

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

July 18, 2024

Cross Development
4317 Marsh Ridge Rd
Carrolton Texas, 75010

Project # PR 2024-009765
RZ-2024-00001 – Zoning Map Amendment (Zone Change)

Tierra West, LLC, Inc., agent for Cross Development, requests a zoning map amendment from MX-M to MX-H, for all or a portion of Tract A, Plat of Gateway Subdivision, located at 1100 Woodward Pl NE, between Mountain Rd, and Lomas Blvd, approximately 3.0 acres. (J-15-Z)
Staff Planners: Megan Jones and Vicente Quevedo

On July 18, 2024, the Environmental Planning Commission (EPC) voted to APPROVE PR-2024-009765 RZ-2024-00001 – Zoning Map Amendment (Zone Change), based on the following findings:

FINDINGS – RZ-2024-00001 – Zoning Map Amendment (Zone Change)

1. This is a request for a zoning map amendment for all or a portion of Tract A, Plat of Gateway Subdivision located at 1100 Woodward Place NE, between Mountain Rd. and Lomas Blvd. and containing approximately 3 acres.
2. The request was originally heard and approved by the EPC on February 15, 2024. It was appealed by the Santa Barbara Martineztown Neighborhood Association (NA) and was heard by the Land Use Hearing Officer (LUHO) on May, 15, 2024 (AC-24-11). The LUHO decision resulted in a remand back to the EPC to be heard de novo (“anew”).
3. The request is now before the EPC on remand pursuant to six remand instructions specified by the LUHO:
 - INSTRUCTION #1 requires that the EPC review the request for reconsideration anew due to an insufficient record. The request is being heard anew at the July 18, 2024 EPC hearing.
 - INSTRUCTION #2 allows the parties and planning staff to supplement the record with additional evidence so that the EPC can make a decision based on accurate information. Planning staff has supplemented the record with information about the 1994 Gateway Center Site Development Plan for Subdivision.
 - INSTRUCTION #3 requires that the applicant meet notice requirements in IDO §14-16-6-4(K) for the request to be reconsidered. The applicant has re-notified property owners within 100-feet of the subject site and affected Neighborhood associations with the new hearing date and request information.

- INSTRUCTION #4 requires that the EPC offer the opportunity for cross examination under procedural due process for NM State law. Planning staff has prepared online forms and instructions for the public to access and will announce the opportunity for cross examination during the hearing.
 - INSTRUCTION #5 required that Planning staff accept all evidence submitted by applicants whether staff believes it is relevant or not. Staff will ensure to accept all information received in application packets to be included in the EPC record for this case.
 - INSTRUCTION #6 states that the EPC should make its own independent findings and conclusions. Planning staff prepares recommended findings as part of the staff report for the commissions review. It is up to the commission to accept, revise, remove, or add new Findings to be included in the Official Notice of decision.
4. The subject site is zoned MX-M (Mixed-use - Medium Intensity). The applicant is requesting a zone change to MX-H (Mixed use – High Intensity) which would result in a spot zone. The applicant proposes to change the zoning to facilitate the proposed future development of a hospital use on the subject site.
 5. The subject site is currently vacant and undeveloped. On 3/24/1994 the EPC voted to approve the Gateway Center Site Development Plan (SDP) for Subdivision SDP for the 23-acre area that the subject site is within (Z-93-46). The SDP for Subdivision was signed off for approval by the (former) DRB on 7/12/1994 (DRB-94-183).
 6. The subject site is located within the Santa Barbara Martineztown Character Protection Overlay Zone (CPO-7).
 7. The Pre-IDO approved Gateway Center Site Development Site Development Plan for Subdivision design guidelines prevail over the majority of the requirements of the CPO-7 pursuant to IDO §14-16-1-10(A) which states that “Any use standards or development standards associated with any pre-IDO approval or zoning designation establish rights and limitations and are exclusive of and prevail over any other provision of this IDO. Where those approvals are silent, provisions in this IDO shall apply...”
 8. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Integrated Development Ordinance (IDO) are incorporated herein by reference and made part of the record for all purposes.
 9. The subject site is located within an Area of Change as designated by the Comprehensive Plan.
 10. The request clearly facilitates the following applicable Policy from the Comprehensive Plan Chapter 4 – Community Identity
 - A. 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 cohesiveness of the surrounding neighborhood by ensuring that the scale and location of any future development is not located in any residentially zoned parcels as articulated by the controlling Gateway Center Site Development Plan. Additionally, the mix of uses on and around the subject site are of appropriate scale for any future development resulting from an approval of the zone map amendment request.

11. The request clearly facilitates the following applicable Goals and Policies from the Comprehensive Plan Chapter 5 – Land Use

- A. GOAL 5.1 CENTERS AND CORRIDORS: Grow as a community of strong Centers connected by a multi-modal network of Corridors.

The request would allow a broader range of higher-intensity land uses on the subject site, which is located along the I-25 Frontage and Mountain Rd. Major Transit Corridors and within 660' of the Lomas Blvd. Major Transit Corridor. Any development made possible by the request could result in growth on the subject site, which is currently vacant, and located along and within the aforementioned Corridors.

- B. POLICY 5.1.1 DESIRED GROWTH: Capture regional growth in Centers and Corridors to help shape the built environment into a sustainable development pattern.

The request could capture regional growth along and within three Major Transit Corridors - the I-25 Frontage, Mountain Rd., and Lomas Blvd. Any development made possible by the request would result in growth on the subject site, which is 3.0-acres in size and located within these aforementioned Corridors, and also abutting Interstate 25. Locating growth within Corridors promotes sustainable development patterns, according to the ABC Comp Plan.

- C. POLICY 5.1.1 c): Encourage employment density, compact development, redevelopment, and infill in Centers and Corridors as the most appropriate areas to accommodate growth over time and discourage the need for development at the urban edge.

The subject site is part of the approved / controlling Gateway Site Development Plan for Subdivision which has served to encourage and accommodate growth over time that includes infill development and additional employment density. The request would continue to encourage development on the subject site and along a designated Major Transit Corridor.

- D. POLICY 5.1.2 DEVELOPMENT AREAS: Direct more intense growth to Centers and Corridors and use Development Areas to establish and maintain appropriate density and scale of development within areas.

The request would allow a broader range of higher-intensity land uses on the subject site, which is located along Major Transit Corridors. The subject site is also located in a designated Area of Change, where growth is both expected and desired, according to the ABC Comp Plan. The density and scale of any future development made possible by approval of the request would be subject to the controlling site development plan and any IDO development standards where the site plan is silent.

- E. 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 allow for a broader mix of higher-intensity land uses on the subject site, which is located in a distinct mixed-use area and community (Santa Barbara/Martineztown), and in close proximity to other surrounding communities, conveniently accessible via public transit service.

- F. POLICY 5.2.1 h): Encourage infill development that adds complementary uses and is compatible in form and scale to the immediately surrounding development.

The requested zone map amendment would encourage infill development of a Rehabilitation Hospital being heard subsequent to this request by the EPC as a Site Plan EPC – Major Amendment. It would add a complementary use that is compatible in form and scale to the immediately surrounding development because the subject site and surrounding sites are all controlled by the design standards approved Gateway Site Development for Subdivision. The SDP design standards would ensure that any future development of the site would be compatible in form and scale to the immediately surrounding development.

- G. POLICY 5.2.1 n): Encourage more productive use of vacant lots and under-utilized lots, including surface parking.

The subject site is currently vacant and is being used as an unpaved overflow parking lot. If approved, the request would result in more productive use of the vacant lot by expanding the available number of permissive uses on the subject site. Any future development would still be subject to the controlling Site Development Plan for Subdivision.

- H. 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.

Any development made possible by the request will promote efficient development patterns and use of land because subject site is already served by existing infrastructure and public facilities, and is subject to the requirements of the controlling Site Development Plan for Subdivision. Future development on the subject site featuring uses allowed in the MX-H Zone District could support the public good in the form of economic development, job creation, and an expansion to the tax base.

- I. POLICY 5.3.1 INFILL DEVELOPMENT: Support additional growth in areas with existing infrastructure and public facilities.

The subject site is a vacant infill site located in an area already served by existing infrastructure and public facilities. Any future growth and development on the subject site would occur in an area that has adequate existing infrastructure and access to a range of public facilities.

- J. POLICY 5.3.2 Leapfrog Development: Discourage growth in areas without existing infrastructure and public facilities.

The request will not result in Leapfrog Development as the hospital use will be developed in an area with existing infrastructure and public facilities.

- K. POLICY 5.3.7 – Locally Unwanted Uses: Ensure that land uses that are objectionable to immediate neighbors but may be useful to society are located carefully and equitably to ensure that social assets are distributed evenly and social responsibilities are borne fairly across the Albuquerque area.

There is known opposition from the Santa Barbara/Martineztown (SB/MT) Neighborhood Association for the Hospital Use. The applicant has demonstrated that the proposed use would serve a community need for healthcare services for an aging population and chronic illnesses pursuant to healthcare and census data studies for NM that have been referenced. The request will result in a rehabilitation hospital that will add to the non-emergency medical services network

in the greater Albuquerque Metropolitan area. These services are useful to society by easing pressure on local hospitals by providing an avenue for outpatient care.

- L. POLICY 5.3.7(b) – Ensure appropriate setbacks, buffers, and/or design standards to minimize offsite impacts.

Although the request is for a zone map amendment, the controlling Gateway Center Site Development Plan includes setback requirements and other design standards intended to minimize offsite impacts from any future development on the subject site.

- M. 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 wholly in an Area of Change, where growth is both expected and desired. Any future development on the subject site, which is currently vacant, could encourage, enable, and direct growth to this Area of Change. Due to the standards established by the Gateway Center Site Development Plan, and where silent, CPO-7 Overlay Zone standards apply, the proposed a future development being heard subsequent to this request would be compatible in form and scale to the immediately surrounding development. Future development could also reinforce the character and intensity of the surrounding area given the general compatibility between the MX-H and surrounding MX-M zone districts, as well as the existing buffer between the subject site and the lower-density and lower-intensity development located west of the site.

- N. 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 request will direct growth and more intense development on the subject site because the MX-H zone district allows higher-intensity mixed-use development in comparison to the MX-M zone district. Additionally, the subject site is located along the I-25 Frontage and Mountain Rd. Major Transit Corridors, within 660' of the Lomas Blvd., and within an Area of Change, where growth and more intense development is encouraged.

- 12. The request clearly facilitates the following applicable Goals and Policies from the Comprehensive Plan Chapter 8 – Economic Development

- A. POLICY 8.1.1 DIVERSE PLACES: Foster a range of interesting places and contexts with different development intensities, densities, uses, and building scales to encourage economic development opportunities.

The requested zone map amendment from MX-M to MX-H would facilitate development that will foster or support a range of intensities, uses and densities given the existing development on parcels also located within the controlling Gateway Site Development Plan for Subdivision.

- B. POLICY 8.1.1(a) – Invest in Centers and Corridors to concentrate a variety of employment opportunities for a range of occupational skills and salary levels.

The subject site is located along Major Transit Corridors, the request would result in higher intensity uses on the subject site, and along with the other existing developed parcels controlled

by the Gateway Site Development for Subdivision, the request will continue to concentrate a variety of employment opportunities and a range of skills and salary levels appropriately.

- C. POLICY 8.1.2. RESILIENT ECONOMY: Encourage economic development efforts that improve quality of life for new and existing residents and foster a robust, resilient, and diverse economy. The request would contribute to improving the quality of life for nearby and surrounding residents by locating a potential service uses on the subject site, and along designated Major Transit Corridors.

13. Pursuant to §14-16-6-7(F)(3) of the Integrated Development Ordinance, Review and Decision Criteria, "An application for a Zoning Map Amendment shall be approved if it meets all of the following criteria."

- 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 does not significantly conflict with them. Because this is a spot zone, the applicant must further "clearly facilitate" implementation of the ABC Comp Plan (see Criterion H). The applicant's policy-based responses adequately demonstrate that the request clearly facilitates a preponderance of applicable Goals and policies in 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. The subject site is located wholly in an Area of Change, so this criterion does not apply. The response to Criterion B is sufficient.
- C. The subject site is located wholly in an Area of Change (as shown in the ABC Comp Plan, as amended) and the applicant argues that criteria 3 applies "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 plans". The applicant's policy-based analysis does demonstrate that the request would clearly facilitate a preponderance of applicable Comprehensive Plan Goals and policies and therefore would be more advantageous to the community than the current zoning. Because Criterion C states that the applicant must demonstrate that the existing zoning is inappropriate because it meets at least one of the criteria above, and Criteria 3 is met, 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 IDO §14-16-4-3 associated with that use will adequately mitigate those harmful impacts. The only two new permissive uses that would be allowed with the requested zone map amendment to MX-H are Adult Retail (not allowed due to proximity to the school to the north) and Self-Storage (impacts mitigated by a requirement for indoor storage units only). Although the IDO's Use-specific Standards for uses in the MX-H zone district would mitigate potentially harmful impacts associated with newly permissive uses, the subject site is controlled by the Gateway Center Site Development Plan for Subdivision (SDP). In this case, the SDP would mitigate harm on the surrounding land uses because it specifies allowable uses, land use scenario standards, development standards, and setbacks. The SDP only allows the "general Office" land use for the subject site.
- 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 – 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. The subject site is currently served by infrastructure, which will have adequate capacity once the applicant fulfills its obligations under the IDO, the DPM, and/or an Infrastructure Improvements Agreement. Any future development on the subject site, which is currently vacant, would be required to adhere to all obligations and standards under the IDO, DPM, and/or an Infrastructure Improvements Agreement. The applicant has also completed a full Traffic Safety Study. 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. Though the subject site is located along major streets and designated Major Transit Corridors, the applicant has adequately demonstrated that the request clearly facilitates a preponderance of applicable Comprehensive Plan Goals and policies, and any future development will adhere to the Pre-IDO approved design standards of the Gateway Site Development Plan for Subdivision. 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. The applicant's justification is not completely or predominantly based upon economic considerations. Rather, the applicant has adequately demonstrated that the request clearly facilitates a preponderance of applicable Comprehensive Plan Goals and policies, and any future development will adhere to the Pre-IDO approved design standards of the Gateway Site Development Plan for Subdivision. 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.

The request would not result in a spot zone because it would not apply a zone different from surrounding zone districts as evidenced by the existing MX-H zoned parcel directly east of the subject site, on the other side of Interstate 25, as well as south of Lomas Blvd. The record also reflects several similar medical and hospital uses in the surrounding area. The applicant has shown how the request would clearly facilitate a preponderance of applicable Comprehensive Plan goals and policies as shown in the response to Criterion A. The response to Criterion H is sufficient.

However, if the commission had determined that it was a spot zone, the commission further finds that it would have been a justifiable spot zone.

- 14. The applicant provided notice of the application to all eligible Neighborhood Association representatives and adjacent property owners (within 100 feet) via certified mail and email as required.

15. The Santa Barbara Martineztown Neighborhood Association accepted a Pre-Submittal Neighborhood Meeting within 15 calendar days of notification (on November 21, 2023) and proposed a meeting date of January 18th. The applicant originally agreed to a meeting sometime in January (date not specified), but requested a sooner date on November 29, 2024, citing “undue delay.” The CABQ Office of Alternative Dispute Resolution then offered a Zoom meeting format, with flexible availability, beginning as early as December 4, 2023. However, the Neighborhood association was “adamant that the meeting be held on January 18th,” according to facilitated meeting notes provided by the CABQ Office of Alternative Dispute Resolution and a timeline provided by the applicant. Based on this information, it appears that the Neighborhood Association effectively declined to meet within the 30-calendar day window specified in 6-4(B)(4) of the IDO. If the Santa Barbara Martineztown NA had accepted ADR’s offered Zoom meeting within those 30 days, the Neighborhood Association would have met with the applicant during this timeframe. However, as stated in subsection 6-4(B)(9), the requirement for a pre-submittal neighbor meeting was waived, and instead, a facilitated meeting was held on January 18th. Staff has also been informed by the applicant that a follow-up non-facilitated meeting was held on January 30th.
16. Staff is aware of opposition to this request by the Santa Barbara Martineztown Neighborhood Association. In the facilitated meeting notes provided by the CABQ Office of Alternative Dispute Resolution, objections to the request were based on the communities feeling that the MX-H designation is not equivalent to the former Sector Plan C-3 designation, the potential of increased traffic, and the Applicant’s submission prior to the date of the meeting. These notes state that “community stakeholders made several additional objections, which were not related to the subject application. Those objections were omitted, here.”
17. During the July 18, 2024 public hearing the Environmental Planning Commission deliberated as to whether the request would result in a spot zone pursuant to the Land Use Hearing Officer’s Remand Instructions (AC-24-11). The Commission concluded that the request does not result in a spot zone. The Commission developed Finding 13H to reflect this decision.

18.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC’s decision or by **August 2, 2024**. 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).

OFFICIAL NOTICE OF DECISION

PR 2024-009765

July 18, 2024

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Sincerely,

Megan Jones

for Alan M. Varela,
Planning Director

AV/MJ/VQ

CC:

Tierra West LLC, Sergio Lozoya, slozoya@tierrawestllc.com

Cross Development, meagan@crossdevelopment

Ciaran Lithgow, ciaranlithgow@gmail.com

Loretta Naranjo-Lopez, sbmartineztown@gmail.com Gilbert

Speakman, sbmartineztown@gmail.com

Legal, Dking@cabq.gov

Legal, acon@cabq.gov

EPC file