for a Zoning Map Amendment complies with the criteria outlined in Section 14-16-6-7(G)(3) of the Integrated Development Ordinance (IDO) as follows:

6-7(G)(3)(a) The proposed zone change is consistent with the health, safety, and general welfare of the City as shown by furthering (and not being in conflict with) a preponderance of applicable Goals and Policies in the ABC Comp Plan, as amended, and other applicable plans adopted by the City.

Applicant’s Response: *The proposed zone change is consistent with the health, safety, and general welfare of the City as shown by furthering (and not being in conflict with) a preponderance of applicable Goals and Policies in the ABC Comp Plan, as amended, and other applicable plans adopted by the City, because the request to rezone from R1-A to R-ML clearly facilitates the ABC Comp Plan goals and policies related to desired infill development, land uses, and varied housing options at an affordable scale. The proposed zone map amendment also furthers goals listed in South Broadway MRA as listed above.*

The subject property is located within Central ABQ Community Planning Area (CPA) that includes the oldest parts of town and the original residential subdivisions. The area is referred to as a mix of land uses and proximity of residential and non-residential uses. Approval of the requested zone change is more advantageous to the community and works beautifully with the goals of the ABC Comp Plan as listed below:

<u>GOAL 4.1 Character: Enhance, protect, and preserve distinct communities.</u>

The proposed zone amendment will maintain existing character of the neighborhood and address the following policies:

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

The proposed zone amendment protects the identity and cohesiveness of the neighborhood and maintains the existing urban fabric because it allows compatible (existing) residential uses on the site and at densities that have been in place for decades as demonstrated by the property history (above). The adopted MRA plan for the area indicates that the neighborhood historically contained a mix of high to medium density residential housing. The proposed zone amendment would allow the existing triplex to remain on the site, which is consistent with the scale, character and mix of residential uses within the area. This would maintain the urban fabric and protect the cohesiveness of the neighborhood as the denial of the zone change would result in fewer dwelling units in the neighborhood and potentially lead to two families to be forced out.

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

The neighborhood has long exhibited land use patterns that were comprised of a variety of medium to high residential uses such as duplexes and fourplexes. Many of these development types still exist within the area, which may not be reflected by the current zoning. This request will enhance, protect, and preserve the long-established neighborhood patterns because it supports improvements that protect stable and thriving residential neighborhoods within a city that is currently lacking adequate housing resources. By allowing the existing use of the property to continue, the property will keep respecting existing neighborhood values while supporting improvements that protect stable and thriving residential neighborhoods because it retains existing vital use on site.

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

While this zone amendment request would not directly provide jobs, education, retail or amenities, it would allow middle missing housing choices that are compatible with the existing area land use and character of the neighborhood to remain. This housing is located within ¼ of a mile of the Broadway Main Street that allows for a variety of walkable mixed-use development. The request to retain the existing triplex would thereby foster a complete community where equitable housing solutions are available in close proximity to neighborhood where residents can live, work, and shop together.

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

The proposed zone amendment helps to create healthy, sustainable, and distinct communities because it allows for compatible (existing) residential uses and at densities that have been in place for decades in an area of good street connectivity and convenient access to transit while maintaining the characteristics of established residential development pattern, therefore directly supports this policy.

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

The proposed zone amendment will further this goal by allowing the continuation of affordable housing within an established neighborhood that is sufficiently served by existing infrastructure and utilities, thereby supporting efficient development patterns in areas with existing infrastructure and public facilities. The proposed zone amendment would allow the continuation of affordable housing within an established neighborhood within a ¼ of a mile of a Main Street Corridor that is sufficiently served by existing infrastructure and utilities. The request would thereby support efficient development patterns in areas with existing infrastructure and public facilities and discourage sprawl and leapfrog development at the municipal boundary.

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

The subject site is located within an Area of Consistency (Figure 7). As stated above, the existing triplex has been used as such for over 50 years, prior to the applicant purchasing the site, and is consistent with the existing uses and character of the surrounding area. Approval of the zone amendment will ensure that potential development of the property fits into the character by directly support Policy 5.6.3 sub policy 5.6.3.d to support zone changes that help align the appropriate zone with existing land uses. This request would enhance the character of existing mixed neighborhood because permissive uses feasible on site are compatible with surrounding development including church across the street, Tortuga Gallery down the street, and a charter school on the same block.

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

Healthy, economically stable, and diverse urban areas require diversity in dwelling options. The proposed zone amendment will further this goal by directly supporting the following policy:

Policy 8.1.1 Diverse Places: Foster a range of interesting places and contexts with different development intensities, densities, uses, and building scale to encourage economic development opportunities.

The proposed zone amendment will allow for an existing triplex to be legally conforming. Allowing three separate households to live in the community will directly support local businesses with more opportunities and economic spending than a single-family home. The proposed zone change fosters a range of interesting places and contexts with different development intensities, densities, uses, and building scale because it allows for the existing density and variety to remain intact (studio, 1-BR, 2-BR) which is vital to encourage economic development in the areas where zone already allows for it.

GOAL 9.1 Supply: Ensure a sufficient supply and range of high-quality housing types that meet current and future needs at a variety of price levels to ensure more balanced housing options.

The request for a zone amendment ensures that a sufficient supply of housing and high-quality housing types meet current and future needs at a variety of price levels. By allowing for the existing triplex use, the zone amendment ensures more opportunities for balanced housing options in an area where housing is in high demand. R-ML zone offers a type of housing in which a variety of high-quality housing can be offered at a variety of prices. By not allowing for

this zone change, the supply of existing housing will decrease when the existing triplex needs to be converted to a single-family house. The requested zone change complies with the following policies:

Policy 9.1.1 Housing Options: Support the development, improvement, and conservation of housing for a variety of income levels and types of residents and households.

This zone amendment supports the development, improvement, and conservation of housing for a variety of income levels and types of residents and households, because it conserves existing multi-unit housing for a variety of income levels. The existing multi-unit housing maintains the supply of affordable housing in the area – three various types of units within the triplex at three various rents provides better variety than one large single-family house to which the subject's property would have to be converted in zone map amendment is not approved.

Policy 9.1.2 Affordability: Provide for mixed-income neighborhoods by encouraging high-quality, affordable and mixed income housing options throughout the area.

This zone amendment request provides for mixed-income neighborhoods because it allows to keep existing affordable housing options: three various sized units ranging from $700 to $1,100. The existing triplex directly increases the housing supply and influences the stabilization of rent price.

GOAL 9.3 Density: Support increased housing density in appropriate places with adequate services and amenities.

This zone amendment directly supports this goal because it increases housing density in appropriate place with adequate service and amenities, while maintaining appropriate urban fabric and character. Following policy is met since the area has already adequate services.

Policy 9.3.2 Other Areas: Increase housing density and housing options in other areas by locating near appropriate uses and services and maintaining the scale of surrounding development.

This zone amendment request increases housing density and housing options because it is located in area with an adequate existing service and maintains the scale of surrounding development.

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

1. **There was typographical or clerical error when the existing zone district was applied to the property.**
2. **There has been a significant change in neighborhood or community conditions affecting the site that justifies this request.**

3. **A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).**

Applicant Response: *The subject property is located within an Area of Consistency (Figure 7) and the proposed zone clearly reinforces the established character (keeping existing use on site) and would not permit development that is significantly different from the area's character (Table 1).*

The Applicant choses following criteria: A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

A different zone district is more advantageous to the community as it would align the zoning with a long existing site use (directly supporting the Comprehensive Plan Policy 5.6.3) in a manner that is consistent with existing patterns of land uses within the area. The request would allow provisions for affordable housing options within the established character of the area on a parcel that is directly adjacent and within ¼ of a mile of the Broadway Main Street Corridor. The site is located within an Area of Consistency where the Comp Plan promotes development that is complementary to the established scale and character of distinctive neighborhoods while accommodating new residents and jobs in areas already well served by infrastructure and transit. As described in 6-7(G)(3)(a) above the existing triplex is consistent with the historic neighborhood patterns and uses of the neighborhood. The building itself, which confirms with the underlying dimensional standards of the existing and proposed zoning district, will not be altered and is consistent with established historic development and architectural patterns of the area. From the outside, the building is not discernable as a triplex. If granted, this use would further Comprehensive Plan to provide a variety of housing options within the City, which is even more critical given our current housing crisis. This request also supports the Center and Corridor growth management vision to "grow as a community of strong Centers connected by a multi-modal network of Corridors" by allowing the continuance of affordable housing directly adjacent to the Broadway Main Street Corridor. The allowance for housing near this Corridor also furthers the goals for the creation of complete communities in which residents can live in locations where they can conveniently access goods and services by variable modes of transport.

Furthermore, the requested zone change is more advantageous to the community because it allows property to operate as it has been for over 50 years with no changes. If zone change is denied, the applicant will be forced to either sell the property to a cash buyer or terminate the tenants' leases in order to bring the property into compliance and refinance the mortgage which matures in spring 2023. In this case the tenants will likely have difficulty finding comparable rental properties at an affordable price within the same area.

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

Applicant's Response: *The subject site is located in an Area of Consistency, so this criterion does not apply (Figure 7)*

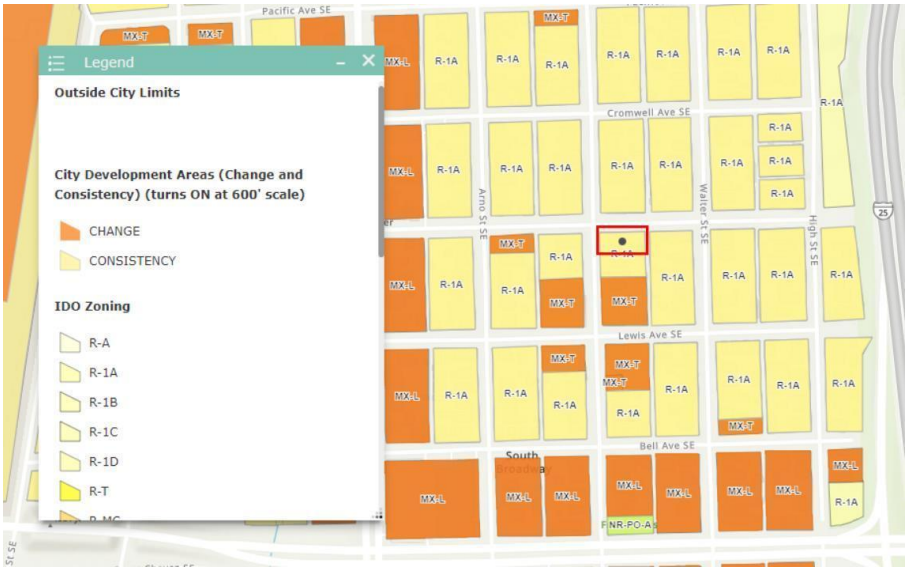


Figure 7. A map of City Development Areas with subject property outlined in red.

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

Applicant's Response: *The requested R-ML zone does not allow permissive uses that would be considered harmful to the adjacent property, neighborhood, or community. Table 1 (IDO Table 4-2-1) shows comparison of allowable uses between the existing R-1A and the proposed R-ML zones. The proposed R-ML zone provides an appropriate zone and facilitates several goals of the Comprehensive Plan. Additionally, the size of the lot restricts many uses that may be allowed in the R-ML zone that could otherwise be considered harmful – such as nursing home or a large residential facility.*

IDO Zoning Comparison (IDO table 4-2-1)		
Allowable Use	**R-1A**	**R-ML**
Dwelling, single-family detached	P	P
Dwelling, mobile home		
Dwelling, cluster development	P	P
Dwelling, cottage development	P	P
Dwelling, two-family detached (duplex)	P	P
Dwelling, townhouse		P

Dwelling, live-work		C
Dwelling, multi-family		P
Assisted living facility or nursing home		P
Community residential facility, small	P	P
Community residential facility, large		P
Dormitory		
Group home, small		C
Group home, medium		C
Group home, large		

Table 1. IDO zoning comparison. P = Permissive Primary, C = Conditional Primary, blank cell = Not Allowed.

Live/work and small to medium group homes are the only uses that are allowed conditionally in the RM-L zone district, but not allowed in the R-1A zone. Conditional uses require a Conditional Use Permit through a public hearing in front of the Zoning Hearing Examiner to be allowed on a subject site. Similar to this zone map amendment request, the applicant must provide justification that these uses will not be injurious to the surrounding area and the impacted neighborhood and property owners are provided an opportunity to provide input. These uses would therefore be adequately vetted to ensure they are not harmful to the area.

Townhouses, multi-family, assisted living facility or nursing homes, and large community residential facilities are the only new uses that would be permissively allowed in the RM-L zone that would not be allowed within the existing R1-A zone. The subject site is only 0.1286 acres which significantly limits the viability of these uses. Particularly for a standard multi-family dwelling or assisted living facility, the site is not feasibly large enough to accommodate both the uses and their associated required off-street parking. The proposed RM-L zone districts requires a minimum lot size of 2,200 sq.ft. for townhouses which limits this use to two dwellings. This would generate units that are within the established development character with the established housing of the area. Community residential facilities are already allowed within the R1-A zone, this use would simply allow more residents and the IDO's use standards require the dwelling to be consistent with the standards of the underlying district which is still consistent with established patterns and therefore not harmful.

While R-ML allows for a taller building height (38 feet) than the existing R-1A (26 feet), the Applicant chose to apply for an R-ML zone change as opposed to the previously considered MX-T zone change. MX-T was initially considered because it only allows for 30 foot buildings. However, the neighbors in attendance at a neighborhood meeting on February 16, 2023 were more concerned about permissive uses than about building height which contributed to the decision to apply instead for R-ML which has more restrictive permissive uses.

6-7(G)(3)(e) The City's existing infrastructure and public improvements, including but not limited to its street, trail, and sidewalk systems meet 1 of the following requirements:

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

2. **Will have adequate capacity based on improvements for which the City has already approved and budgeted capital funds during the next calendar year.**

3. **Will have adequate capacity when the applicant fulfills its obligations under the IDO, the DPM, and/or an Infrastructure Improvements Agreement.**

4. **Will have adequate capacity when the City and the applicant have fulfilled their respective obligations under a City approved Development Agreement between the City and the applicant.**

Applicant's Response: *The City's existing infrastructure and public improvements have adequate capacity for the development made possible by the proposed zone amendment, so this request meets requirement Criteria 1. The site is already developed with three dwelling units that are proposed to remain and are served adequately by current infrastructure. These units are served by the existing roadway network sidewalks and nearby transit, water/sewer services, and storm drainage systems. No additional improvements are necessary and the zone amendment will not require major expenditures by the City to provide additional servicer and/or infrastructure.*

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

Applicant's Response: *The property is located on Edith Blvd SE, which is a local road; therefore, the Applicant's justification for the requested zone change is not completely based on the property's location on a major street. As previously stated, the primary purpose of this request is to bring the long-established use into compliance with the IDO.*

6-7(G)(3)(g) The applicant's justification is not based completely or predominantly on the cost of land or economic considerations.

Applicant's Response: *The Applicant's justification is not based completely or predominantly on the cost of land or economic considerations, since the cost of land or other economic considerations are not the determining factor for this zone change request. Instead, the requested zone amendment furthers numerous policies and goals of the ABC Comp Plan and will allow for the existing uses to become conforming in a manner that is consistent with the surrounding context and mixed density neighborhood. The request also addresses the imbalance of housing in Greater Downtown.*

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

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

2. **The site is not suitable for the uses allowed in any adjacent zone district due to topography, traffic, or special adverse land uses nearby.**

3. **The nature of structures already on the premises makes it unsuitable for the uses allowed in any adjacent zone district.**

Applicant's Response: *The Applicant is aware that the requested zone amendment creates a "spot zone" since the surroundings zones in the area are R-1A, MX-T, and MX-L. Following requested meeting with the South Broadway Neighborhood Association on February 16, 2023 where concerns were raised about potential harmful uses allowed within existing MX-T properties in the neighborhood, the Applicant opted for RM-L zone.*

While the area of the zone change for the subject site is different from surrounding land because it can function as a transition between adjacent zone districts MX-T and R1-A, the Applicant chooses following criteria:

Criteria 3: The nature of the structure already on the premises makes it unsuitable for the uses of the existing R-1A zone district. The existing building on the site includes three units and the R-ML district is the first zone district that permissively accommodates a triplex dwelling. The request will prevent the termination of existing leases for tenants living on the premises and allow for legal investment in the property, which provides "hidden" density and expanded affordable Missing Middle housing options as compared to alternative large scale multi-family developments.

This zone amendment clearly facilitates the implementation of the Comprehensive Plan as shown above. It provides opportunities for individuals to live in a location that provides options for transportation, work areas, and lifestyles.

5. CONCLUSION

The request for a Zoning Map Amendment from R-1A to R-ML furthers numerous goals and policies of the city's efforts to provide more housing in the Greater Downtown and more diverse housing options. The proposed zone change is compatible with the surrounding neighborhood while also eliminating a nonconformity that will relieve the Applicant from any potential legal issues. In the shorter term, it will support continued investment and upkeep in the property that will benefit the neighborhood and greater community.

Kinley Raccoon LLC respectfully requests that the Environmental Planning Commission approve this request for a Zoning Map Amendment for the subject site based on the information provided.

Thank you for your consideration.

Sincerely,

Jitka Dekojova and Chelsea Gulling

Kinley Raccoon, LLC

STAFF INFORMATION

March 15, 2023

TO: Kinley Raccoon LLC.

FROM: Leroy Duarte, Planner
City of Albuquerque Planning Department

TEL: (505) 924-3452

RE: Edith Zone Change

I've completed a first review of the proposed sector development plan map amendment (zone change) request. I have suggestions that will help make the justification approvable. I am available to answer questions about the process and requirements. Please provide the following:

⇒ A revised zone change justification letter by **12 pm on Wednesday, March 29, 2023**.

⇒ Note: If you have trouble with this deadline, please let me know.

1) Introduction:

A. Though I've done my best for this review, additional items may arise as the case progresses. If so, I will inform you immediately.

2) Process:

A. Information regarding the EPC process, including the calendar and current Staff reports, can be found at:

http://www.cabq.gov/planning/boards-and-commissions/environmental-planning-commission/

B. Timelines and EPC calendar: the EPC public hearing for April is the 20th. Final staff reports will be available one week prior, on April 13th.

C. Please visit the link above to find copies of Staff reports that will serve as examples of zone changes.

D. Note that, if a zone change request is denied, you cannot reapply again for one year.

E. Agency comments will be distributed as they come in. I will email you a copy of all the comments compiled and will forward any late comments to you.

3) Notification & Neighborhood Issues:

A. Have any neighborhood representatives or members of the public contacted you other than what was provided for the file? Are you aware of any concerns?

4) Project Letter/Overview:

A. Mention the MRA in this section and not in criterion (h).

B. SU-2 zone only means the subject site was in a Sector Development Plan.

C. SU-2/MR corresponds to R-1. (South Broadway Sector Development Plan)

D. South Broadway Sector Development Plan was repealed in 2018.

E. Sector Development Plan shows site as a Single-family.

F. Look at the maps from the Sector Development Plan to see history of zoning (maps 4b &5)

5) Zone Map Amendment (zone change)- General:

A. Please note: I'm happy to assist you as much as I can, although I cannot write the justification or do the thinking part on behalf of a private party.

B. language to be used needs to state *Clearly Facilitates* in lieu of *furthering.*

C. Because the zone change would amend a sector development plan, it is officially called a "sector development plan map amendment", though the term zone change is used and understood.

D. A zone change justification is all about the requirements of IDO 14-16-6-7(G)(3) and how the request meets the criteria.

The exercise is to choose applicable Goals and policies from the Comprehensive Plan show how your request furthers (makes a reality) the chosen Goals and policies. Citations of text from the body of the documents are not used because the Goals and policies embody the thoughts in the text.

6) Zone Map Amendment (zone change)- Concepts & Research:

A. Responding to the criteria of IDO 14-16-6-7(G)(3) is more of a legal exercise than anything else. It is critical to "hit the nail on the head" both conceptually and in terms of form. This can be done by:

i. answering the questions in the customary way (see examples)

ii. using conclusory statements such as "because_____"

iii. re-phrasing the requirement itself in the response.

iv. choosing an option when needed to respond to a requirement.

B. When requesting a spot zone, the test in section 6-7(G)(3)(h) is more rigorous than the test would be if a spot zone was not created. Therefore, the higher standard (and the wording it entails) applies and must be carried over into the response to 6-7(G)(3)(h) (with the same wording).

C. Refer to the link provided below for examples of Zone Map Amendments:

https://www.cabq.gov/planning/boards-commissions/environmental-planning-commission/epc-agendas-reports-minutes

7) Zone Map Amendment (zone change)- Section by Section:

Please address and incorporate the following to provide a strengthened, approvable response to 14-16-6-7 (G)(3):

A. 6-7(G)(3)(a): Restate the policy in the answer, then add a "because" at the end of the first sentence. Please see examples of how this question is properly answered from previous cases. Each policy

will need a thorough detailed response. Many of the policies listed do not contain a response or restate the policy in the answer.

B. 6-7(G)(3)(b): The response must demonstrate how the request would clearly reinforce or strengthen the established character of the surrounding Area of Consistency. State and explain which criteria is being met; 1,2, or 3. Pick only one.

C. 6-7(G)(3)(c): Response is sufficient.

D. 6-7(G)(3)(d): Assisted living facility or nursing home, community residential facility large can be harmful to the surrounding area. Height development standards can also be harmful. You need to list all potential harmful effects and how they could be harmful with respect to the new permissive uses.

   Include a section on how these harmful uses can be mitigated as well.

E. 6-7(G)(3)(e): Sufficient.

F. 6-7(G)(3)(f): Sufficient.

G. 6-7(G)(3)(g): sufficient.

H. 6-7(G)(3)(h): This has to do with whether or not the proposed zone change would create a "spot zone". Does the subject site meet the definition? Why or why not? This request would create a spot zone because adjacent to the site is surrounded by R-1A zoning. *Clearly facilitates* language will need to be used here. Pick one of the criteria. Remove MRA section not relevant to the criteria response (place elsewhere).

NOTIFICATION

Gmail

Chelsea Gulling <chelsea.gulling@gmail.com>

1102 Edith Ave. SE Neighborhood Meeting Inquiry - CORRECTED ADDRESS

5 messages

Carmona, Dalaina L. <dlcarmona@cabq.gov> Fri, Oct 14, 20
To: Chelsea Gulling <chelsea.gulling@gmail.com>

PLEASE NOTE:

The City Council recently voted to update the Neighborhood Association Recognition Ordinance (NARO) and the Office of Neighborhood Coordi (ONC) is working to ensure all neighborhood associations and neighborhood coalitions are in compliance with the updated ordinance. There wi be many updates and changes to association and coalition contact information over the next several months. With that in mind, please check wi ONC every two (2) weeks to ensure that the contact information you have for associations and coalitions is up to date.

Dear Applicant:

Please find the neighborhood contact information listed below. Please make certain to read the information further down in this e-mail as it will help answer questions you may have.

Association Name	First Name	Last Name	Email	Address Line 1	City	State	Zip	Mobile Phone	Phone
South Broadway NA	Frances	Armijo	fparmijo@gmail.com	915 William SE	Albuquerque	NM	87102	5054003473	5052478798
South Broadway NA	Tiffany	Broadous	tiffany.hb10@gmail.com	215 Trumbull SE	Albuquerque	NM	87102		5055074250

The ONC does not have any jurisdiction over any other aspect of your application beyond this neighborhood contact information. We can't answer question sign postings, pre-construction meetings, permit status, site plans, buffers, or project plans, so we encourage you to contact the Planning Department at: 5(3857 Option #1, e-mail: devhelp@cabq.gov, or visit: https://www.cabq.gov/planning/online-planning-permitting-applications with those types of questions.

Please note the following:

- You will need to e-mail each of the listed contacts and let them know that you are applying for an approval from the Planning Department for your proj
- Please use this online link to find the required forms you will need to submit your permit application. https://www.cabq.gov/planning/urban-design-development/public-notice.
- The Checklist form you need for notifying neighborhood associations can be found here: https://documents.cabq.gov/planning/online-forms/PublicNotice/CABQ-Official_public_notice_form-2019.pdf.
- The Administrative Decision form you need for notifying neighborhood associations can be found here: https://documents.cabq.gov/planning/online-fo PublicNotice/Emailed-Notice-Administrative-Print&Fill.pdf
- Once you have e-mailed the listed contacts in each neighborhood, you will need to attach a copy of those e-mails AND a copy of this e-mail from the your application and submit it to the Planning Department for approval.

If your application requires you to offer a neighborhood meeting, you can click on this link to find required forms to use in your e-mail to the neighborhood association(s):

http://www.cabq.gov/planning/urban-design-development/neighborhood-meeting-requirement-in-the-integrated-development-ordinance

If your application requires a pre-application or pre-construction meeting, please plan on utilizing virtual platforms to the greatest extent possible and adher current Public Health Orders and recommendations. The health and safety of the community is paramount.

If you have questions about what type of notification is required for your particular project or meetings that might be required, please click on the link below table of different types of projects and what notification is required for each:

https://ido.abc-zone.com/integrated-development-ordinance-ido?document=1&outline-name=6-1%20Procedures%20Summary%20Table

Thank you.

Gmail

Chelsea Gulling <chelsea.gulling@gmail.com>

Notification of Zone Change Request for 1102 Edith Blvd SE.

1 message

Chelsea Gulling <chelsea.gulling@gmail.com> Tue, Jan 24, 2023 at 5:02 PM
To: fparmijo@gmail.com, tiffany.hb10@gmail.com
Cc: Jitka Dekojova <jitka.dekojova@yahoo.com>

Dear Tiffany & Frances--

We are writing to inform you of a Zone Map Amendment request from R-1A to MX-T for the property at 1102 Edith Blvd SE.

Property History, Renovations, Need for Zone Change & Future Plans:
Kinley Raccoon LLC purchased the triplex in December 2021. Prior to our ownership, the property was owned by the same family for over 30 years and we understand that it has operated as a triplex for the entire time.

Following purchase of the property, we painted and repaired the exterior, added a washer and dryer and did some cosmetic repairs inside the units--see attached jpeg before and after exterior photos. We have no plans to operate the building any differently than it has been operating for the last thirty years - as a triplex however, we currently are not legally confirming due to the extensive zone changes in the area done through the Integrated Development Ordinance (IDO) in 2017.

Our Attempts to be Legally Conforming Without a Zone Change:
We attempted to be grandfathered into the new zoning laws so that we would not have to do a zone change. However, since the request to be grandfathered in was not made within the required two-year time period following the 2017 IDO adoption, we were unable to do so. Therefore, zone change is our only option to operate as a legally conforming triplex.

Our Next Steps:
We plan to get on the agenda for a zone change request at the earliest Environmental Planning Commission (EPC) hearing. Once we receive confirmation of that meeting, we will notify you of the date.

In accordance with the procedures of the City of Albuquerque's Integrated Development Ordinance (IDO) Section 14-16-6-4(C) Pre-submittal Neighborhood Meeting, we are providing you with an opportunity to discuss this request.

If you would like to schedule a Neighborhood Meeting to discuss this matter, please contact me or my partner, Jitka Dekojova within the required 15-day period of this email date **(by Tuesday, February 7, 2023)** at 505-730-4016 or by *replying all* to this email. Also, if you decide to decline a meeting, please let us know as well so we can move forward with scheduling. 😁

A achments: Photo: Before & After Photos of the Exterior, Required COA Noc e Form, IDO Zone Atlas Page.

--
Chelsea Gulling & Jitka Dekojova
Kinley Raccoon LLC

3 attachments

Before and After Photo Exterior.jpg
439K

IDOZoneAtlasPage_L-14-Z.pdf
556K

NeighborhoodMeetingRequest-1102 Edith BLvd SE.pdf
200K

[Note: Items with an asterisk (*) are required.]

Public Notice of a Proposed Project in the City of Albuquerque for Decisions Requiring a Meeting or Hearing Mailed/Emailed to a Neighborhood Association

Date of Notice*: 01.31.2023

This notice of an application for a proposed project is provided as required by Integrated Development Ordinance (IDO) **Subsection 14-16-6-4(K) Public Notice** to:

Neighborhood Association (NA)*: South Broadway

Name of NA Representative*: Frances Armijo and Tiffany Broadous

Email Address* or Mailing Address* of NA Representative[1]: tiffany.hb10@gmail.com, fparmijo@gmail.com

Information Required by IDO Subsection 14-16-6-4(K)(1)(a)

1. Subject Property Address* 1102 Edith Blvd SE, Albuquerque, NM 87102

   Location Description _____

2. Property Owner* Kinley Raccoon LLC
3. Agent/Applicant* *[if applicable]* N/A
4. Application(s) Type* per IDO Table 6-1-1 *[mark all that apply]*

   - ☐ Conditional Use Approval
   - ☐ Permit _____ (Carport or Wall/Fence – Major)
   - ☐ Site Plan
   - ☐ Subdivision _____ (Minor or Major)
   - ☐ Vacation _____ (Easement/Private Way or Public Right-of-way)
   - ☐ Variance
   - ☐ Waiver
   - ☒ Other: Zone Map Amendment

   Summary of project/request[2]*:

   approval of a Zoning Map Amendment to change the zoning from R-1A to MX-T in order to make the existing triplex a legally conforming use of property

[1] Pursuant to IDO Subsection 14-16-6-4(K)(5)(a), email is sufficient if on file with the Office of Neighborhood Coordination. If no email address is on file for a particular NA representative, notice must be mailed to the mailing address on file for that representative.

[2] Attach additional information, as needed to explain the project/request.

[Note: Items with an asterisk (*) are required.]

5. This application will be decided at a public meeting or hearing by*:

   ☐ Zoning Hearing Examiner (ZHE) ☐ Development Review Board (DRB)

   ☐ Landmarks Commission (LC) ☒ Environmental Planning Commission (EPC)

   Date/Time*: March 16, 2023 8.40 am

   Location*[3]: ZOOM https://cabq.zoom.us/j/2269592859 or by calling the following number: 1 301 715 8592 and entering Meeting ID: 226 959 2859

   Agenda/meeting materials: http://www.cabq.gov/planning/boards-commissions

   To contact staff, email devhelp@cabq.gov or call the Planning Department at 505-924-3860.

6. Where more information about the project can be found*[4]:
   jitka.dekojova@yahoo.com

Information Required for Mail/Email Notice by IDO Subsection 6-4(K)(1)(b):

1. Zone Atlas Page(s)*[5] L-14-Z
2. Architectural drawings, elevations of the proposed building(s) or other illustrations of the proposed application, as relevant*: Attached to notice or provided via website noted above
3. The following exceptions to IDO standards have been requested for this project*:

   ☐ Deviation(s) ☐ Variance(s) ☐ Waiver(s)

   Explanation*:

   no exceptions are requested

4. A Pre-submittal Neighborhood Meeting was required by Table 6-1-1: ☒ Yes ☐ No

   Summary of the Pre-submittal Neighborhood Meeting, if one occurred:

   Virtual neighborhood meeting is scheduled for February 16 where the application will be discussed at regular South Broadway Neighborhood Association meeting. Please contact your neighborhood representative Francis Armijo at fparmijo@gmail.com, 505-400-3473 or Tiffany Broadous at tiffany.hb10@gmail.com, 505-507-4250.

[3] Physical address or Zoom link
[4] Address (mailing or email), phone number, or website to be provided by the applicant
[5] Available online here: *http://data.cabq.gov/business/zoneatlas/*

[Note: Items with an asterisk (*) are required.]

5. ***For Site Plan Applications only****, attach site plan showing, at a minimum:
   - ☐ a. Location of proposed buildings and landscape areas.*
   - ☐ b. Access and circulation for vehicles and pedestrians.*
   - ☐ c. Maximum height of any proposed structures, with building elevations.*
   - ☐ d. **For residential development***: Maximum number of proposed dwelling units.
   - ☐ e. **For non-residential development***:
     - ☐ Total gross floor area of proposed project.
     - ☐ Gross floor area for each proposed use.

Additional Information *[Optional]***:**

From the IDO Zoning Map[6]:

1. Area of Property *[typically in acres]* 0.1286 acres
2. IDO Zone District R-1A
3. Overlay Zone(s) *[if applicable]* N/A
4. Center or Corridor Area *[if applicable]* N/A

Current Land Use(s) *[vacant, if none]* residential (triplex)

_____

NOTE: Pursuant to IDO Subsection 14-16-6-4(L), property owners within 330 feet and Neighborhood Associations within 660 feet may request a post-submittal facilitated meeting. If requested at least 15 calendar days before the public meeting/hearing date noted above, the facilitated meeting will be required. To request a facilitated meeting regarding this project, contact the Planning Department at devhelp@cabq.gov or 505-924-3955.

Useful Links

Integrated Development Ordinance (IDO):
https://ido.abc-zone.com/

IDO Interactive Map
https://tinyurl.com/IDOzoningmap

Cc: _____ *[Other Neighborhood Associations, if any]*

_____

[6] Available here: https://tinurl.com/idozoningmap

OFFICIAL PUBLIC NOTIFICATION FORM
FOR MAILED OR ELECTRONIC MAIL NOTICE
CITY OF ALBUQUERQUE PLANNING DEPARTMENT

PART I - PROCESS		
Use Table 6-1-1 in the Integrated Development Ordinance (IDO) to answer the following:		
Application Type: Zone Map Amendment		
Decision-making Body: EPC		
Pre-Application meeting required:	Yes X No	
Neighborhood meeting required:	X Yes No	
Mailed Notice required:	X Yes No	
Electronic Mail required:	X Yes No	
Is this a Site Plan Application:	Yes X No	***Note**: if yes, see second page*

PART II – DETAILS OF REQUEST
Address of property listed in application: 1102 Edith Blvd SE, Albuquerque, NM 87102
Name of property owner: Kinley Raccoon LLC
Name of applicant: Jitka Dekojova
Date, time, and place of public meeting or hearing, if applicable: March 16, 2023 8.40 am on Zoom
find information at: https://www.cabq.gov/planning/boards-commissions/environmental-planning-commission
Address, phone number, or website for additional information:
Jitka Dekojova 505-730-4016

PART III - ATTACHMENTS REQUIRED WITH THIS NOTICE
X Zone Atlas page indicating subject property.
Drawings, elevations, or other illustrations of this request.
Summary of pre-submittal neighborhood meeting, if applicable.
Summary of request, including explanations of deviations, variances, or waivers.

IMPORTANT: PUBLIC NOTICE MUST BE MADE IN A TIMELY MANNER PURSUANT TO SUBSECTION 14-16-6-4(K) OF THE INTEGRATED DEVELOPMENT ORDINANCE (IDO). PROOF OF NOTICE WITH ALL REQUIRED ATTACHMENTS MUST BE PRESENTED UPON APPLICATION.

I certify that the information I have included here and sent in the required notice was complete, true, and accurate to the extent of my knowledge.

Jitka Dekojova (Applicant signature) 01/31/2023 (Date)

***Note**: Providing incomplete information may require re-sending public notice. Providing false or misleading information is a violation of the IDO pursuant to IDO Subsection 14-16-6-9(B)(3) and may lead to a denial of your application.*

[Note: Items with an asterisk (*) are required.]

Public Notice of a Proposed Project in the City of Albuquerque for Decisions Requiring a Meeting or Hearing Mailed/Emailed to a Neighborhood Association

Date of Notice*: 01.31.2023

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Neighborhood Association (NA)*: South Broadway

Name of NA Representative*: Frances Armijo and Tiffany Broadous

Email Address* or Mailing Address* of NA Representative[1]: tiffany.hb10@gmail.com, fparmijo@gmail.com

Information Required by IDO Subsection 14-16-6-4(K)(1)(a)

1. Subject Property Address* 1102 Edith Blvd SE, Albuquerque, NM 87102

   Location Description _____

2. Property Owner* Kinley Raccoon LLC
3. Agent/Applicant* *[if applicable]* N/A
4. Application(s) Type* per IDO Table 6-1-1 *[mark all that apply]*

   - ☐ Conditional Use Approval
   - ☐ Permit _____ (Carport or Wall/Fence – Major)
   - ☐ Site Plan
   - ☐ Subdivision _____ (Minor or Major)
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   - ☐ Variance
   - ☐ Waiver
   - ☒ Other: Zone Map Amendment

   Summary of project/request[2]*:

   approval of a Zoning Map Amendment to change the zoning from R-1A to MX-T in order to make the existing triplex a legally conforming use of property

[1] Pursuant to IDO Subsection 14-16-6-4(K)(5)(a), email is sufficient if on file with the Office of Neighborhood Coordination. If no email address is on file for a particular NA representative, notice must be mailed to the mailing address on file for that representative.

[2] Attach additional information, as needed to explain the project/request.

[Note: Items with an asterisk (*) are required.]

5. This application will be decided at a public meeting or hearing by*:

   ☐ Zoning Hearing Examiner (ZHE) ☐ Development Review Board (DRB)

   ☐ Landmarks Commission (LC) ☒ Environmental Planning Commission (EPC)

   Date/Time*: March 16, 2023 8.40 am

   Location*[3]: ZOOM https://cabq.zoom.us/j/2269592859 or by calling the following number: 1 301 715 8592 and entering Meeting ID: 226 959 2859

   Agenda/meeting materials: http://www.cabq.gov/planning/boards-commissions

   To contact staff, email devhelp@cabq.gov or call the Planning Department at 505-924-3860.

6. Where more information about the project can be found*[4]:
   jitka.dekojova@yahoo.com

Information Required for Mail/Email Notice by IDO Subsection 6-4(K)(1)(b):

1. Zone Atlas Page(s)*[5] L-14-Z
2. Architectural drawings, elevations of the proposed building(s) or other illustrations of the proposed application, as relevant*: Attached to notice or provided via website noted above
3. The following exceptions to IDO standards have been requested for this project*:

   ☐ Deviation(s) ☐ Variance(s) ☐ Waiver(s)

   Explanation*:

   no exceptions are requested

4. A Pre-submittal Neighborhood Meeting was required by Table 6-1-1: ☒ Yes ☐ No

   Summary of the Pre-submittal Neighborhood Meeting, if one occurred:

   Virtual neighborhood meeting is scheduled for February 16 where the application will be discussed at regular South Broadway Neighborhood Association meeting. Please contact your neighborhood representative Francis Armijo at fparmijo@gmail.com, 505-400-3473 or Tiffany Broadous at tiffany.hb10@gmail.com, 505-507-4250.

[3] Physical address or Zoom link
[4] Address (mailing or email), phone number, or website to be provided by the applicant
[5] Available online here: *http://data.cabq.gov/business/zoneatlas/*

[Note: Items with an asterisk (*) are required.]

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   - ☐ a. Location of proposed buildings and landscape areas.*
   - ☐ b. Access and circulation for vehicles and pedestrians.*
   - ☐ c. Maximum height of any proposed structures, with building elevations.*
   - ☐ d. **For residential development***: Maximum number of proposed dwelling units.
   - ☐ e. **For non-residential development***:
     - ☐ Total gross floor area of proposed project.
     - ☐ Gross floor area for each proposed use.

Additional Information *[Optional]***:**

From the IDO Zoning Map[6]:

1. Area of Property *[typically in acres]* 0.1286 acres
2. IDO Zone District R-1A
3. Overlay Zone(s) *[if applicable]* N/A
4. Center or Corridor Area *[if applicable]* N/A

Current Land Use(s) *[vacant, if none]* residential (triplex)

_____

NOTE: Pursuant to IDO Subsection 14-16-6-4(L), property owners within 330 feet and Neighborhood Associations within 660 feet may request a post-submittal facilitated meeting. If requested at least 15 calendar days before the public meeting/hearing date noted above, the facilitated meeting will be required. To request a facilitated meeting regarding this project, contact the Planning Department at devhelp@cabq.gov or 505-924-3955.

Useful Links

Integrated Development Ordinance (IDO):
https://ido.abc-zone.com/

IDO Interactive Map
https://tinyurl.com/IDOzoningmap

Cc: _____ *[Other Neighborhood Associations, if any]*

_____

[6] Available here: https://tinurl.com/idozoningmap

Gmail

Chelsea Gulling <chelsea@gullingconsulting.com>

Public Notification of Zone Change Request for 1102 Edith Blvd SE - Public hearing notice

1 message

Jitka Dekojova <jitka.dekojova@yahoo.com> Mon, Jan 30, 2023 at 4:12 PM
To: "fparmijo@gmail.com" <fparmijo@gmail.com>, "tiffany.hb10@gmail.com" <tiffany.hb10@gmail.com>
Cc: Chelsea Gulling <chelsea@gullingconsulting.com>

Dear Tiffany and Frances,

you spoke to my partner Chelsea previously about us moving forward with Zone Map Amendment for 1102 Edith Blvd SE. As requested, we will join you (virtually) at South Broadway Neighborhood Meeting on February 16 and answer any questions.

Property History, Renovations, Need for Zone Change & Future Plans:
Kinley Raccoon LLC purchased the triplex in December 2021. Prior to our ownership, the property was owned by the same family for over 30 years and we understand that it has operated as a triplex for the entire time.

Following purchase of the property, we painted and repaired the exterior, added a washer and dryer and did some cosmetic repairs inside the units. We have no plans to operate the building any differently than it has been operating for the last thirty years - as a triplex however, we currently are not legally confirming due to the extensive zone changes in the area done through the Integrated Development Ordinance (IDO) in 2017.

Our Attempts to be Legally Conforming Without a Zone Change:
We attempted to be grandfathered into the new zoning laws so that we would not have to do a zone change. However, since the request to be grandfathered in was not made within the required two-year time period following the 2017 IDO adoption, we were unable to do so. Therefore, zone change is our only option to operate as a legally conforming triplex.

EPC Public Hearing Notice:
As required by IDO Table 6-1-1, the EPC Public Hearing date will be March 16th, 2023, beginning at 8:40 am via ZOOM at which time this application will be reviewed.

Zoom Link for EPC Meeting:
https://cabq.zoom.us/j/2269592859
or join by calling the following number: 1 301 715 8592 and entering Meeting ID: 226 959 2859

Attachments: Public notice forms and Zone Atlas Map

Please let us know if you have any questions regarding the EPC hearing.

Chelsea Gulling & Jitka Dekojova
Kinley Raccoon LLC

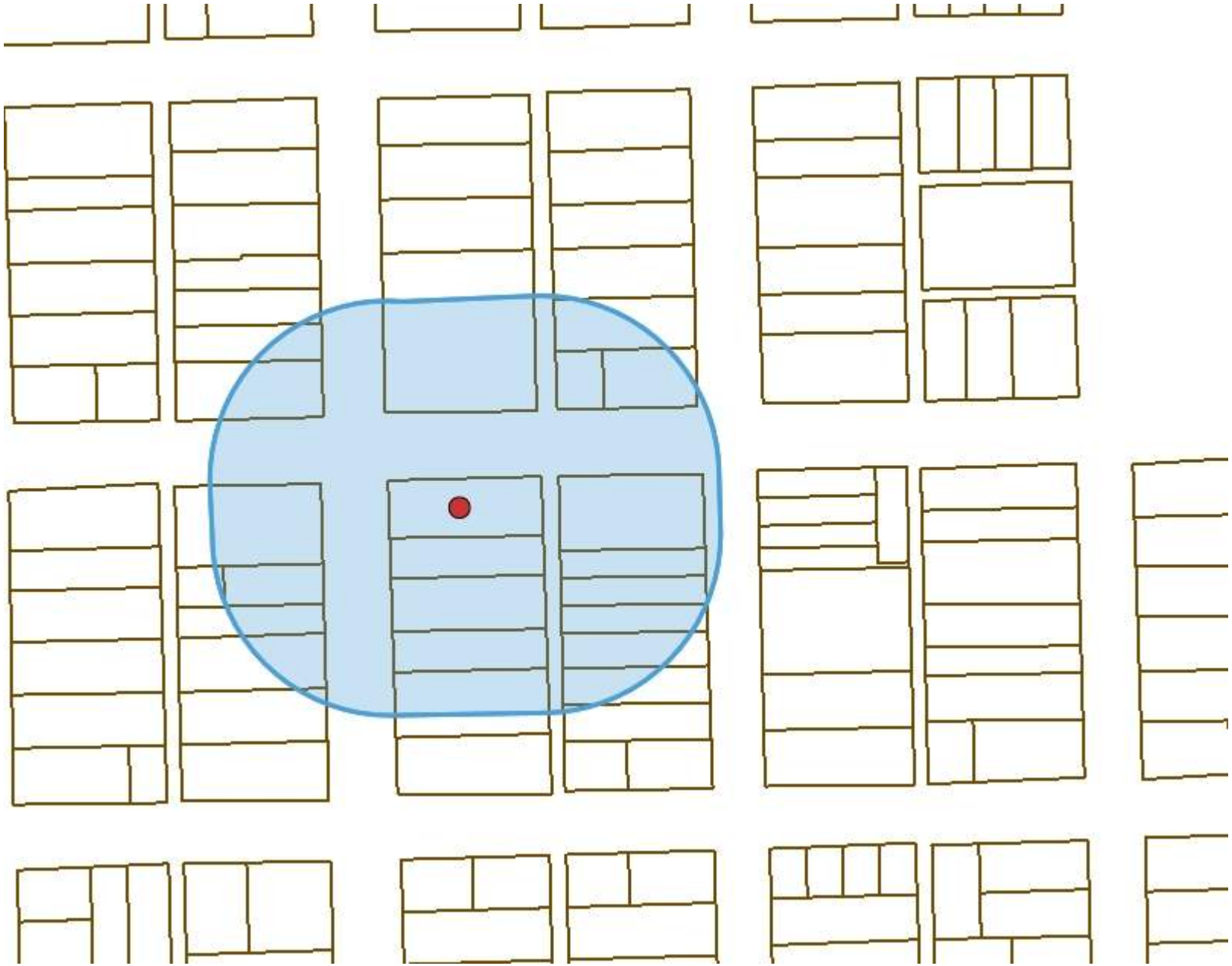
3 attachments

03 IDOZoneAtlasPage_L-14-Z (1).pdf
556K

Emailed Notice-PublicMeetingHearing for NA (1).pdf
184K

CABQ-Official_public_notice_form-2019 (3).pdf
634K

1102 Edith Blvd SE



Legend

- Bernalillo County Parcels

Notes

BUFFER: 170 Ft.
ROW: Edith Blvd. SE; 70 Ft.

280 0 140 280 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere
1/30/2023 © City of Albuquerque

1: 1,678

The City of Albuquerque ("City") provides the data on this website as a service to the public. The City makes no warranty, representation, or guaranty as to the content, accuracy, timeliness, or completeness of any of the data provided at this website. Please visit http://www.cabq.gov/abq-data/abq-data-disclaimer-1 for more information.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

WILLIAMS MONICA FISCHETTI-PALMIERI
2821 MAXIMILLIAN RD NW
ALBUQUERQUE NM 87104-1816

PALLADINO JULI
1023 EDITH BLVD SE
ALBUQUERQUE NM 87102-4408

UNITED SOUTH BROADWAY
CORPORATION
PO BOX 25242
ALBUQUERQUE NM 87125

PEREZ JOSE FERNANDO III
1902 WALTER ST SE
ALBUQUERQUE NM 87102-4868

DORN JOHNNY RAY & NOVA D
1106 EDITH ST SE
ALBUQUERQUE NM 87102

DUNWORTH MARY LOU
1107 WALTER ST SE
ALBUQUERQUE NM 87102-4458

UNITED SOUTH BROADWAY
CORPORATION
PO BOX 25242
ALBUQUERQUE NM 87125

KINLEY RACCOON LLC
710 ROMA AVE NW
ALBUQUERQUE NM 87102-2039

BIRKLEY WILLIAM
1114 EDITH BLVD SE
ALBUQUERQUE NM 87102-4434

AVALOS JESUS
1107 EDITH BLVD SE
ALBUQUERQUE NM 87102

NEIGHBORHOOD CENTER LLC
1020 EDITH BLVD SE
ALBUQUERQUE NM 87102

MIRELES LAWRENCE
1075 SE BIANCA ST
HILLSBORO OR 97123-4697

HAMILTON MARNELLI JOANNE
1101 EDITH BLVD SE
ALBUQUERQUE NM 87109-4433

UNITED SOUTH BROADWAY CORP
PO BOX 25242
ALBUQUERQUE NM 87125

SALAS BERNADETTE E
1101 WALTER ST SE
ALBUQUERQUE NM 87102-4458

JONES DIANE DORN
PO BOX 26665
ALBUQUERQUE NM 87125-6665

LEONARD GLYNN & LANDRUM TYRON &
CARLA MITCHELL & ETAL
1117 WALTER ST SE
ALBUQUERQUE NM 87102-4458

LUJAN RICHARD & LELANDAIS LAURIE
1113 EDITH BLVD SE
ALBUQUERQUE NM 87102

MERZ TYLER AARON & SPRAGINS
ELIZABETH LEE
1120 EDITH BLVD SE
ALBUQUERQUE NM 87102-4434

HUSE KENNETH & ELAINE
4307 BOULDER DR
MIDLAND TX 79707-3612

GREATHOUSE ANNA LORRAINE
1021 EDITH BLVD SE
ALBUQUERQUE NM 87102-4408

ETG PROPERTIES LLC
8301 LOMAS BLVD NE
ALBUQUERQUE NM 87110-7908

CARTER GARY
1520 HIGH ST SE
ALBUQUERQUE NM 87102-1628

VALENZUELA FRANCES G
1019 WALTER ST SE
ALBUQUERQUE NM 87102-4421

CHAVEZ-TORRES RICARDO
1609 EASTRIDGE DR NE
ALBUQUERQUE NM 87112-4510

MIRELES VIRGINIA
1109 WALTER ST SE
ALBUQUERQUE NM 87102-4458

January 31, 2023

Avalos, Jesus
1107 Edith Blvd SE
Albuquerque, NM 87102

RE: Public Notice of EPC Hearing // Zone Map Amendment

Dear Jesus,
We are excited to be a part of your neighborhood! Please see the following materials we are required to send. Please know, we have no plans to alter the use of the lot. We just look forward to gaining the legal designation to continue operating the property as a triplex.

We are writing to inform you of a Zone Map Amendment request from R-1A to MX-T for the property at 1102 Edith Blvd SE.

Property History, Renovations, Need for Zone Change & Future Plans:
Kinley Raccoon LLC purchased the triplex in December 2021. Prior to our ownership, the property was owned by the same family for over 30 years and we understand that it has operated as a triplex for the entire time.

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Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
AVALOS JESUS
1107 EDITH BLVD SE
ALBUQUERQUE NM 87102
Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
DORN JOHNNY RAY & NOVA D
1106 EDITH ST SE
ALBUQUERQUE NM 87102
Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
BIRKLEY WILLIAM
1114 EDITH BLVD SE
ALBUQUERQUE NM 87102-4434
Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
DUNWORTH MARY LOU
1107 WALTER ST SE
ALBUQUERQUE NM 87102-4458
Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
CARTER GARY
1520 HIGH ST SE
ALBUQUERQUE NM 87102-1628
Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
ETG PROPERTIES LLC
8301 LOMAS BLVD NE
ALBUQUERQUE NM 87110-7908
CHAVEZ-TORRES RICARDO
1609 EASTRIDGE DR NE
ALBUQUERQUE NM 87112-4510
Chelsea Gulling & Jitka Dekojova
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GREATHOUSE ANNA LORRAINE
1021 EDITH BLVD SE
ALBUQUERQUE NM 87102-4408

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ALBUQUERQUE NM 87102-4458
Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
MIRELES LAWRENCE
1075 SE BIANCA ST
HILLSBORO OR 97123-4697
Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
JONES DIANE DORN
PO BOX 25665
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Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
MERZ TYLER AARON & SPRAGINS
ELIZABETH LEE
1120 EDITH BLVD SE
ALBUQUERQUE NM 87102-4434
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710 Roma Ave. NW
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HUSE KENNETH & ELAINE
4307 BOULDER DR
MIDLAND TX 79707-3612
LUJAN RICHARD & LELANDAIS LAURIE
1113 EDITH BLVD SE
ALBUQUERQUE NM 87102
Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
HAMILTON MARNELLI JOANNE
1101 EDITH BLVD SE
ALBUQUERQUE NM 87109-4433

Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
WILLIAMS MONICA FISCHETTI-PALMIERI
2821 MAXIMILLIAN RD NW
ALBUQUERQUE NM 87104-1816
Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
SALAS BERNADETTE E
1101 WALTER ST SE
ALBUQUERQUE NM 87102-4458
Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
PEREZ JOSE FERNANDO III
1902 WALTER ST SE
ALBUQUERQUE NM 87102-4868
Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
VALENZUELA FRANCES G
1019 WALTER ST SE
ALBUQUERQUE NM 87102-4421
Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
PALLADINO JULI
1023 EDITH BLVD SE
ALBUQUERQUE NM 87102-4408
UNITED SOUTH BROADWAY CORP
PO BOX 25242
ALBUQUERQUE NM 87125
Chelsea Gulling & Jitka Dekojova
710 Roma Ave. NW
Albuquerque, NM 87102
NEIGHBORHOOD CENTER LLC
1020 EDITH BLVD SE
ALBUQUERQUE NM 87102

SIGN POSTING AGREEMENT

REQUIREMENTS

POSTING SIGNS ANNOUNCING PUBLIC HEARINGS

All persons making application to the City under the requirements and procedures established by the City Zoning Code or Subdivision Ordinance are responsible for the posting and maintaining of one or more signs on the property which the application describes. 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. If the application is mailed, you must still stop at the Development Services Front Counter to pick up the sign.

The applicant is responsible for ensuring that the signs remain posted throughout the 15-day period prior to public 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 at a charge of $3.75 each.

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 _____To _____

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.

_____ 01/31/2023
(Applicant or Agent) (Date)

I issued _____ signs for this application, _____, _____
(Date) (Staff Member)

PROJECT NUMBER: _____

Rev. 1/11/05

FACILITATED MEETING REPORT

CITY OF ALBUQUERQUE
LAND USE FACILITATED MEETING REPORT
1102 Edith SE- February16, 2023

Project: 1102 Edith NE - EPC Application for Zone Map Amendment
Property Description/Address: 1102 Edith SE, ABQ NM 87102
Date Submitted: February 25, 2023
Submitted By: Jocelyn M. Torres
Meeting Date/Time: February 16, 2023, 6:00 pm – 8:00 pm
Meeting Location: Via Zoom
Facilitator: Jocelyn M. Torres
Applicants: Kinley Raccoon LLC, Jitka Dekojova and Chelsea Gulling
Neighborhood Associations/Interested Parties: Albuquerque South Broadway Neighborhood Association **(**SBNA); neighbors.

Facilitator's Note Regarding the City of Albuquerque Land Use Facilitation Program:

> **Purpose**
> Created in 1994 to encourage communication between the applicants proposing land use projects and residents that would be impacted by proposed projects. The Facilitation process provides an opportunity for residents and applicants to exchange information, ask questions, and discuss concerns about proposed projects. Residents and applicants have expressed increased satisfaction with the land use process.
> **What is Facilitation?**
> Facilitation is a collaborative voluntary process used to help parties discuss issues, identify and achieve goals and complete tasks in a mutually-satisfactory manner. This process uses a facilitator, who focuses on the processes and assists and guides the participants in procedures of dispute resolution and decision-making. The facilitator is impartial to the issues being discussed, has no advisory role on the content of the meeting, and no interest in the outcome of the meeting.[1]

This was a productive meeting between the SBNA and the Applicants. Towards the end of the meeting, the Facilitator discouraged the repetitive questions being asked of the Applicants. The same questions had already been asked of the Applicants and answered several times. The Facilitator's role is to guide the participants in the collaborative and mutually-satisfactory dispute resolution and decision-making process. The Facilitator was therefore protecting and facilitating the process. A participant then asked: "are you *advocating for this or what? As a facilitator, I'm just saying*." The Facilitator responded that she has no interest in the property or the outcome of the meeting. The Facilitator instead performed her role in a manner that was fair to the process and the participants.

Background Summary:

APD Officer Davis provided a neighborhood crime report prior to the commencement of this meeting.

Applicants purchased this triplex in 2021. They were unaware that the triplex was a nonconforming use as a result of its post-IDO zone designation of R-1. The property, along with several surrounding parcels, had been zoned SU-2 prior to the effective date of the IDO. Applicants' purchase was after the two year window for an IDO zone change. Applicants have since renovated the triplex by painting the building, doing cosmetic upgrades to the units and by adding a washer and dryer. They have been unable to obtain metered service or a mailbox due to the nonconforming zone. As a result, applicants have filed for a zone change to MX-T. Their Zoom EPC hearing date is March 16, 2023. An agenda will be posted on the EPC website.

[1] https://www.cabq.gov/legal/adr/land-use-facilitation.

Neighbors had mixed reactions to this zone change request. The attached CABQ map shows that five surrounding properties have MX-T zones. Applicants will try to get more background information on those properties. *See* Action Item 2.

1. **Discussion:**

   a. The Applicants addressed:

      i. Their purchase of the triplex in December, 2021.
      ii. Due to the date of purchase, Applicants missed the two year window for an IDO zone change.
      iii. Their intent to maintain ownership of the triplex and to continue its current use.
      iv. Applicants' renovations and updates to the property.
      v. The property was run as a triplex for approximately 50 years, was previously zoned SU-2, and is listed as multi-family housing on the county website.
      vi. Applicants have encountered obstacles, such as being unable to obtain separate mailboxes and metering, due to the nonconforming IDO R-1 zone designation.
      vii. Next steps.

   b. SBNA questions and comments:

      i. Some neighbors voiced concern that if the zone is changed to MX-T, applicants may repurpose the property to another "permissive use" within that zone.
      ii. One neighbor stated a preference that applicants not pursue the requested zone change and that they retain the current "nonconforming" R-1 zoning designation.
      iii. Other neighbors are undecided.
      iv. SBNA will vote on their joint decision regarding this application.

2. **Conclusions.**

   a. Applicants will follow up on action items.
   b. Applicants will pursue the application process.
   c. All interested parties may attend the public EPC hearing of March 16, 2023.

Meeting Specifics *Participant Questions and Comments are Italicized*. Others are displayed in regular font.

1. **Purpose of zone change application.**

   a. Q: Couldn't we do a zone variance instead of a map change? Couldn't a variance get the same effect since you're just wanting information for that existing property? If I'm not mistaken, what you're asking for is not just for that property, it's applicable all over. But couldn't you get the same thing with just a variance request?

   A: I wish we could because it would have been much easier. Variance, though is used for something like a variance in building height, wall height, or little things like that. The only way we could do this, after not being grandfathered in, is with the zone change. To clarify very clearly, this will only be applicable to that one parcel on 1102 Edith. It will not affect the surrounding areas or the whole neighborhood at all.

b. *C/Q: On the map that you showed earlier, you showed MX-T properties. Those properties were not changed after the zoning code. They were probably there already. I don't think anyone in our neighborhood went down through that process. During that, there was a time period. So those have been MX-T for quite some time. I think the question that I have is that you mentioned in a letter that you were illegally operating a triplex. My understanding is that you're not illegally operating it. It's just a non-conforming building. So what is the fear about future operation of that property as a triplex?*

A: It is illegally operating because the use is, well, not illegal; nonconforming.

C: It's nonconforming, but that's different than being illegal. You are actually legal because you have three tenants and you have three units. The City allowed you to operate all three units. So you're not illegal. You are legally operating a non-conforming building. So what's the purpose of having to come into conformity? Because there's lots of properties in these old historic neighborhoods that have this designation. So why the need to do this? Because it does open the door to a lot of other uses. So that property could then be used for a number of different purposes.

A: Yes you are correct that the zone MX-T allows for uses other than triplex. However, there is nothing from the City, any kind of paper, that says we can keep operating as a triplex. Basically, during the meeting, they said, well, we are not going to kick anyone out. You can keep what you're doing, but you need to make this right.

Q: What do you mean by that? Make it right. What do they mean by that?

A: Make the zone comply with the use.

C: They're not making anybody else do it. You can operate that property as nonconforming triplex from now on. No one's going to come along and change that on you, because that's what the others have been doing. So the question for me is, you bought a building, it was a triplex, it was a non-conforming property as are a number of properties in the area. So why the need to change? Because if you're going to continue to operate as a triplex, as you said, why would you need to change? You own the building, and if you some later date you decided you wanted to do something different, then you could bring it back to the neighborhood association and then be real clear what you're asking for in terms of usage. You'd come back and say you want to do this or that. But now to ask for a pretty extensive, pretty aggressive kind of zoning, which we kind of like to keep out of the residential area. That kind of zoning typically falls on Broadway when you're mixing a lot of commercial with residential properties. We've kind of kept that out of the residential part of the neighborhood, and it's very difficult to do because we're so close to Broadway with that property.

C: So I guess the question is, if you're not planning on doing anything other than a triplex, as you said, then why the need for a zoning change at this point in time? If later on, as the owner, you want to change it and do something else, then you could come back to the neighborhood with a very specific use that you want, and then they could weigh it from that use, because MX-T says that you could also operate a group home, a small group home. And according to the planning department, when I talk to them, they cannot regulate what kind of halfway house it could be. So it could be any number of halfway contract houses as long as it meets the small group home definition.

Q: Did they give you a deadline for converting it?

A: We don't have a deadline but we have a letter that it's not conforming.

Q: My question is, if you're going to operate it as a triplex, even though it's a non-conforming property, you can still operate it as a triplex till the cows come home. If you choose to change your zoning later on, then you would file an application before the City of Albuquerque. It would come back to the neighborhood, and they could make a decision based on, you now want to operate this or that or the other. They'd be very specific about it. So I guess just kind of opening up that kind of extensive zoning is a real big ask for a property that you legally own. You can legally operate it as a triplex. And the only reason that the City would say that you need to change it is if you want to do something else, you will have to change it.

Facilitator: Chelsea has posted the MX-T definition in chat. It reads:

> The purpose of the MX-T Zone District is to provide a transition between residential neighborhoods and more intense commercial areas. Primary land uses include a range of low density, multifamily residential and small scale office, institutional and pedestrian oriented commercial uses.

As far as I understand, Diana is asking for the purpose of the requested change to MX-T, as opposed to the R-1 zone.

C: Yeah. So we'd be changing from R-1, which is residential, and it's been operating that way with no problem in this community for over 50 years. There's no reason to build a transition between the residential and that property. What is the purpose of creating that transition? It's already in a residential space operating as a low density, multifamily residential property, and it's been operating that way for a long time, so why change it?

Facilitator: What was the property zoned before the IDO?

A: I'd have to look it up to be sure, but I think it was zoned SU-2. We understood that it was a really broad designation, which is why all of these homes prior to 2017 could be operated in many different ways. It was a very unique situation. I think some of the paperwork we found said that you could even operate a zoo, so it was really broad.

Facilitator: This will be Action Item 1. Find out the definition of SU-2, what the property was zoned before, to determine why it is now zoned as R-1.

Q: Because you put up the definition of MX-T. It talks about low density, multifamily residential, small office, institutional. Under that code, you can have an auditorium venue. You can have brew club, which we call liquor consumption, health clinic, blood banks, bed and breakfast, hotel, motels, and small group homes that include drug rehabilitation and offender programs as well. So that would change us tremendously, change the use of that building. If they were to choose at some point in time, if we were to allow MX-T, that could be done, and that would very much change the character of the residential area.

Facilitator: I think that this partnership has a right to go forward and ask for the zone change. There will be an EPC hearing on that. Then neighbors can make comments and ask questions.

As property owners, they have the right to go forward if they choose to do so, for whatever reasons they may have.

Q: I have a question for Diana. If they change to MX-T, that zone allows for several other uses. Is that correct?

C: If it becomes MX-T there are uses that they could use the property for, that they cannot do under the current zoning. You can see that even under the current zoning, it's pretty high. It's a pretty big change in the use of the property and what might come into the neighborhood.

Q: Could that happen with all these other MX-T properties that now exist? Could the same concerns be applied there?

C: Except that those have been here for a long time. These are already operating as MX-T. I would have to look at that map, which I will do after the meeting, and share with you where they are and what they are.

C: But they could revert to something that we would not want in our neighborhood.

C: But if you look at the map, those are not as close to the heart of the residential area.

C: Really? I'm not seeing that.

C: But see, that MX-T where it says South Broadway Cultural Center? That's on Broadway, right? And then the stuff on Bell. I don't know what all that is, because those are all residential properties. I'd have to look and see what those are that are on Bell southeast. It could be apartment buildings, I don't know. But we don't have that many apartments in our neighborhood.

A: Diana, I'm learning that all those other uses could be done with MX-T. I was not aware of that. I will just say for clarity, this MX-L, that's one that is kind of meant more for buffers. And I'll put the definition in for MX-L. You can see that's what's around the perimeter. Our understanding is that MX-L is what allows for storefronts and that kind of thing.

C: We were told that nobody will get kicked out of the apartment you are legally operating. I talked to the zoning department the other day about it because I wanted to be clear. And according to the people that you made the application with, they said, no, it's a legally operating triplex. It's just a non-conforming building. So if you want to change something, then you would have to go for a change. It would be RM-L or MX-T. At this point, you are perfectly legal. No reason to have to change it unless you're planning on changing the use.

A: Yeah, I am really not sure, because we were never told that we can legally operate it as a triplex.

Facilitator: Chelsea posted the following in chat:

> The Integrated Development Ordinance. The purpose of the MX-T Zone District is to provide a transition between residential neighborhoods and more intense commercial areas. Primary land uses include a range of low density, multifamily residential and small scale office, institutional and pedestrian oriented commercial uses..

C: Yeah. So we'd be changing from an R-1, which is residential, and it's been operating that way with no problem in this community for over 50 years. There's no reason to build a transition between the residential and that property. What is the purpose of creating that transition? It's already in a residential space operating as a low density, multifamily residential property, and it's been operating that way for a long time, so why change it?

Facilitator: I have a question for the Applicants. What was the zoning for that property before the IDO became effective?

A: As far as we know, the MX-T zone came with the IDO. The properties around were not zoned MX-T before 2017. There was an older zone, something like SU-2, used in the South Broadway area. I am not a planner, so if I need to research this, I will do it. But the IDO introduced the MX-T zone.

Facilitator: Historically, do you know what zone was attributed to this property before the IDO came into existence? Do you know from closing documents what the zone was for that property?

A: It was the SU-2. We understood that it was a really broad designation, which is why all of these homes prior to 2017 could be operated in many different ways. It was a very unique situation. Some of the paperwork we found said that you could even operate a zoo. It was really broad.

Facilitator: We need to clarify this. I could make an action item for the report. I usually give two weeks from the date of the report to respond. Find the definition of the prior zoning designation and we'll at least have clarification of how the triplex ended up with the current IDO zoning. That's my question.

A: The property was zoned SU-2, which was a pretty flexible use. During the IDO, it was rezoned to R-1.

Facilitator: Let's get the exact definition of that SU-2 to get a better understanding of how it applied to your property and how your property ended up having triplex.

C: But, Joycelyn, what about the fact that when the IDO came along, the SU-2 allowed for some light commercial? Because in the old days, we had little corner grocery stores. We had little salon hair dressing, like services for community that were there. And then when the IDO came through, they changed that and made it more amenable to the residential area of the neighborhood by giving it R-1.

Facilitator: Several properties fell through the cracks with the IDO rezone. Diana has another question.

C: Yeah, I just wanted to because you put the definition of an MX-T, and it talks about low density, multifamily residential, small office, institutional. Under that code, you can have auditorium venue. You can have brew club, which we call liquor consumption, health clinic, blood banks, bed and breakfast, hotel, motels, and small group homes that include drug rehabilitation and offender programs as well. So that would change us tremendously, change the use of that building. If they were to choose at some point in time, if we were to allow, that could be done, and that would very much change the character of the residential area.

Facilitator: I think you said that, I guess clearer now than what you said before. I understand your hesitation, but I think that this partnership has a right to go forward, to ask for the zone change. There's going to be an EPC hearing on that. Then neighbors, whoever it is, can make comments and ask questions, but as property owners, they have the right to go forward if they choose to do so, for whatever reasons they may have.

C: I'm not questioning that at all.

Facilitator: It doesn't have to be our reason. They're the property owners and they have the right to go forward. Marie has a question. Go ahead, Marie.

C: The applicant has posted several definitions in chat that answer some of the questions that were just being asked.

Facilitator: To have an action item doesn't mean it requires 14 days to respond. It just means that we get clarification. Also, for the purpose of the EPC, or anyone else that is reading the public report, they understand that we did cover this territory and that we did get that question answered. I prefer to do it through the action item route that we already discussed and then to let the applicants do that research. Thank you, Marie. I mean, that's a great statement, but I think it's better to have it pinned down in the report.

Q: I have a question for Diana. So you're saying that if an MX-T property exists, that they could use it for many other things. Did I misunderstand you? Is that right?

A: Yes, Frances. If it becomes MX-T, these are allowable uses. These are uses that they could use the property for; that they cannot do under the current zoning. You can see that even under the current zoning, it's pretty high. It's pretty big change in the use of the property and what might come into the neighborhood.

Facilitator: Could that happen with all these other MX-T properties that now exist? Could the same concerns be applied there?

C: Except that those have been here for a long time. These were already operating as MX-T. So I would have to look at that map. I will after this meeting. I will look at that map, and I will go and look at every one of those MX-T buildings and share with you where they are and what they are.

Q: But they could revert to something that we would not want in our neighborhood?

C: But if you look at the map, those are not as close to the heart of the residential area.

Q/C: Really? See, I'm not seeing that.

C: But see that MX-T where it says South Broadway Cultural Center? That's on Broadway, right? And then the stuff on Bell, I don't know what all that is, because those are all residential properties. I'd have to look and see what those are that are on the Bell southeast. It could be apartment buildings, I don't know. But we don't have that many apartments in our neighborhood.

A: If it's helpful, again, we're new to this. We've done a lot of research. This is what we've come up with. I'm just going to also put in there, Diana. I was not aware that all of those other uses could be done with MX-T. I will just say for clarity, this MX-L is meant more for buffers. I'll put in the definition for MX-L. You can see that's what is around the perimeter. Our understanding is that MX-L allows for storefronts and that kind of thing.

C: Yeah, commercial storefront kinds of things. Versus these other uses that come with an MX-T versus MX-L. We don't have any MX-T in our area, except for, I don't know what that is.

A: Yeah, you can see on the same block, there are two MX-T properties across the street, and the other two are MX-T. One the neighbors; they're all MX-T.

*C: One of them used to be the old station; used to be a hair salon; and it is now a residential property. It's an apartment. It's a single apartment sitting there that wraps around the block. All of those, I think, are just apartment buildings that have been here for a long time. But they're MX-T, so they could probably do that, but they haven't done it in 100 y*ears.

C: I just want to bring up the chat comment with Chelsea. She put in the definition of MX-L, which I think is appropriate for the project. If you go down to the primary land uses, non-destinational residential and commercial use, as well as townhouse, low density, multi-family residential dwelling. So I think that would fit their land use appropriately. That would be to apply for MX-L if anything.

Facilitator: My understanding is that when you talked to the City, they gave you guidance that the MX-T would be the appropriate zone for this parcel, right?

A: Yes, because MX-L is meant for the perimeter and there's actually more use for MX-L, than for MX-T. You can see with the map that the four surrounding buildings are MX-T. That's how they are able to operate as multi-family. The MX-L would be an option but the feedback we got is that because that's not already in the neighborhood, MX-T is the option. Also, neighbors don't like that as much, because you can get three stories on that, and you can't do that with the one that we're trying to apply for.

C: She addressed my concern, because my concern with MX-L is that the buildings could be taller. In our residential area, we don't want buildings that are similar to skyscrapers, basically, because we do want the buildings to conform and keep with the character of the neighborhood. Even if it is a little taller. Even if you look at what's across the street, that is mixed use, but it also has art and businesses and a church.

C: That was once owned by the Baptist Convention and has been there forever. They didn't go and try to change the use into something like a group home or something else. They stuck with what they had said they were going to do, even as the owners have transitioned over the years. And so I like that we're having this conversation. What attracted you to our neighborhood is one of my questions.

A: I live in the greater downtown area. I like the variety, the historical aspects and how colorful and vibrant the place is. We liked that it's close to downtown, near the school. It's a neighborhood we had been looking at for a while. This was a property that we liked. It was just kind of as simple as that. We drove through the neighborhood and appreciated the character and the people. We found in our conversations with people that we appreciated it.

Q: Are you guys going to be hands on landlords or have a local management company? Are you guys going to be absentee landlords? Because one of the things that was good about that property, and even the ones on the corners, is that the landlords are local. They're hands on, so they can address any issues that arise immediately. We don't have a lot of, especially in that block, incidents on crime. We don't have a lot of incidents of destroyed property. As a landlord, how do you plan to keep the character of our community? How active do you plan to be? Are you guys going to have any local management? Are you going to be way-distant landlords? What is your involvement on that level going to be, and how are you going to keep the apartments affordable? Is it just an investment piece for you? Is it going to be affordable based on the neighborhood demographics? Can you answer some of those questions for me, please?

A: Yes, absolutely. Again, I live in the downtown area, so I don't think we can be distant landlords, but I understand your concerns. We have one long term tenant which has been living there for, I believe, two or three years. He's very happy he's planning to stay.

A: We do have a property management company. We did manage for a little while, but the day to day is too much. So we do have a property management company. I would say we're as hands on as we can be with a property management company. Deacon is the property management company. We did a lot of research. We just got a management company. This is our first experience with it. We talk to them frequently. We have certainly talked to the tenants. I'll say a little bit about I think it's important to us we didn't get in this to be absent landlords. Of course, it's an investment property. We bought it as an investment. We're not living it in ourselves, but I think that's not the primary value. We got into it because you can appreciate the design and the communities. I'm a community organizer by trade, so that's why I really appreciate these kinds of neighborhood meetings. Like, this is what I do in my day job, and I appreciate community input. I appreciate the concerns and I appreciate the dialogue. I think the reality is, we're new owners here. We got into this because we liked the neighborhood. We wanted to add more color. We wanted to renovate some parts and we're excited about that. We were excited to get a project where we could add some of our own touches. We certainly care deeply. I care very deeply about the experience of the tenants and the neighbors. Beyond that, we're so new, I don't know how many examples I can provide. All I can ask is that people give us a shot and, respect that we're really wanting to do the right thing.

C: I do appreciate what you're saying. I didn't mean, to come across as being overly aggressive. Some in the neighborhood speak pretty much the same jargon that you're speaking and the reality turned out to be something quite different. So at this stage, it's just always good, I think, for us to get a feel of the owners and what they're saying. So at this time, what you're telling us, and what you've been quite emphatic on, is that you have no intention of ever changing it from a triplex to something more with higher density. That you plan to keep it as a triplex.

A: Correct.

C: If I'm hearing you correctly, even though for the last 30, 40, 50, 60 years it's been operated under the zoning, and even when it was under the SU-2 and under the current zoning. When it goes to the other aspect, which is residential, that you're saying that you've been told by the City that it is a nonconforming building. I'm kind of curious about that because there are some other properties in the neighborhood that under similar circumstances, and they haven't come to us asking for the kind of changes that you're asking. They've been able to continue operating as they have. Okay, I did talk to a couple of realtors, and I just talked to a couple of newer property owners that I was aware of in the community with similar circumstances. So that's why I keep

coming back to why the particular variance. But as we do the homework, I think that we'll have more answers, because right now, I'm not quite on board with the type of change that you're asking for. I'm not quite on board because of what it can allow in the future.

And so I'm just saying I'm not on board with the type of changes that you're asking for at this time. I don't think that as a neighborhood association, we have quite enough information on the differences of the zoning and what it was used for before and all the subtitles and all that stuff. And I think that we just need more information as a neighborhood organization to make a better informed decision. Although I do appreciate what you're saying, I'm just not comfortable at this moment because I just feel like I don't have enough information. And I think that as we've had this as this meeting progresses, I think that's part of why there's that action step that needs to be taken that the Facilitator has stated so that we can have a little bit more clarity as to exactly what each change means.

Facilitator: Thanks Marie. I think that's a good way to put it. You're willing to listen to both owners and what their plans are. I do think that the action item will help. Another thing would help is an agent like Consensus Planning. They probably would do what Diana was thinking of doing. Maybe a person could consult with the City and look into the surrounding zone changes to see if that MX-T zone resulted from the IDO. Did they fall within that two year window, or how did they get that zoning? That was a question that Diana brought up. She said she could do that research, but the Applicants can also do that research. That might help clarify how some property owners came within that two year window and some didn't. For whatever reason, you didn't even buy the property within that two year window. That might be another thing to look into if you would like to do that. Tiffany, do you have a question or a comment?

C/Q: I think somebody mentioned it at the beginning, and the answer was not clear to me. I just need some clarity. Are you asking to change the whole neighborhood or are you just asking to change this single individual property? And that's what was not clear to me from the earlier part of this, as you explained it.

A: We are not trying to change the property or the neighborhood. We are trying to keep the building as is. We are changing the property's zone.

C: It will not affect the neighborhood unless you decide under MX-T to do one of these other uses. Yes, as owners, you have a right to do that. Yes, we can't stop you. There's nothing legally we can do to stop you.

Facilitator: I think they've said many times with Diana's and Marie's questions that is not their intent. Now, I do understand the zoning runs with the property, and if these two were to sell the property and get the rezoning, it would have that zone. There are several permissive uses. And I'm not an IDO expert, but I know that there are permissive uses. However, I think both partners in this property investment have said they don't want to change the property; they just want to bring it into conformance with the proper zoning.

Q/C: Are you advocating for this or what? As a facilitator, I'm just saying.

Facilitator: I'm not advocating for anybody. I don't have a stake in this. It's not my property. Unfortunately, with the IDO, some properties fell through the cracks. We don't know why. I have conducted several meetings very similar to this one. If I knew the IDO better, I could give a better explanation. I'm not an advocate for the neighborhood association, nor am I an advocate

for the investment partnership. My understanding from doing this work is that this is not the only property that may have fallen through the cracks after the IDO was passed. Go ahead, Jitka, you had something.

A: Yes, I understand. And you're absolutely correct that the MX-T zone allows different uses. However, if you want to apply for anything like you mentioned, liquor license or any other different use, we will have the same neighborhood meeting, and we will go through the EPC again. So if that happened, you would have a say to again respond to this. On the other hand, all these uses which are permitted under MX-T require off street parking. You can see that the lot has no available off street parking on the premises. So even the lot size itself excludes all the uses which might be happening later. Even though it would be zoned for something else, if something else would be developed there, there will be a neighborhood meeting process and hearing through the EPC.

C: Well, I do keep up with the IDO because our neighborhood is always under siege, so we have to keep up with zoning issues. And I can tell you that right now, the mayor is getting ready to, in these areas, having buildings with unlimited parking requirements. So they may not, whoever comes in, may not have to look for parking because it looks like that's what's going to happen. They're going to have unlimited parking requirements, so that's not going to be any protection. That may not ever come up on a future zoning. So now that you mentioned it, though, if you are going to keep it as it is and no one's going to stop you, and I think that's the question needs to be asked to Joycelyn.

Facilitator: My name is Jocelyn.

Q: Jocelyn, okay. Thank you for correcting me. So, Jocelyn, in the future, if they decide to do something later, the City said they're not going to do anything to them. I think that's a question we have to ask. Why is the City telling them they have to do this if they're legally operating a non-conforming property? As long as they're going to use it as a triplex, why are they telling them to come now? So if you guys decide to do something later, then leave it as it is. If you come later for something else and choose to use your property differently, then you'd bring it back to the neighborhood. But at that point, you'd be having an application that says we're going to put an X, Y or Z there at that location, and then the neighborhood would have a better idea of what they're looking at in terms of the use right now,

Facilitator: I think we're not going through that again, Diana, because it's starting to feel like harassment to me. That's not the purpose of this meeting. I am leading the meeting.

Q: Can I just ask a question?

Facilitator: You've asked the same questions many times. Marie also asked similar questions. I even asked similar questions. The two Applicants have answered those questions. If the neighborhood association chooses to support the application, that's up to them. If they choose not to, that's up to them. If individual neighbors say, I don't like this application and they want to show up to the EPC hearing, then you certainly have the right to do that. But we're not going to use this meeting for a purpose of asking the same questions multiple times, and we've already asked them and they've been answered. Jitka and Chelsea, do you have anything else?

A: I will just respond in a different way to that. Again, we're new to this. The way we even found out that we were legally non-conforming, is that when we tried to get a mailbox, like

every time we try to do something, maybe these other properties, maybe they're able to do this easily. I don't know. I didn't talk to them. But I think that's great because they've been doing it for so long, probably prior to 2017. But for us, because we're new owners, every time we've tried to do anything, it's become a huge headache. We were told we couldn't split the mailboxes. We had to go through all of this paperwork to try and different mailboxes. With the meters, we can't have a meter for each unit. That's made it difficult because we've had to pay extra money to try to figure out which meter is going to which property and which tenants to split it between. That became clear to us even within a year of ownership. No matter what we do, because we're not legally conforming, is just going to be a headache.

What we were told is, yeah, like, we might not do anything. We might not make you stop if we like, let sleeping dogs lie. But that just doesn't that doesn't allow us to try and make the property our own, quite honest. And that's what we really need to do. If we ever wanted to refinance, we wouldn't be able to refinance, let alone sell the property, which truly we have no plans of doing. Like, we bought this to hold it for a very long time. It just leaves us in a very confinement and we can't basically, like the City told us, kind of like don't ask, don't tell kind of thing. But we would prefer to be open and be operating in a way that we can get a mailbox for each of our tenants and not have to try to figure out a way to make it work. Because from what I understand, we can do this more research I put in the S-2 stuff, and we can certainly try to find more about that. Like, we want to be as open as possible. But the reality is what we understand, from what I understand, in layman's terms, this property should have been given that use after 2017, and it just wasn't. So now we're just owners in this pickle. And as new owners, it's very difficult to try to do anything. That is the bottom line.

Facilitator: I'm going to read something from the chat. Ms. Jaramillo said “I hope to see both Chelsea and Jitka at our meetings in the future. Welcome to South Broadway.” That’s a positive note from the chat. Jitka, did you want to make a statement, comment or ask a question?

A: I don't think so. Again, thank you for having us here. It has been frustrating and we are doing what we can with limited resources and we're not trying to change things or anger anyone. And we appreciate all of your time to talking to us.

Facilitator: There are five MX-T properties on the map. Can you check with planning and see if they have the date that those people received the MX-T zone?

A: Okay, yes, we'll try to do that.

Facilitator: Just those not the whole neighborhood. I think one thing that Diana had mentioned is when did those people get those zones? That seems like that's a relevant question. Did they get them as a result of that two year window, or did they get them in another way? Would you like to make that a second action item?

A: We certainly will try. We have our EPC hearing scheduled in March. We have a point person from the City. Mr. Leroy Duarte. We certainly will ask him. The property was previously zoned SU-2. We tried to get grandfathered in for three months but that didn’t work.

Facilitator: I’m just thinking that might clarify how they got that zoning. Try to obtain that information on those five properties.

C: I do appreciate them for taking the time to talk with us and to address and to answer our questions and to share their frustration. They're right. The planning department can be interesting at times, hard and difficult to navigate. So I thank you for your honesty, and then just thank you for taking our concerns seriously.

C: If my questions made you feel harassed or battered in any way, please don't. Thank you. Because that was not the intent. I'm just trying to get clarity. And again, I'm still at the same place. Until there's more clarity, I'm just not totally on board with what your request, but I do thank you again for your transparency.

Facilitator: Thanks, Marie. Tiffany?

C/Q: You mentioned that the county records had something different. Did that help the City at all? It seems like it should to me. Wow.

A: You can still go to the county website and see that it says multi-family. The City planning department told us that the county information is for taxes.

C: But it's one IDO for the whole City. I'm not trying to upset you but it's just really not making sense to any of us.

Facilitator: Diana said she did not intend to harass anybody. I know that nobody intended to harass anybody. I just didn't want the applicants to feel like they had to respond to the same question in this meeting over and over again. I didn't want them to feel uncomfortable. And that's why we have this process, so that everybody can speak and everybody can feel as comfortable as possible while doing so. I really appreciate everybody.

C: I just want to finally say that we live here every day, and so what happens at that site makes a big difference. It's a difference if you're an investor. So I know, honestly, welcome to the neighborhood and that kind of thing. I think that's important. But you guys don't live here, and so what happens on a day to day basis doesn't impact you in the same way. So we are adamant about it, we're asking questions about it, and that's just because we want to do the best thing for our neighborhood.

Facilitator: Thank you, Diana. You jogged my memory. What are the next steps? When is the EPC hearing?

A; Our EPC hearing is on March 16. We send the zoom link and information to Tiffany and Francis. We also notified the neighbors via mail to the neighborhood properties.

Facilitator: Does the EPC hearing start at 09:00?

A: Yes they start at 09:00. I think they release the agenda a day before, so I'm not sure what time this case would come up. It could be noon, it could be any time. But Chelsea and I are happy to meet again before the meeting if we need to clarify things or go through anything again.

Facilitator: I appreciate working with Jitka and with Francis to put the meeting together. I know it was on short notice, but I we put the meeting together and will have a report. That will be sent to Francis Armijo, SBNA President, and to anyone that put their email address in chat. I

understand that various members do not want their email addresses circulated. Participants will also be listed in the report.

Action Items (target response date is two weeks from report date):

1. Applicants will provide definition and function of prior SU-2 zoning designation.
2. Applicants will research and report on the five MX-T zoned properties surrounding 1102 Edith SE; as highlighted in the accompanying map.

Next Steps: EPC Hearing 3/16/23 at 9:00 am via Zoom.

Names & Affiliations of Participants and Interested Parties:

Applicants:

Jitka Dekojova
Chelsea Gulling

Participants:

Frances Armijo	SBNA President
Tiffany Broadous	SBNA Vice-President
Diana Dorn-Jones	Neighbor
Marie Marmash	Neighbot
Onastine Jaramillo	Neighbor
David Johnson	Neighbor
Joan Harris-Jones	Neighbor
Meredith Buntig	Neighbor

CABQ ADR:

Jocelyn M. Torres	Land Use Facilitator
Tyson Hummell	CABQ ADR Coordinator

Red Depicts 1102 Edith SE. Black depicts 5 surrounding MX-T properties.
JMO 2-25-23

LETTERS

April 10, 2023

From: Johnny R. and Nova Dorn -1106 Edith Blvd., SE

Diana Dorn-Jones and Terence L. Jones -1108 Edith Blvd., SE

Request for Denial of Applicant Request for Zone Map Change from R-1 to RML

Property Address: 1102 Edith Blvd. SE; Albuquerque, NM 87012

Applicant: Jitka Dekojova/Chelsea Gurling

Request: Zone Map Amendment (zone change)

Location: 1102 Edith Blvd. SE between Garfield Ave SE and Lewis Ave SE

Existing Zoning: R-1-A

Proposed Zoning: R-ML

Project # PR-2023-008175

Case # RZ-2023-00007

This request was originally submitted to the Environmental Planning Commission (EPC) for the hearing of March 16, 2023. The Applicant requested deferred to the April 20, 2023 hearing. A letter dated March 6, 2023 from the Applicants to Leroy Duarte, Staff Planner, states that the deferral is requested so that the applicant could strengthen their Justification Letter.

In checking the Staff Report on Thursday, April 6, 2023, no new information was contained in the report, therefore it's unclear as to what the justifications are for the zone map amendment.

Our request for denial is based on what we currently understand from the original March 16, 2023 Staff Report that states the zone map change request from R-1A to R-ML is to remedy a non-conforming use of the property.

We are requesting denial of the above referenced request for the following reasons:

1. The property is located in an Area of Consistency

2. The property is not located along a Major Transit Corridor or in an Activity Center

3. The property does not meet requirements for a zone map change as no health and safety issues currently exist.

4. Request does not meet requirements to address Nonconforming Uses as regulated in the IDO

(Part 14-16-6: Administration and Enforcement; 6-8(C) (1) Authority to Continue.

There is no reason for a Zone Map Amendment for the purposes of legal operation of the property in question.

Background Information:

The applicants purchased the property in December 2021. The property is a triplex and the applicant currently operates it as a triplex.

On January 31, 2023, the applicant sent letters (see attached) to impacted neighbors stating that, while they have no intentions of operating the property differently, they were seeking a zone map change because they were not legally conforming due to the extensive zone changes in the area done through the Integrated Development Ordinance (IDO).

Neighbors were given the impression that without a zone map change, the Applicant would have to cease operation because to continue operation with the current A1-R zoning it would be illegal.

In reviewing the IDO and consulting with City Planning Department, we have found that the applicant is not being required to change the zoning to legally operate the property as it currently exists.

We can only surmise that the only reason for a zone map change to RML would be for the purpose of establishing the ground work to develop a higher and more intensive land use on this site.

We request that this application be denied and respectfully ask the Environmental Planning Commission (EPC) take into consideration the following Alternate Findings:

ALTERNATE FINDINGS:

A Zone Map Amendment (zone change) is not the manner in which to address a "Nonconforming" property. Under the IDO (Part 14-16-6-8; 6-8 NON CONFORMITIES; 6-8(C) Nonconforming Uses, 6-8(C) (1) speaks to Authority to Continue. This section specifically states that nonconforming use of land or a structure shall be allowed to continue. This language

addresses what appear to be the concerns of the Applicant as stated in their letters to the neighborhood.

Moreover, the request does not meet the standards required for a Zone Map Amendment (zone change). There are currently no health and safety issues associated with the property in question and no health and safety issues existing in the surrounding neighborhood properties to be addressed or resolved as a result of this request.

Approval of a more intense zoning such as (R-ML) that allow greater "permissive" density is not appropriate and will not:

(1) Improve the health and safety of the neighborhood

(2) Protect the identity and cohesiveness of the neighborhood by ensuring the appropriate scale and location of development, rather the request would change the identity by allowing undesired uses associated with R-ML such as height allowances increased to 38 feet, thus not keeping the neighborhood identity and scale of existing development

Please Note: The seller intentionally decreased the density of the property by reducing the occupancy level from 7 units down to occupancy level of a triplex thereby bringing the property use closer to its current R-1-A zoning than the proposed R-ML zoning that allows for much higher/intensive uses, to include the potential to bring what is now a 2 story "Victorian" era property to a height of 38' (three-story).

The density reduction made by the previous owner was, in fact, advantageous to neighborhood health and wellness because the higher density of 5 single-room-occupancy with one bath on the second story would have negatively impacted occupants as well as the neighborhood during the height of COVID-19 Pandemic where people living in close proximity were at higher risk of contracting and transmitting the virus.

This is a matter of real concern for the neighborhood for the following reasons:

According the Centers for Disease Control (CDC) and the Department of Health and Social Service (HHS), Office of Minority Health (OMH), South Broadway neighborhood experienced some of the highest rates of COVID-19 in Bernalillo County. The South Broadway neighborhood (87102 zip codes) is one of seven (7) neighborhoods working in a collaborative partnership with Bernalillo County to address the high rates of COVID-19 under a federal HHS/OMH grant to increase vaccination rates and education among people residing in these neighborhoods.

Finally, approval of the applicant will open the neighborhood up to more intense land use that is not desired. The Applicant can continue to operate the property as a triplex legally and without concern for existing zoning.

The current R-1A zoning is more advantageous to the neighborhood allowing the neighborhood to maintain the historic character and land use patterns that currently exist.

As impacted neighboring property owners, we are not opposed to the current and historical use of the property. We would, however, have concerns if the Applicant decides to use the R-ML designation to bring in plans for proposed development that are permissive under the R-ML zoning such as increased height allowances to 38 feet, thus not keeping with the neighborhood identity and scale of existing housing development.

Respectfully submitted on behalf of:

Johnny R. and Nova Dorn and

Diana Dorn-Jones and Terence L. Jones ddj5050@att.net

South Broadway Neighborhood Association's Response to M-RL Zoning Change Request to 1102 Edith, SE

The South Broadway Neighborhood Association (SBNA) Board of Directors met on March 2, 2023 to review and discuss information, and vote on a request to rezone 1102 Edith property to an M-RL zone status. Present were Frances Armijo (President), Tiffany Broadous (Vice President), Onastine Jaramillo (Board Member) Joan Jones (Treasurer), Marie Marmash (Board Member) and Albert Martinez (Board Member). Absent, but providing her written vote, was Meredith Bunting (Secretary).

On a 5 to 2 vote the SBNA Board of Directors voted to approve the request. Below are statements from the two dissenting and five supporting Board members.

Dissenting:

From Marie Marmash, Board Member

l am not in support of the Zoning Change Request for 1120 Edith SE. l don't feel the South Broadway Neighborhood Association has enough knowledge about Zoning Issues to make an informed decision which could possibly impact all of South Broadway. The Zoning request could set a precedent in our neighborhood which would possibly change the character of that residential area.

Also, l am NOT willing to assume liability legal or otherwise as a result of speaking on behalf of the whole neighborhood and the nearest neighbors in this matter. l feel South Broadway as a whole, but especially the neighbors immediately impacted by 1120 Edith SE should have their voices and concerns heard. l also feel they should have an understanding of the Zoning Request and land uses that request allow. Again l am not in support of the request.

From Tiffany Broadous. Vice President

1) approval of this change will set a precedent
2) the attendance at the 2/16/2023 monthly neighborhood meeting and mediated session was not sufficient to get e
residents and in particular those who live on the same street or the same block as 1102 Edith SE
3) Since the meeting the requestors have changed their request from MXT to RML
4) Some of the additional Permissive or allowed uses could have major impact on the adjacent neighbors
5) this change could have such a great impact and long-term impact on surrounding neighbors (height allowance alo
As the Vice-President / Board member I am not comfortable saying yes to the zone change for 1102 Edith SE

Approving:

From Frances Armijo, President

I vote to approve the M-RL rezoning request to 1102 Edith. I believe the applicants have been transparent and eager to ensure that we have all the information we need to reach a decision. They informed the Association and all the residents within the 100 ft. as required by the Ordinance, and met with those individuals attending the Feb. 16th meeting. Changing their request from the suggested MX-T to the suggested R-ML shows their willingness to cooperate to convert this property to a triplex. I feel it is an overreach to assume these applicants want anything more than to revert this property to its original triplex status. There is no proof that this R-ML zone request will set a precedent nor liability to this neighborhood. My decision is based on reviewing all the material we have received, the February 16th membership mediated meeting, our follow-up Board of Directors meeting, and discussions with EPC staff.

From Meredith Bunting, Secretary
I just finished reading the whole transcript of our meeting on February 16, requesting an application for new zoning of the triplex at 1102 Edith. I also read most of the other letters, but not all the attached charts!

I am in favor of the property owners seeking a R-ML zone change, as they have been advised by the City Planner they spoke with. I think they have diligently done all their homework and did not flinch from doing what was requested by Jocelyn Torres. They have done a huge amount of work and expressed their desire to 'make things right', even if it means a lot of extra work. This proves to me that their motives are right. They do not have the 'corporate mentality' to just get something out of the neighborhood and leave but wish to work with the neighborhood to make it better. I vote that we approve their request.

From Joan Jones, Treasurer
I vote to approve the R-ML zone change. I feel that we have no reason to disagree with this request. Applicants have provided us with all their available information and have invested their money to have a triplex replaced on this property. They should be allowed to continue.

From Albert Martinez, Board Member
I approve the R-ML zone change. The house had been a triplex for years and has had no problems. I do not see this request as presenting any problems as the applicants have assured us that they only want this zoning change for a triplex. I once again reviewed the 4.2.1 table and see very little difference with the already used R-1 and the requested R-ML zoning change request.

From Onastine Jaramillo, Board Member
I vote with the majority.

MR DUARTE: Good Afternoon, Mr. Chair Commissioners. This is the agenda item Number 8, PR-2023-008175, case number RZ-2023-00007. The request is for a zoning map amendment, for an approximately 0.2-acre site located at 1102 Edith Blvd SE. The applicant wants to change the subject sites zoning to RML, to remedy and not conforming use on the property. The subject site is in an area of consistency. It is not located along a designated corridor or an activity center. The subject site is located in the South Broadway neighborhood. It's bounded by Garfield Avenue to the north, and Lewis Avenue, southeast to the south. Further north, to the site lies a nonprofit organization. To the south east and west of the subject site lies small lot, single family, residential homes. With a community school located at the intersection of Lewis Avenue, and Edith Blvd. SE.

In 1986 the South Broadway Sector Development Plan was adopted, and SU-2, the special neighborhood zone was created. The SU-2 zone allowed and mixture of uses in a given neighborhood where conventional zone categories were inadequate to address the neighborhood needs. The South Broadway sector development, was repealed upon the adoption of the IDO. The property has been operating as a triplex since as early as 1967. The applicant was unable to obtain a zoning certification due to lack of records. The applicant met with city staff, and was informed that in order to remedy the non-conforming use on the property a zone change was needed. The applicant has adequately justified the request pursuant to applicable IDO criteria 14-16-6-7-G-3. The proposed zoning would be generally more advantageous to the community than the current zoning, because it would clearly facilitate a preponderance of applicable goals and policies. Affected neighborhood organization is the South Broadway Neighborhood Association, which was notified as required. Property owners within a 100 feet of the subject site were also notified. A pre-application neighborhood meeting was held on February 16, 2023 via zoom with the South Broadway Neighborhood Association, and neighbors, Neighborhood concerns, including non-conformity issues permissive uses on the proposed zoning and history of the zone of other zone map amendments within the area. The applicants answered the questions to the best of their abilities, and acknowledged the concerns of the neighbors. Staff has received 2 letters. One letter was from the South Broadway Neighborhood Association, in favor of the request. The other letter, submitted by 3 neighborhood residents, was in opposition. Regarding PR-2023-008175, case number RZ-2023-00007, staff recommends approval. With that I stand for questions. You’re muted Chair.

CHAIR SHAFFER: Yeah, yeah, yeah. They always catch me off guard when you when you ask that question like that at the end about asking for questions. I'm waiting for you to say something else. Commissioners any questions on the staff presentation. Nope. Okay, we'll move on to the applicant.

COMMISSIONER EYSTER: Eyster, I do have one chair. Thank you. Chair, Mr. Duarte, We see MX-T zoning on the south half of this block. The south half of the block catty-corner, and on a lot up a block to the west. Can you tell us when those became MXT, or how?

MR DUARTE: Commissioner Eyster, I would assume that they opted in for that, although I didn't and not do research on the on the other zoning. I was primarily focused on the immediate surrounding area. So, I don't not have an answer for you at.

COMMISSIONER EYSTER: If anyone on staff can work on that while we continue. That would be great.

CHAIR SHAFFER: I would assume that they were part of that batch conversion to be honest with you, but I don't remember for sure.

COMMISSIONER EYSTER: I also kind of assume that chair, but I just wanted to see if if we could find out for sure.

CHAIR SHAFFER: Sure. Let's hear from the applicant.

MS GULLING: Hi, good afternoon. Sorry about that. My name is Chelsea Galling, and I understand I have 5 min, so I have timed myself, and I think I'm right on.

CHAIR SHAFFER: Would you mind stating your name and address for the record?

MS GULLING: Yes, my name is Chelsea Gulling, and I'm with Kinley Raccoon LLC, at 710 Roma Avenue Northwest.

CHAIR SHAFFER: Do you mind holding it for hand and swearing? To tell the truth, under penalty of perjury?

MS GULLING: Yes.

CHAIR SHAFFER: Okay, I hold you to it right. You have 5 min for your presentation.

MS GULLING: Okay. So, we are here to discuss the Zone Map amendment.

MS DEKOJOVA: I do need to share the screen. So, I need to be able to share the screen.

CHAIR SHAFFER: Okay, so when are you presenting or just doing, doing the helping hand here

MS DEKOJOVA: We will co-present, but Chelsea will do the majority. My name is Jitka Dekojova, I am an agent of Kinley Raccoon LLC, at 710 Roma avenue northwest, and I swear to tell the truth.

CHAIR SHAFFER: Thank you. Thanks for doing that. So, Mr. Salas, do you mind letting her share screen? There we go. Thank you. All right, please proceed.

MS GULLING: Okay. So again, we just introduced ourselves. But I'm Chelsea. That's Jitka, and we are longtime friends and new business partners. The property history is described in detail in the application package and staff report. But here are the highlights you can see on this screen. We understand the property was built in 1944, which is prior to the first zoning laws in the city. As mentioned by Leroy in the

opening. We also understand, based on conversations with the previous owner, that the property has operated as a triplex since at least 1967. And prior to that it operated as an even larger, multi-family facility. Suring the time of purchase in 2021, the property was listed as a multi-family on the Bern Co. assessment website and it actually still is today that that document can be found in our justification letter or by a Google search. We had no knowledge of the property being out of zone compliance at the time of purchase. Since it didn't come up in our closing process for with our private lender for our short-term renovation loan. We found out about the property being non-conforming. When we tried to get an additional addresses at the post office. That is when we realized it was zoned as a single family. Well, we certainly learned a very important lesson about researching zoning prior to purchase, and we'll never do that again. never purchase a property without researching it. This is where we're at, and it's been become… we never questioned it in part, because it was clear that the interior had not been modified or remodeled in many years. Lots of research went into this, and, to be honest, it was frustrating and confusing since we are not planners. We did not want to have to rezone, because we had heard what a difficult process it was, and we did not have funds to hire a planning company which we understand can cost as much as $10,000. We really gave it all our all in our attempts to be grandfathered in, and honestly, we thought originally it would be a shoe in given all the evidence. We had testimony for many people that this property has operated this way for many years, but in the end our attempts to be grandfather been failed, or, in other language like we learned through the process, our zonal certification was denied. Following our denial. We attempted to appeal the decision, and requested a meeting with code compliance manager Angelo Metzger, along with Jeff Palmer, and Christian Moore, from the department. They were sympathetic, but said their hands were tied, and the evidence we provided would not suffice. They recommended that our only course of action would be to pursue a zone change if we wanted to be legally performing. Several properties as Leroy also mentioned are MXT in the neighborhood. We, while we did not research property by property. We did understand that it was likely that they opted in to get that certification. During that 2-year period following the 2017, blanket rezoning in the neighborhood, and it the reason they were MXT, is our understanding is because that was the most similar zoning to the SU-2 which existed prior. Following our neighborhood meeting on February 16, we heard concerns from neighbors that the promises permissive uses with MXT, which is what we originally were looking at rezoning because it already exists in the neighborhood. Neighbors were concerned. It was harmful. So, we decided to revise an app for RM-L. We did revise our initial application, and we did communicate that to the South Broadway Neighborhood Association, and we followed up with our city planner, as was requested. They had requested some additional information. The Neighborhood Association voted to approve our request on March 6. We do understand there's opposition, and while we completely understand the neighborhoods concerns. We also understand that they didn't receive our follow up information, and we apologize for that. We certainly sent it to the folks that we said we would. The Neighborhood Council President, and the and we actually produced a 15-page letter to really try and address their concerns, because we honestly want to have good relationships with our neighbors. As our justification letter also outlines. We made sure that our request supports numerous goals and objectives in these 2 documents. The only potential harmful use from what we understand within the RM-L. are highlighted here. Given the lot size, though the permissible uses would not be feasible. So, we don't actually think that it's a concern. And there's more information about lot sizes and criteria for that. In our

justification letter. There are some potentially dangerous to the neighborhood under conditional uses, but we understand that we'd have to go through the process with the neighborhood again. So, we don't, we don't believe that is a huge risk to the neighborhood.

So finally, I just want to say, there's been a question, and it's a fair question. Why do we want to resound now, because we've heard from people that there's other people in the neighborhood that are also in this position, and they're just continuing to operate. And the reality is because we got a short-term loan, it ends our loan matures on May 1st. So, we're in a position, where, if you don't we cannot refinance without having this designation. So, our 2 options, if this does not go through, would be to sell to a cash buyer, try to find a cash buyer, or we understand from a mortgage lenders that our other option would be to terminate the leases of 2 of the tenants. Remove the kitchen, I think we could just remove the appliances so they could be considered storage units, and then one unit would remain. It could be considered a single family with 2 storage units, but obviously it's not ideal. So, it's been suggested that we would be able to continue operating. But, like I mentioned, that's not the case. We have no plans to change the existing building. All of the renovations that we wanted to do our complete, as the first picture showed. We did some painting, etc., and we're here today to respectfully request a zone change to RML. Thank you.

CHAIR SHAFFER: Thank you for your presentation, and you are not the only person caught up in things like this. Although it was widely publicized during the you know, during the swap over of the blanket, if you weren't the current owner you would, those people probably had no obligation or desire to go through the process of filling out paperwork; and, as you said it wasn't on anyone's radar, because no permits were being pulled for any modification was happening. So, you you're not the only person that's had to come before us in this situation. Just so, you're aware. So, we're definitely sympathetic to the to the issue of hey It's always been that way, why didn't they get converted by itself. It's just the multitude of thousands and thousands of properties that had to go through the IDO conversion. There was definitely things that just you know they wouldn't, nobody would have known that they had already been converted at some point. So here you are. So good job on your application so far. Does anybody have any questions for the applicant at this point? And then I'm gonna ask Ms. Lehner or a question.

COMMISSIONER EYSTER: Eyster.

CHAIR SHAFFER: Eyster said first. So, Commissioner Eyster go right ahead.

COMMISSIONER EYSTER: Thank you. Chair. Thank you, Ms. Gulling and Ms. Dekojova. yeah first if you're looking for a new line of work, I think you could probably become a zoning consultant. It sounds, that was a that's an awesome job you've done. I am, I'm completely sympathetic with the request. I'm… the RML, which you know, your neighbors ask you to pursue RML, instead of MXT. The RML has a much higher maximum height. You probably know that it's 38 feet, and the MXT is only 26 feet. Just like

your neighbors are one lots, and some of the neighbors told you. Well, they're worried about the MXT uses, So if we approve this, you know you're gonna be the only RML, in the entire area, and then that doesn't mean we can't do it. But does the MXT meet your financial needs?

MS GULLING: Yes. Those are the 2 options we were looking at, because we understood that they most fit the building, and we don't it doesn't make a difference to us which one it is, I mean.

COMMISSIONER EYSTER: Oh, thank you. That answers my question.

CHAIR SHAFFER: Yeah. I would be concerned going to a higher one, because if they sell it, then all of a sudden that person can go higher, so you know. Commissioner Hollinger.

COMMISSIONER HOLLINGER: Thank you, Chair. So, I'll echo Mr. Eyster, and say, fantastic job. Since, you've never done this before that was a great presentation. I think he and I had similar thought processes with surrounding MXT, and you applying for RML. It feels like that could create a spot zone. So, as his question was with MXT, suit your needs, and if the answer is yes, that might make for a easier approval. So, with that, Ms. Lehner.

MS LEHNER: Thank you, Mr. Chair Commissioners, it’s a spot zone either way, so no road is easy, because it pursuant to the criteria and age the test is clearly facilitates, and because it's that's a high bar even for people who do this like every single month. The case had to be deferred so that we could work with the applicant to get them to strengthen that justification. And, you know, squeak out meeting that that higher test. So, it doesn't really matter. It's a spot zone either way, and I believe the staff report reflects that they are going for RML. So usually and I would say you know, of course, the public hasn't spoken yet, but I mean the zone that would most closely accommodate the use that they have is more desirable than a different zone that allows additional uses, because, in the event that if this were ever demoed, then it would allow a bunch of uses that wouldn't be allowed under the RML. So, that's something we have to explore. That discussion would be probably in of course. Again, the staff, of course, written for RML so yeah that's, I think that's important to consider spot zone either way. So, and once we get to the history of question, I can address that as well. Thank you.

CHAIR SHAFFER: Thank you, I guess let me ask this question, and I've asked you the same question that says it yet, kind of a yes or no. Had this, had the original owner, the previous owner put in their request to convert to MXT, along with everybody else around there, would that have been approved in the back to the conversions. Ms. Lehner, that was to you.

MS LEHNER: Sorry I was looking at the use table.

CHAIR SHAFFER: Do you want me to restate it?

MS LEHNER: No, I believe I heard it. So yeah, before we get to the subject of the batch conversion, I think I wanted to go more in the route of looking at the old South Broadway Sector Development Plan. I actually have a thing on my shelf, I actually still have. It is a valuable thing.

CHAIR SHAFFER: I burned all mine, I'm glad you got yours.

MS LEHNER: Yeah. So, I can go ahead and share that. I don't think that the subject site… I quickly looked on AGIS, I don't think that it was, we are talking about the different zone to the south. Let me share my screen quickly and show you what I found, as quickly as I could? So here we have, all right. So, we're looking at the subject site on the red dot, and we have this block here of R1-A this is yeah R1-A, and then you have here MXT, we can turn on I think we turn on old zoning. Maybe not. Anyway, so the reason why I pursued this is because when you get this SU2-LCR, can never exist by itself like ever, ever. It's simply a flag that the zoning is pursuient to a sector plan. So, hey flag, you gotta go look in the book the Sector Plan right. That is on top of the general regulations of the old zoning code. So SU2-LCR, so I said, okay, well, let me go see what that's all about. So, let me, I will share my screen to a different let me see if I'm able to get that scanned incorrectly. Oh. hang on just a minute I did. I did find that a document, and I scanned it in, so i will find it, here We go South Broadway map. Okay, here it is. Let me try this again. Here. Okay, screen share. Here we go South Broadway Sector plan zoning map all right. So, this takes us over here to here's It's Garfield, Lewis. Here, it's really hard to read. It's cut off at the top, but I do have it, and I think the subject side is like right there.

CHAIR SHAFFER: Looks right.

MS LEHNER: And then see this block here it’s LCR. See, here. There's a clump right here. It looks like, perhaps purposefully. It was put at this intersection by the sector plan perhaps. So these had different zonings historically. So, I think that's, I think that's where it came from. So, therefore, when they were converted to IDO zones, those followed councils, rules of conversion. Which I think there are 4 different parameters that Staff had to follow as passed by council when they converted the zoning, so that probably just happened, but at that time there was probably not awareness that there was a different use on the subject site. So, I think that is, I mean, I said, all for quick research, but that's just kind of a snapshot I wasn't able to garner that quickly. So, that's my thought on the research.

CHAIR SHAFFER: And could go back to the current again. What's there currently? And just because that would answer some of those questions on that little square for that intersection.

MS LEHNER: Yeah, it's right here.

CHAIR SHAFFER: Oh, yeah. So that's all that MX-T is below it.

MS LEHNER: Yeah, that's, that was converted from the sector plan SU2-LCR. Which LCR is, where did I put the, let me look at my book here.

CHAIR SHAFFER: There was Light Commercial Retail.

MS LEHNER : Yeah, LCR Limited Commercial Residential.

CHAIR SHAFFER: So back to my original question then. Even since the since it's a non-conforming use now. Had it been, had the other owner put in an application, since it was already being used as a triplex right. Would that have been able to gone through had that person put in their application in a conversion.

MS LEHNER: Yeah, Mr. Chair, Commissioner, there was one of the one of the provisions of the conversions was, I believe residential and non-conforming. If I recall correctly. So, I believe that would have probably went through at that time. There were 2 rounds of batch conversions, and there was actually, I believe, a third round for folks who missed the first 2. If I remember that correctly. it's a while back.

CHAIR SHAFFER: The third one was a, was a really limited case one, though. Okay, Commissioners, we're still on after the applicant's presentation. If you have any more questions for the applicant, we can go to public comment and we head back the other direction. Okay, let's hear… Mr. Salas is there anyone signed up from the public to speak?

MR SALAS: Yes, Chair. The speaker that we have signed up is going to be… sorry, I'm looking for her. Diana Doran Jones.

CHAIR SHAFFER: Okay, Miss Dawn Jones, I see you there on screen. Would you mind stating your name and address for the record, please.

MS DORN-JONES: Yes, my name is Diana Doran Jones, and I reside at 1108 Edith St. SE, and I'm. here, representing myself as well as my brother, who lives right next door to it at 1106 Edith SE.

CHAIR SHAFFER: You want to… raising your hand and swear to tell the truth, under penalty of perjury.

MS DORN-JONES: I do, thank you.

CHAIR SHAFFER: Thank you, you've got two minutes go ahead.

MS DORN-JONES: I'm very familiar with this property. My parents moved into 1106 Edith, when I was in, in 1955, when they bought the house. My father bought that boarding house, it was a boarding house with probably about 7 or 8 units, back in the sixties, late sixties. My brother, when my father passed about 17 years ago. My younger brother inherited that property. He brought it down because he was didn't live in

the area, he has a church in the area, but live in the area. He was hoping to bring it back closer to the R-1. So, he got rid of all except 3 units. And so, because upstairs there was a lot of units upstairs. It was a boarding house. So, he brought it down. So, there were repairs, and in in improvements done probably less than 10 years ago. because his son lived there while he went to UNM. This this request we're asking that it' be denied. Back, I believe in January of 2023, the applicant sent letters out, and you'll see those in the file, and the letters pretty much said we have no plans to alter the use of the lot. We just look forward to gaining the legal designation to continue operating this as a triplex. It is a triplex. It has been operating as a triplex. I am not that familiar with the new IDO. This has changed for all of us, though the neighborhoods are even less equipped to address some of these issues than the applicant. However, we did go and do a little bit of research and according, and I think you talked about uses, you were talking about residential uses. There are other permissive uses that come with RM-L. And that has to do with group home. It has to do with large and small group homes. It talks about Community center. It has a several other uses that are permissive in nature. And, so I was going by what the new owners want to do. They want to operate legally, that's what they told us in the neighborhood. They want to be legally operating. Well, I want to look at not conforming uses. Frankly, the IDO speaks very directly to that. It says that they should have that it would stay in place. There would be no regardless of change it could continue. Any owners can continue to operate this structure, regardless of any change in ownership or occupancy. And, so they can do it without concern that someone's gonna come along and say you're no longer legal you have to shut this place down. That's not the case. There are a lot of, we found out there are quite a few nonconforming properties in the, in the, in the old historic neighborhoods. Most people don't know that, I didn't know it. I'm sure my family didn't know it. What is the non-conforming use. It was just being used, as it was always being used for a rental for someone. Well, my brother brought it down as close as you could to the R-1, because it's a old historic property, or a Victorian. Wanted to keep it that way. So, what we're saying is that number one. It does constitute spot Zoning, whether it be RM-L, in our or our RM-X. But at this point there's no reason to change it, because they can operate just as it is under the non-conforming use. They don't have to change anything, and no one's going to make give them any problem, and operating it from what we can tell, unless I'm reading the IDO incorrectly. So, there was something about mail, I understand now, because I live right next door to it. The units have been marked A, B, and D, and people have a mailbox, because I just saw a tenant come out 2 days ago with her key, open up the key and get mail. So, I don't know if we're supposed to be addressing the financial issues associated with investors that come into our neighborhood. I would hope that we don't have to do that, but we want her… We have no objection, I didn't see any objection on the neighborhood side either about this staying a triplex, although there was some discussion about they can. They like to have it as a triplex, it is a triplex, and it should be able to operate as a nonconforming use. Open it up to a large, to a more, and to stop thing would really be detrimental to our neighborhood, because once it becomes that kind of income property from people that are outside the neighborhood, they can, they can sell at any time they choose, and the neighborhood is now burdened with a set of zoning restrictions or permissive uses that are not going to be in the best interest of our neighborhood. This change does not in any way address health and safety. There are no health and safety issues. It does change the character of our neighborhood. Thank you.

CHAIR SHAFFER: Got it, Thank you. And I was just… You're, you're starting to get on the duplicate, duplicity of the same, saying the same stuff we appreciate it, and you're a little over your time so, and I think, I think you're saying half of what some of the Commissioners asked too, about why are we going in RM-L, because you're right on some of those potential down the road things, but the and if I'm reading it right, the bank won't, it won't be able to finance them because of the fact that it's not zoned correctly. You're right. They could stay the way they are, and they're not trying to change it. But the fact is, they're financing won't go through, unless the zoning matches what their loan is. Is what I'm hearing. Mr. Salas, or commissioners do you have any questions for Miss Doran Jones? No. Okay. So, Mr. Salas… Hold on, hold on, Mrs. Armijo, please. Mr. Salas, who's, who's up next?

MR SALAS: We don't have anybody else to speak, Mrs. Armijo, if you would like to speak. Go ahead.

MS ARMIJO: Thank you. I'm sorry, for as long as I've been doing this I can't get it right. I could put my hand up.

CHAIR SHAFFER: You got it keep going. You're on the right path.

MS ARMIJO: My names is Frances Armijo, I'm at 950 William St., SE, and I promise to tell the truth.

CHAIR SHAFFER: Thank you. You appreciate it. You have 2 min.

MS ARMIJO: Yeah, they did come to our meeting at the originally, they were proposing MX-T, and Ms. Dorn and a couple of other people were very upset about MX-T. They went back, and I did talk to both Mr. Duarte, and Ms. Lehner about this, and I guess somebody misled them to believe MX-T would be good for them because we got a lot of push back. Okay, and then they came back with our email and personally I don't think they're trying to pull anything. I think it is a finance thing. I support it as a, as a person who lives in the neighborhood just like Ms. Dorn, for 75 years. I don't think these 2 are up to anything that would hurt our neighborhood. And I would suggest that you please approve it and give these women a chance to do business. I care about my neighborhood I really do. I wouldn't, I wouldn't sacrifice my neighborhood for any builder in my neighborhood.

CHAIR SHAFFER: Thank you, Ms. Armijo, definitely appreciate it I'm sure. So, Mr. Salas, anybody else sign up to speak?

MR SALAS: Chair, Commissioners, nobody else has signed up to speak. If anybody else wishes to speak, please say so now.

CHAIR SHAFFER: So, all right. Well, we'll close the floor to public comment, and we'll go back to… we're all going to head down the same question about I think, about getting the table, maybe put up on the screen and showing what permissive uses are between RM-L, and MX-T, and, and talk about those for a

second. So, Ms. Lehner, if you don't mind getting that up there because that's gonna come up. But, applicant you're back to you for any rebuttal comments to public comment or closing statements.

MS GULLING: No, I think I think I would just add that that I mean this is all fair. I think the concern, I think we're open to anything right. We just but our we we are. I would have a concern about being postponed another couple of months. Because this is an issue now, and we intended to go on last month, but the suggestion came from that, you know the neighbors had. You know the, the neighbors, I want to be clear the neighbors did not suggest that we changed to RM-L. But we just there was concerns about MX-T. So, we thought that this would be easier with the neighborhood. But the city did you know, the city did suggest that maybe this would be easier as well? So, we went through the process and change. So that's it is just that we would have concerned about being postponed another month. Because like I said, we're in this pickle starting May 1st , and the only thing I would say is, if the concern is to be. I really like Ms. Dorn like totally respect the concerns; but the reality is, if we, the reality is that if this doesn't go through that selling it will be… like we have no plans to sell any time soon that we want to be in the neighborhood. We chose this neighborhood intentionally. We chose the house intentionally, because, as you said, it's beautiful and historic, but we would be in a position, we it would force us into a position where selling it to a cash buyer, which who knows what they would do with it, would be our next step. So, I just, that's all I wanted to clarify.

CHAIR SHAFFER: Thank you, that’s understood. Ms. Lehner, that’s a good segway lets pput that on the screen, I think that’s why you’re raising your hand.

MS LEHNER: Thank you so much, Mr. Chair, Commissioners and members of the public. I do want to take a look at this first thing, and let's go back to the purpose of the zone, because sometimes some sometimes, you know, people just see, like, hey, this is on the map close to it. Let's just ask for this. It's like. Now let's take a look at this. Just kind of try to be a bit more methodical. Take a look at the purpose of the zone. I wanted to put the purpose of RM-L, on the screen, and that might be helpful. So, let me get that up now I'm gonna share the IDO. So, here's the here is the purpose of the RM-L zone district low to medium density, housing options, small scale multi-family, which is what this is. So, that's why, this would be an appropriate zone for, to remedy the non-conformance. Now, if we want to look at the other one, which I believe is MX-T, that's a different one. Load in the residential small office, institutional, and that that that this kind of has a different purpose. So, I do want to say that I think the RM-L, is a better fit. So, that said, You know we can go on to 4, which is the use table. Here we go residential uses, so our ml being right here. These are the permissive uses in RM-L, which include single family duplexes townhouse multi-family. So that so our email is like the first, the lowest zone where you could do multi-family, which a triplex is considered so that's probably why, you pick the lowest one. Because all these other ones could also cover multi-family, but here's that one. So, Well, what was the next question? I'm sorry I kind of.

CHAIR SHAFFER: I mean you're on the right path. Can you scroll down just a little bit more because that makes just so we can still see the… Go past that. Yeah, I went.

MS LEHNER: I know. I wish it could scroll the other way. But yeah, so here's RM-L, here's the things that are permissive assisted Living, CRP, is permissive conditional. All these are conditional group home.

CHAIR SHAFFER: So, everyone's so, while everyone's looking at that, so the RM-L, is more restrictive than the MX-T. Because everything that's in it, everything that has to get approved. Let's go to group home small, that's conditional. So, that has to go through a separate process Where an MX-L, or MX-T it's permissive.

MS LEHNER: It's right here.

Yeah.

MS LEHNER: right

CHAIR SHAFFER: . Am I reading that right? So, I this is interesting that all those other surrounding areas. I've got MX-T, besides that corner there's even other MX-T's, that that were converted over in that neighborhood. So, Commissioner, you know, Commissioners, can we just leave this up for a moment? And what was the height issue that Commissioner Eyster brought up between the 2 zones, too? So, it's MX-T, is that that's a higher height allowance than a MX-L, or RM-L sorry?

COMMISSIONER EYSTER: Chair, I can address that.

CHAIR SHAFFER: Yeah, would you mind, please.

COMMISSIONER EYSTER: Yeah, the one that the applicants are requesting is the RM-L, which is actually 38 feet, quite a bit higher than the R1. The MX-T, is the same, the MX-T is the same as the R1 26, no 26.

MS LEHNER: MX-T, I think it's 30. MX-T is 30.

COMMISSIONER EYSTER: I'm going to accept that. So, what these other, other lots in the area that are not R-1. That's MX-T, and Ms. Lehner says 30, and I know she's right. RM-L. I'm thinking 38. So, let's just double check really quick.

CHAIR SHAFFER: So, lets check really quick.

COMMISSIONER EYSTER: That's fair enough if I goofed up the MX-T. I might goof up the RM-L.

CHAIR SHAFFER: We have a height, but it's more restrictive at RML. Still more restrictive in its uses.

COMMISSIONER EYSTER: That's true.

CHAIR SHAFFER: Yeah, you're sacrificing a height maybe ish for a restricted use maybe ish. That's right.

MR MYERS: Chairman, can I just real quick a comment on as you said RM-L, is more restrictive, right? So, if the Commission started going down the path of saying, let's do the transitional zone. Okay. I think you would have to re-notice that right, you know. It would have to be a whole re-notice, and it would have to be a whole new analysis, and that would have to take place at a subsequent hearing. Okay, because the rule is if you go to a less zone, you know, then you could just do that at that hearing right. Because people would have been put on notice of a more intense, you go to less intense, but something that could be interpreted as more intense. You'd have to completely you know re-notice it and redo it all. So that's just something to consider.

MS LEHNER: Okay, I can jump in on this. Sorry Chair, I just need to jump on this because I was just looking at our legal AD. Our legal ad was originally for MX-T, and we didn't have to, we didn't have to change that because we're going to RM-L: so that's a lesser zone. So, you can go one way. You just can't go the other Myers, is saying.

MR MYERS: so. Are you saying the original notice was for MX-T.

MS LEHNER: Yes. and now we're going to a lesser zone of RM-L.

MR MYERS: Oh. okay. So then, I guess if we were going if we're going back to MX-T, maybe there was already a notice for MX-T, I guess.

CHAIR SHAFFER: Yeah, it sounds like the original notice was for MX-T.

MS LEHNER: Right? So that would have been over advertised. But you cannot under advertise, and then ask for something more intense on the fly. That's my understanding.

MR MYERS: But what's weird is now, I thought. What they're requesting is MX-L right?

CHAIR SHAFFER: They are because they had their meeting last month. Last month, they deferred to this month in the meeting that they had last month is when they were, they changed their mind, and since it so it was lesser… They changed their mind, based on their other conversations with staff and neighborhood people. They change their mind to this lesser, yeah to RM-L, so that's why.

MR MYERS: So, it gets pretty tricky now, if maybe some of the others neighbors didn't show up because it got changed. But anyway, that will just see how it plays out.

CHAIR SHAFFER: So, I mean I did. The question at hand is this: I mean, so it's RML's, is the least, is a is a more restrictive, which is what the neighborhood people would want saying, no, you don't. We don't want group homes. We don't want all these things to potentially put in here. However, it does have an 8

foot higher, potential rebuild back. If someone wanted to tear that building down later. So, it's which, which item is, does the neighborhood feel is more imposing upon them. You know all these other things that have conditional uses that have to go through a completely different process to get approved versus being permissive or potential for this building to get torn down and be 8 foot higher than that. My, I I would assume that's why everyone agreed to the MX-L, because there it's more restrictive, and there's more control over what can be put in those areas and and the 8 foot. There's also something to consider, Ms. Doran Jones, I see your hand up, and i'll. I'll call you in a second. But there's also just because you just because it's permissive to build a 38 feet. Oh, and this happens a lot. And this is this is not something you all are prevy, too, because you don't deal with this all the time. It doesn't mean you can build to 38 feet because of setback requirements and neighborhood edge protections and things like that. So, I think that RM-L, was probably the right, the right zone request, because it is more restrictive. It will keep the character of the neighborhood more intact. It already is an RM-L. And again, you're not going to be able to stick a 38-foot building right there on that spot, anyway, because of the other neighborhood edge, protections and other setback requirements, where you'd have a real skinny tall 38-foot building that did nothing. So, Ms. Dorn-Jones.

MS DORN-JONES: I'm getting confused, but the same time the IDO speaks to non-conforming properties. And so. if they, if it's not conforming, and they can still do what they choose to do, which is operate a triplex. Why don't you be subject so different kinds of permissive uses should this property be sold, or they change their mind and want to do something other than what they're, the the triplex. And it just appears that we're having a discussion about how do we get away from nonconforming, but nonconforming is in the IDO for a purpose. Because you can you can still operate the the building as it is. Now we're going into what it costs them to do it. I have a I am sorry, and I and I do have empathy for them as new investors. But I don't see how our neighborhood should pay the price. because you can do due diligence when you, before you get into buying a property and the IDO even talks about that should be the prevailing issue about financing. I get that. But if they want to just upgrade, as they told the neighborhood in the letter that they wanted to operate a triplex legally they can. It's, It's not a matter of legal no one's going to come along and shut them down. The IDO speaks to non-conforming uses. But it seems like we're putting less interest on that than and looking to find it look we are looking for. We have a remedy looking for a problem. There's really no problem for them at this point. If it's what they want to do is operate a triplex

CHAIR SHAFFER: Understood. Commissioner Eyster.

COMMISSIONER EYSTER: Thank you, Chair. Ms. Dorn-Jones stimulates a question in my mind. Something I kind of remember Ms. Lehner, are you there? Ms. Lehner, I wanted to ask you a question Thank you. In years past pre-IDO, I remember a sort of a finding that the ZHE could make that would declare that a non-conforming use was approved and approved non-conforming use. But i'm under the impression that that may not exist anymore?

MS LEHNER: Mr. Chair, Commissioner Eyster, I'm… it's from what the applicant said it sounded like they tried to go the non-conformance route, and they can probably address that. And it sounds like that they were denied the nonconformance. Okay, by zoning, which is an area of practice where I get a little less familiar. So, I know there is. There are provisions in the IDO for expansion of a nonconforming use. I'm going to try to find those oh, (inaudible) for nonconforming and user structure 6-6-C. But I would say they're not seeking to expand.

MR MYERS: I could maybe address that Commissioner Eyster, I mean I think the reality is, there are non-conforming use that's allowed to remain, you know. Pursuant to the IDO, you know. I mean, that's just the law right now. It's a, it's a non-conforming use that is allowed to remain. However, as they are saying, because of their financing they will not be able to keep the property, should they not be able to make it not nonconforming, because many lenders will not lend on a property that is nonconforming status, even if even if that is, you know, allowed under the IDO, you know. So that, so that's just the crux that's just the that's how we get where we are.

COMMISSIONER EYSTER: That helps. Thank you. Thank you, Counsel.

COMMISSIONER HOLLINGER: Hollinger.

CHAIR SHAFFER: Commissioner Hollinger.

COMMISSIONER HOLLINGER: Thank you Chair. I wanted to add to your comments about the feasibility of possibly being able to build to 38 feet. I completely agree with the setbacks and things like that may not just be possible. However, I was curious, someone mentioned that this is a historic area. Is that true? And if that's the case, it seems like the building wouldn't be able to be torn down. Does that resonate? Are they just saying it's an old older home.

CHAIR SHAFFER: Well, as we to learn, that's okay. I was gonna say what we learned in our December meeting. Remember, in our December meeting we had our everything's historic where they're gonna, anything that has to get demoed any more. It has to go through the historic society. And then that's when they do their flat review and all that stuff to figure out if it was or not. So, I don't think that that building, I think everyone's just saying it's a historic neighborhood. It's because it's of the age of the neighborhood. Not necessarily that's a historic building, but I could be wrong.

COMMISSIONER HOLLINGER: So, there was one additional comment. I think it was made, and you were saying something about not being able to get mail keys was… Did I understand that correctly? And what was the reason behind that, because it wasn't zoned appropriately? Was that a yes?

MS DEKOJOVA: Yes, I can answer the question. It wasn't mail keys. We were trying to get a designation for the units, as A B C. So, first responders know if there is an emergency in C, this unit is C, mark it on a

door. And that's why we were wondering about the mailboxes went to the post office, and when this big rabbit hole. So, that's how we find out. So, we couldn't get a legally designated address, 1102, B, 1102, C. Through this process people can have the separate mail slots on the block. There is, like the little box on a block where people get mail.

COMMISSIONER HOLLINGER: But you can't have the right designation. So, I really feel Ms. Dorn-Jones comments by saying that the IDO provides for non-conformity, until I heard that comment. So, in that case that leads me to say, maybe this is this is appropriate. So, I'll leave it at that. But I really wanted to clarify those few topics as we move on.

CHAIR SHAFFER: Commissioner Hollinger I, I'll say this: I've experienced that rabbit hole which was stated about when I have some commercial properties that we've got to deal with where you try that someone splits a unit that wasn't a unit. and it wasn't designed that way, and they were like well, now that that's a that's 1720 Louisiana suite a, and this one's B. There's no way to do that, and once you go down and ask that question, because there's no legal designation for an A, or a B, and that happens all the time. And that's what ends up generating these questions. Well, yes, it is it. It's fine in the IDO, says the IDO says you can do that. But post office, plating all these other things that are outside of the IDO, say you can't. They those ones who, who start telling you, you can't do that stuff. So, we've closed the floor and Ms. Jones, you're the one participating, so I don't mind hearing from you, because you have a vested interest in this, so I'll, we'll hear from you one more time because we're going to have to move forward and, and start getting in our deliberation. So, go right ahead.

MS DORN-JONES: Bye. Thank you so much.

CHAIR SHAFFER: No problem.

MS DORN-JONES: Thank you. I just wanted to Commissioner Hollinger to understand as well that they did. They were able to get mailboxes. They do have mail boxes, because all you need is a lease with an address. and I talked to the postman as well, and I saw her tenets picking up their mail yesterday, because that box is right in front of my house. So, they do have access to mailboxes. That's never been an issue.

CHAIR SHAFFER: It... And what our experience is just what we told our tenants of people to say just put the number on the door. The postman will figure it out. When they, when a piece of mail ends up in their box, saying that. But yeah, it's not the greatest way to do it. It'd be, It's preferable that it's a legally recognized designation. Not necessarily. Yeah, that's what it's always been. And again, it's always been a triplex, anyway. So, the local post person knows where to go.

COMMISSIONER HOLLINGER: Thank you for the comment: I appreciate that. Was it the designation for first responder that was also a complication? Okay, it seems like a: Yes, okay, Thank you.

CHAIR SHAFFER: All right. So, the applicant is done their closing statements and responses, so we can hear from staff on their closing.

MR DUARTE: Chair, Commissioner's staff dose’nt have any further comments.

CHAIR SHAFFER: All right, so with everyone done, Commissioners thoughts on how we proceed. or you want to have a thought on a motion, or thought on commentary for deliberation?

COMMISSIONER MACEACHEN: Chair

CHAIR SHAFFER: Was that Commissioner MacEachen?

COMMISSIONER MACEACHEN: It is so. There's a lot of various parts of this lot of moving parts, and the bottom line is, if they'd have known about it, they could have got it 3 or 4 or 5 years ago they could have got it through, and a lot of people got it through, and nobody was harm. These people are being harmed because they can't go get a loan for a property that they have a ticking clock on the financing they have. So, across the city people have been able to do this, but these people just missed that bus. I don't think it's, I would, I think I would support them getting the property zone, so they'd be able to get conventional financing, reasonable financing, not some thug financing on the street. This is a good thing to do.

CHAIR SHAFFER: Commissioner Stetson had his hand up during Commissioner MacEachen, so Commissioner Stetson.

COMMISSIONER STETSON: Yeah, I agree with the with the vice chair on this one. The applicant has jumped through the hoops. We rely on staff recommendations, and I think the staff has it right. So, I'm in support of the applicant.

CHAIR SHAFFER: Thank you Commissioner Stetson. Commissioner Eyster.

COMMISSIONER EYSTER: Thank you Chair. Commissioner MacEachen, stimulated an idea something I remembered. During the, what was the process called when the people could come in all together for the big re-zonings? What was that called chair, or?

CHAIR SHAFFER: Oh, you’re talking about the batch ones that we did?

COMMISSIONER EYSTER: The batch. Thank you.

MS LEHNER: Volentary conversions.

COMMISSIONER EYSTER: I remember a property owner in my neighborhood, who had a very non-conforming R-1, lot with about 4 or 5 apartments that have been built on there over the years, almost

certainly without any sort of a permit. But she came in for the batch zoning, and she got the rezoning and I think they did RM-L, in that case. So yeah, I mean, these these applicants could have gotten that very readily if they had just owned the property at the time. Or if the owner at the time would have done it, they would have gotten it. I have no doubt of that. I do note the opposition from Miss Dorn Jones, and I think there may have been one other property owner in the area that opposed. But I also note that the recognized Neighborhood association supports. So, I for me, that also is a factor. I cannot see any significant negative impacts for any property in the area, and I'm inclined to support the Zone Map Amendment.

CHAIR SHAFFER: Thank you, Commissioner Eyster. I'll… since you brought it up. You're reminding me those, those are my, honestly at this point my two overwriting factors are the fact that number One, had the the original owner joined in on the original batch conversions, because this was a use that was already been in place. We wouldn't even be seeing this today. So that's my first decision making criteria. It would have already happened. And at the end of the day I think that at first I thought that MX-T, was the right, and I'm glad we went through the whole walk through of the process that actually MX-L is actually more restrictive, and I think that offers protections to the neighborhood on top of the fact that that you're not going to get a 38 foot building on that corner lot. It's, it won't happen so I think I think, with that, in fact, with the MX-L in place, and the fact that there was going to be other restrictions that keep the 38 foot building from ever being built there that I'm inclined to support. So, any other commissioners have any comments. If not we, It sounds like we've got a lot of voices of support here, so I'd be entertain a motion

COMMISSIONER EYSTER: I'd be willing. I'd be willing to move chair, but I have not counted the number of findings. Can someone help me with that?

COMMISSIONER STETSON: 1-12, I believe.

CHAIR SHAFFER: 1-12.

COMMISSIONER EYSTER: Thank you. In that case, in the matter of project 2023-008175, case RZ-2023-00007, I move approval subject to findings 1-12.

CHAIR SHAFFER: We have a motion. Do we have a second?

COMMISSIONER MACEACHEN: Second.

CHAIR SHAFFER: Commissioner MacEachen is a second. So, to a roll call. Vote Commissioner Stetson.

COMMISSIONER STETSON: Stetson, I.

CHAIR SHAFFER: Commissioner Meadows

COMMISSIONER MEADOWS: Meadows, I.

CHAIR SHAFFER: Commissioner MacEachen.

COMMISSIONER MACEACHEN: MacEachen, I.

CHAIR SHAFFER: Commissioner Hollinger.

COMMISSIONER HOLLINGER: Commissioner Hollinger, with one comment, for is there when you made the case number you had a one too many zeros with 4 zeros and a 7.

COMMISSIONER MACEACHEN: Thanks, thanks, Commissioner. I got carried away with that 007 idea.

COMMISSIONER HOLLINGER: That being, said, I am in favor, I.

CHAIR SHAFFER: Commissioner Eyster.

COMMISSIONER EYSTER: Commissioner Eyster, I.

CHAIR SHAFFER: Commissioner Cruz.

COMMISSIONER CRUZ: Cruz I.

CHAIR SHAFFER: Commissioner Coppola.

COMMISSIONER COPPOLA: Coppola, I.

CHAIR SHAFFER: Commissioner Shaffer’s an I. So, it passes unanimously, unanimously, 8 to 0.

Planning Department
Alan Varela, Planning Director
Development Review Division
600 2nd Street NW – 3rd Floor
Albuquerque, NM 87102

NOTICE OF APPEAL

May 10, 2023

TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on May 9, 2023. 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 Ernesto 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 Mandi Hinojos, Clerk to the Council, (505) 768-3100.

CITY COUNCIL APPEAL NUMBER: AC-23-10
PLANNING DEPARTMENT CASE FILE NUMBER:
PR-2023-008175 RZ-2023-00007–VA-2023-00130

APPLICANT: Johnny & Nova Dorn
1106 Edith Blv. SE
Albuquerque NM, 87102

AGENT: Diana Dorn-Jones
1108 Edith Blvd. SE
Albuquerque NM, 87102

cc: Mandi Hinojos, City Council, City county bldg. 9th floor
Kevin Morrow/Legal Department, City Hall, 4th Floor-
Kinley Raccoon LLC, jitka.dekojova@yahoo.com
South Broadway NA, Frances Armijo, fparmijo@gmail.com
South Broadway NA, Tiffany Broadous, tiffany.hb10@gmail.com
Diana Dorn-Jones, ddj5050@att.net
EPC File

ENVIRONMENTAL PLANNING COMMISSION
AGENDA

Thursday, April 20, 2023
8:40 a.m.

Due to COVID-19 this meeting is a Public Zoom Video Conference

Members of the public may attend via the web at this address: https://cabq.zoom.us/j/2269592859 **or by calling the following number: 1 301 715 8592 and entering Meeting ID: 226 959 2859**

MEMBERS
David Shaffer, Chair
Tim MacEachen, Vice Chair

Giovanni Coppola
Joseph Cruz
Gary L. Eyster P.E. (Ret.)
Jonathan R. Hollinger
Richard Meadows
Mrs. Jana Lynne Pfeiffer
Robert Stetson

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NOTE: A LUNCH BREAK AND/OR DINNER BREAK WILL BE ANNOUNCED AS NECESSARY

Agenda items will be heard in the order specified unless changes are approved by the EPC at the beginning of the hearing; deferral and withdrawal requests (by applicants) are also reviewed at the beginning of the hearing. Applications deferred from a previous hearing are normally scheduled at the end of the agenda.

There is no set time for cases to be heard. Please be prepared to provide brief and concise testimony to the Commission if you intend to speak. **In the interest of time, presentation times are limited as follows, unless otherwise granted by the Commission Chair: Staff – 5 minutes; Applicant – 10 minutes; Public speakers – 2 minutes each. An authorized representative of a recognized neighborhood association or other organization may be granted additional time if requested. Applicants and members of the public with legal standing have a right to cross-examine other persons speaking pursuant to Article 3, Section 2D, of the EPC Rules of Practice & Procedure.**

All written materials – including petitions, legal analysis and other documents – should ordinarily be submitted at least 10 days prior to the public hearing, ensuring presentation at the EPC Study Session. The EPC strongly discourages submission of written material at the public hearing. Except in extraordinary circumstances, the EPC will not consider written materials submitted at the hearing. In the event the EPC believes that newly submitted material may influence its final decision, the application may be deferred to a subsequent hearing. Cross-examination of speakers is possible per EPC Rules of Conduct.

NOTE: ANY AGENDA ITEMS NOT HEARD BY 8:30 P.M. MAY BE DEFERRED TO ANOTHER HEARING DATE AS DETERMINED BY THE PLANNING COMMISSION.

Call to Order:

A. Pledge of Allegiance
B. Roll Call of Planning Commissioners
C. Suspension of the Rules- Article I, Section 4 and Article II, Section 2A of the EPC Rules of Practice & Procedure
D. Zoom Overview
E. Announcement of Changes and/or Additions to the Agenda
F. Approval of Amended Agenda
G. Swearing in of City Staff

1. Project # PR-2023-008180
SI-2023-00282 - Site Plan- EPC
SI-2023-00628 - Master Plan- Major Amendment

Consensus Planning, agent for the City of Albuquerque Parks & Recreation Department, requests a Site Plan- EPC for an approximately 5-acre portion of Tract A, Plat of Tract A North Domingo Baca Park, approximately 40 acres, located on the western side of Wyoming Blvd. NE, between Corona Ave. NE and Carmel Ave. NE (C-19).
Staff Planners: Megan Jones & Robert Messenger
(Deferred at the March 16, 2023 hearing).

2. Project # PR-2023-008358
SI-2023-00505 - Master Plan- Major Amendment
SI-2023-00639 Site Plan- EPC, Major Amendment

The City of Albuquerque, Council Services, requests a Major Amendment to the Railyards Master Plan and a Site Plan - EPC for all or a portion of Tract A Plat of Tract A AT&SF Railway Company Machine Shops, located at 1100 2nd St. SW, south of Coal Ave. SW and north of Avenida César Chavez SW, zoned PD, approximately 27.5 acres (K-14) Staff Planner: Leslie Naji

3. Project # PR-2019-002765
SI-2023-00485 - Site Plan- Major Amendment

Kimley-Horn (Tom Eagling), agent for Red Shamrock 4 LLC, requests a Site Plan- Major Amendment for all or a portion of Lots 1- 7 Plat of Lots 1 thru 9 Coors Pavilion (being a replat of Tract X-1-A2, University of Albuquerque Urban Center; and Lots 8-A, 8-B, 8-C and Lots 9-A, 9-B, 9-C Coors Pavilion (being comprised of Lots 8 and 9 Coors Pavilion), located at 4100 Coors Blvd. NW, between St. Josephs Dr. NW and Coors Blvd. NW, zoned NR-C, approximately 22 acres. (G-11)
Staff Planner: Leroy Duarte

4. PR-2023-008380
RZ-2023-00011– Zoning Map Amendment (Zone Change)

ABQ Land Use Consulting, LLC requests a zoning map amendment from NR-LM to MX-H, for all or a portion of Tract Z-1-A of Redivision Tracts Z-1, Z-2 & Z-3, Block 6, Tract A Unit A, North Albuquerque Acres, located at 7620 Pan American Freeway NE, between San Francisco Dr. NE and Del Rey Ave. NE, approximately 4 acres (D-18)
Staff Planner: Robert Messenger

5. Project # PR-2021-005461
SI-2023-00513 - Site Plan- Major Amendment

Modulus Architects & Land Use Planning Inc., agent for WFC Wyoming NM LLC c/o Westwood Financial, requests a Major Amendment to an existing Site Development Plan for all or a portion of Parcel 5-A of the amended summary plat of the Wyoming Mall parcels 1 thru 6; Parcel 3 and Parcel 6 summary plat Wyoming Mall; Parcel 1-A, 1-B, 1-C, 4-A and 5-A Plat of Parcel 1-A, 1-B, 1-C, 4-A & 5-A Wyoming Mall, zoned MX-M, located between Wyoming Blvd. NE and Lester Dr. NE, and north of Northeastern Blvd. NE, approximately 32 acres (H-20)
Staff Planner: Leroy Duarte

6. Project # PR-2018-001192
SI-2023-00512 - Site Plan- Major Amendment

Consensus Planning, agent for Thakur Enterprises, requests a Site Plan- Major Amendment for all or a portion of Tracts A-36-A, Replat of Tract A-36, Town of Atrisco Grant Northeast Unit, located at 3421 Coors Blvd. NW, north of Sequoia Rd. NW, between Atrisco Dr. NW and Coors Blvd. NW, zoned NR-C, approximately 4.3 acres (G-11)
Staff Planners: Megan Jones & Robert Messenger

7. Project # PR-2018-001577
SI-2023-00537 - Site Plan- Major Amendment

ABQ Land Use Consulting LLC c/o Carl Garcia, agent for Gravity Pad Towers LLC, requests a Site Plan- Major Amendment for all or a portion of Tracts A, C, D-1-A2, E, F, K, N, S-1-A, S-2, Lands of Double Eagle II Airport, located at 7401 Atrisco Vista Blvd. NW, at the intersection of Atrisco Vista Blvd. NW and Shooting Range Access Rd., zoned NR-SU, approximately 4500 acres (E-5)
Staff Planner: Megan Jones
(Deferral to the May 18, 2023 hearing requested by applicant)

8. Project # PR-2023-008175
RZ-2023-00007– Zoning Map Amendment (Zone Change)

Kinley Raccoon LLC, requests a zoning map amendment from R-1A to MX-T, for all or a portion of Lot 07, Block 19, Eastern Addition, located at 1102 Edith Blvd. SE, between Garfield Ave. SE, and Lewis Ave. SE, approximately 0.2 acre (L-14-Z)
Staff Planner: Leroy Duarte
(Deferred at the March 16, 2023 hearing).

9. OTHER MATTERS

Approval of the March 16, 2023 Action Summary Minutes

10. ADJOURNMENT