

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

MAY 16, 2024

Fazal Development  
Network  
120 S. State St.  
Chicago, IL 60603

**Project # PR-2024-009944**  
**RZ-2024-00011** –Zoning Map Amendment

Tierra West, LLC, agent for Fazal Development Network, Inc., a Zoning Map Amendment from MX-H / NR-GM to MX-H, for all or a portion of Tract G-1, Plat of South Barelás Industrial Park, Unit #2, located at 310 Avenida Cesar Chavez, between 3rd St SW, and 4th St SW, approximately 1 acre (K-14-Z)

Staff Planner: William Steele

On May 16, 2024, the Environmental Planning Commission (EPC) voted to APPROVE Project # PR-2024-009944, RZ-2024-00011, Zoning Map Amendment, based on the following Findings.

### FINDINGS – RZ-2024-00011 Zoning Map Amendment

1. The request is for a zoning map amendment (zone change) for an approximately 1-acre site legally described as all or a portion of Tract G-1, Plat of South Barelás Industrial Park, Unit #2, located at 310 Avenida Cesar Chavez, between 3rd St SW, and 4th St SW, the “subject site”.
2. The original request for a zone change was from MX-H/NR-GM to MX-M, but the applicant opted to work with the opposed neighbors to find a zone district that would align better with their wants and needs over a two-month deferral period.
3. The applicant is requesting a zone change from MX-H (Mixed-Use - High Intensity) and NRGGM (Non-Residential - General Manufacturing) to MX-H zoning to remedy the existing floating zone line and extend the MX-H zone district cross the entire site. The applicant proposes future development of the subject site for a restaurant with drive through, which is not a part of this request.
4. The subject site is in an area that the Comprehensive Plan designated an Area of Change.
5. The subject site is within the Bridge/4th St Activity Center, within 660-feet of the 4th St and Bridge/Tower Blvd Major Transit Corridors, and within 660-feet of the 4th St and Bridge Blvd Main Street Corridors as designated by the Comprehensive Plan.

6. The City of Albuquerque Integrated Development Ordinance (IDO) and the Albuquerque/Bernalillo County Comprehensive Plan are incorporated herein by reference and made part of the record for all purposes.
7. The request furthers the following Goals and Policies from Comprehensive Plan Chapter 4 Community Identity:
  - A. Goal 4.1 Character: Enhance, protect, and preserve distinct communities  
The request for a partial downzone from MX-H and NR-GM to MX-H could enhance, protect and preserve the surrounding community by facilitating future mixed use development, enhancing the surrounding community by offering a variety of permissive uses that could align with the character of the area.
  - B. Policy 4.1.1 Distinct Communities: Encourage quality development that is consistent with the distinct character of the communities.  
The request could encourage quality development that would be consistent with the distinct character of the community. The request would increase the amount of MX-H zoning existing on the southside of Avenida Cesar Chavez and could foster neighborhood development that is generally similar in character to what is near the intersection Avenida Cesar Chavez and 4th St. The parcels directly west across 4th St and adjacent to the subject site are zoned MX-H.
  - C. 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 zone change could encourage more productive use and redevelopment of an underutilized lot with a split zoning designation by changing the zoning of the entire subject site to MX-H, thereby correcting the floating zone line. It could contribute in creating healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods along a major transit and main street corridor, by allowing consistent permissive uses across the subject site.
8. The request furthers the following, additional Goals and Policies regarding Centers and Corridors from Comprehensive Plan Chapter 5: Land Use:
  - A. Goal 5.1 Centers & Corridors: Grow as a community of strong Centers connected by a multimodal network of Corridors.  
The subject site is located within the Bridge/4th Street Activity Center and is connected by the 4th St and Bridge/Tower Blvd Major Transit Corridors and the 4th St and Bridge Blvd Main Street Corridors. The request could provide the opportunity for growth as a community of strong Centers connected by a multi-modal network of Corridors which would be accessible to the surrounding area.
  - B. Policy 5.1.2 Development Areas: Direct more intense growth to Center and Corridors and use Development Areas to establish and maintain appropriate density and scale of development within areas that should be more stable.  
The proposed zoning map amendment could assist in facilitating higher intensity growth and development of the subject site along Major Transit and Main Street Corridors with uses that are similar to those along Avenida Cesar Chavez. Because the subject site is located in an Area

of Change, Activity Center and is a partial downzone, the proposed zone change could contribute to establishing and maintaining appropriate density and scale of development within areas that should be more stable and where similar developments exist.

9. The request furthers the following, additional Policy regarding City Development Areas and Areas of Change from Comprehensive Plan Chapter 5: Land Use:

A. Policy 5.3.1-Infill Development: Support additional growth in areas with existing infrastructure and public facilities. The subject site is an infill site located in an area already served by existing infrastructure and public facilities. The subject site has access to water, sewer, transit services, a major transit road and electric infrastructure systems.

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 designated as and is surrounded by Areas of Change. The request could encourage and direct growth to the area where it is expected and desired. Additionally, the proposed zone change allows uses that would reinforce the character and intensity of the surrounding area, which contains designated areas of consistency.

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

The proposed zone change could direct growth and more intense development to an Area of Change within 660-feet of a Major Transit and Main Street Corridor since the MX-H zone allows for high-intensity uses. The request could promote development on an infill site where change is encouraged.

10. 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 generally furthers applicable Comprehensive Plan Goals and policies and does not significantly conflict with them.

Applicable citations: Goal 4.1-Character, 4.1.1-Distinct Communities, Goal 5.1-Centers & Corridors, Policy 5.1.2-Development Areas, Policy 5.2.1-Land Uses, Policy 5.3.1-Infill Development, Goal 5.6-City Development Areas, Policy 5.6.2-Areas of Change.

The applicant's policy-based response adequately demonstrates that the request furthers a preponderance of applicable Goals and policies regarding land use, centers and corridors, infill development and development areas and thereby does not present any significant conflicts with the Comprehensive Plan. Thus, the request is consistent with the City's health, safety, morals and general welfare.

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

C. Criterion C: The subject site is located wholly in an Area of Change.

The existing zoning is split with a floating zone line which was an error when the existing boundary of the zone district was applied, most likely with the conversion of zoning when the IDO was established in 2018. Zone district boundaries typically align with lot lines.

The applicant has not demonstrated that there has been change in wants and needs of the surrounding Barelás Community, although changing development patterns in the area reflect more commercial and retail uses. The zone change would not introduce a new zone district, although it would create one consistent zone across the subject site. This would make future development more feasible.

The applicant's policy-based analysis demonstrates that the request would further a preponderance of applicable Comprehensive Plan Goals and policies and therefore would be more advantageous to the community than the current zoning. The applicant also provided responses to the analysis based on the character, land use and economic development goals and policies of the Comprehensive Plan relative to the request. The uses associated with the zone change could be more advantageous to the community. The response to Criterion C is sufficient.

D. Criterion D: The requested MX-H zoning is a downzone for the existing NR-GM zoned portion of the site and does not include many permissive uses that would be potentially harmful to adjacent properties, neighborhoods, or communities. The northern half of the site is already zoned MX-H; therefore, no new uses would be introduced on the subject site. Several uses would become permissive across the entirety of the site with the elimination of the NR-GM zone that could potentially be considered harmful. Nightclub use would become permissive in the NR-GM portion of the site. Mitigation for "alcohol sales for on-premises consumption is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities," per IDO 14-16-4-3(D)(8)(a). Drive-in Theater is a conditional use not permitted in NR-GM but allowed in MX-H. Mitigation involves the theater being enclosed with a screen, fence or wall and for the screen to be positioned or shielded so as not to be seen at least 500 ft from an arterial street (See IDO 14-16-(D)(31). Cannabis retail is a permissive use in MX-H instead of a Permissive Accessory use in NR-GM and would have to comply with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities (See IDO 14-16-4-3(D)(35)).

Due to the community opposition to the original MX-M zone district to allow a Drive-through or drive-up facility as noted in comments received prior to the original deferral; staff would like to note that this use would become a conditional primary use. Although this is not a use specific standard that mitigates harm, it would require a conditional use permit as mitigation (See IDO 14-16-4-3(F)(5).

E. Criterion E: The City's public improvement and existing infrastructure would have adequate capacity. The applicant would have to meet all requirements under the IDO, DPM and infrastructure agreements for future development of the site (Criterion 3). There is no site development included with this request.

- F. Criterion F: The subject site is located on Avenida Cesar Chavez which is a major street. Though this location factors into the applicant's policy analysis as being on a Major Street and Major Transit Corridor, the applicant is not completely basing their justification for the request upon the subject site's location on a major street. The justification for the proposed zone change is based on the advantages it could bring to the community, through the zone change.
- G. Criterion G: Economic considerations or cost of land are not factors, and the applicant's justification is not based upon them. Rather, the applicant has adequately demonstrated that the request furthers a preponderance of applicable Comprehensive Plan Goals and policies and does not conflict with them. The request to downzone could facilitate the development of the subject site with a high-intensity use that could serve the community.
- H. Criterion H: This Zoning Map Amendment from MX-H and NR-GM to MX-H does not create a "spot zone" that on a small site that is different from surrounding zone districts. The subject site is adjacent to MX-H zoning on its east and west sides.
11. The applicant's policy-based response adequately demonstrates that the request clearly does not facilitate a "spot zone" and furthers a preponderance of applicable Goals and policies regarding land use, centers and corridors, infill and efficient development patterns and economic development; 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.
12. The affected neighborhood organization is the Barelás Neighborhood Association (NA), which was notified as required. Property owners within 100 feet of the subject site were also notified as required. As of this writing, Staff has not been contacted. There was opposition from NA's and neighbors regarding the original zoning map amendment application of the subject site to MXM, therefore the March 21, 2024 EPC public hearing for the case was deferred for 60 days until there could be further discussions with the neighbors and NA. The NA supports the zone map amendment to MX-H rather than MX-M because it requires a conditional use permit from the Zoning Hearing Officer for a drive-through or drive-up facility as a conditional accessory use with a permissive primary restaurant use.
13. Facilitated meetings were held on March 7, 2024 and April 4, 2024 with the Barelás Neighborhood Association. An unfacilitated meeting was held on April 9, 2024.
14. There was opposition to the original request, but after working with the opposed neighbors, staff is unaware of opposition to the proposed MX-H zone district. As of this writing Staff has not been contacted and is unaware of any opposition.

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APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **May 31, 2024**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15<sup>th</sup> day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-6-4(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,



for Alan M. Varela,  
Planning Director

AV/WS

CC: Tierra West LLC, Adam Johnstone, [ajohnstone@tierrawestllc.com](mailto:ajohnstone@tierrawestllc.com)  
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