



Memorandum

To: City of Albuquerque Environmental Planning Commission

From: Jacqueline Fishman, AICP, Principal

Date: March 14, 2022

Re: Project #2021-006278 RZ-2021-00051– Zoning Map Amendment

The purpose of this memo is to provide the Environmental Planning Commission (EPC) with an update on Project #2021-006278 RZ-2021-00051, a request for zone change for Tract A-1, Plat of Tracts A-1, A-2, C-1, and T Paradise Hills Golf Course Subdivision. The case was heard by the EPC at its hearing on February 17, 2022, and has been continued to the March 17, 2022 hearing.

Since the February 17th hearing, the Applicants (Daniel Warren, Liz Sanchez, and Anna Stovall) and I requested a facilitated meeting with the owner of the Paradise Hills Golf Course, John Bailey, and his attorney, Jenica Jacobi. The facilitated meeting was held on March 4, 2022. The Applicants made a good faith effort to come to some level of agreement regarding this application through the facilitated meeting process, as well as discussing the areas of encroachment on the Applicants' property.

Issues of concern were discussed by both parties and ideas for ways to address the concerns were put forth by Consensus Planning and the Applicants; however, Mr. Bailey remains opposed to the zone change and the proposed use at this property. He did acknowledge that the property had been used for a "hotel" for many years without issues arising between the patrons of the hotel and the use of the Golf Course. There is an obvious negative bias demonstrated towards seniors expressed in statements such as "the patients could wander onto the golf course and injure themselves" while ignoring the fact that the facility will have security and staff that are responsible for the whereabouts and the safety of the residents. A copy of the facilitator's report is included in the staff report.

In addition to the facilitated meeting, I contacted City Environmental Health staff, Michael Pittman, to discuss the City's Noise Ordinance. Mr. Pittman noted that he was familiar with the Paradise Hills Golf Course and confirmed that noise readings are always measured at the "receptor" properties. He also stated that two complaints were filed by residential properties zoned RM-L adjacent to the Golf Course in September 2021; however, the Environmental Health was unable to substantiate the complaints when staff went out to the residential properties to do the reading.

I also discussed with Mr. Pittman the suggestion from Ms. Jacobi that the MX-L zone may provide for a higher acceptable decibel level than the RM-L zone if it was considered "commercial" by Environmental Health relative to the Noise Ordinance. Mr. Pittman explained

that the Noise Ordinance does not recognize the MX zones and the IDO does not address the issue. Noise levels are measured per zoning categories, not by use, so changing our request from RM-L to MX-L would not be appropriate. In addition, the MX-L zone in this location would be a spot zone given there is no other MX-L zoned properties in the area and this property is less than an acre in size.

Mr. Pittman confirmed that the County Noise Ordinance is more stringent than the City's Noise Ordinance. He acknowledged that it is unclear whether the existing single-family residences to the west of the Golf Course within the Paradise Hills Zoning District are protected against excessive noise.

As a follow-up to this discussion, Mr. Pittman sent an email clarifying how the City administers the Noise Ordinance and addresses complaints (see attached email dated March 11, 2022).

The last item I would like to bring attention to is the restaurant bar, an Accessory Use, that is being operated at the Golf Course, which according to Mr. Bailey, includes an outdoor area that appears to be subject to the IDO Use Specific Standards, Section 4-3(F)(14), containing the following applicable provisions:

4-3(F)(14) Outdoor Dining Area

4-3(F)(14)(a) The outdoor dining area shall be accessory to the immediately abutting primary use, and the items sold for consumption in the outdoor dining area shall be sold in the immediately abutting primary use.

4-3(F)(14)(b) The use shall not include any open flames or other safety or health hazards, with the exception of tabletop candles.

4-3(F)(14)(d) Outdoor dining areas where alcohol is consumed must meet all applicable New Mexico State law requirements. If this results in the construction of a wall, fence, or similar barrier around the perimeter and the wall, fence, or similar barrier is located on the sidewalk, all of the following requirements apply:

1. The owner or operator of the immediately abutting primary use shall be required to obtain a revocable permit from the City.
2. A decorative wall, fence, or similar barrier shall be limited to between 3 feet and 4 feet in height and shall be located at least 6 feet from any building standpipe, hydrant, crosswalk, drive aisle, alleyway, access ramp, parking meter, landscape bed, street tree, sign post, utility pole, or similar obstacle.
3. The depth of the area enclosed by a wall, fence, or barrier shall not be greater than 50 percent of the width of the sidewalk, measured from back of curb to the building edge closest to the sidewalk, and shall leave a clear pedestrian passage area at least 6 feet in width.
4. The area enclosed by a wall, fence, or barrier shall not contain any utility vault.

To conclude, the Applicants remain steadfast in their position that this zone change to RM-L within a residential neighborhood that contains RM-L zoned property and within an existing

vacant building is appropriate, will bring new vitality and synergy to the property, and is consistent with the property's pre-IDO zoning. The Applicants are willing to make improvements to the property, including additional landscaping, fencing, and higher rated windows to address the concerns by the Golf Course owner that his use will disturb the residents of the assisted living facility. The Applicants are also willing to work with the Golf Course owner on addressing the encroachments on their property and access from the private Country Club Lane. The Applicants have purchased this property with the full knowledge of the uses at the Golf Course and have every intent of being a good neighbor to the Golf Course.

On behalf of the Applicants, we appreciate your consideration and urge your support of this request for zone change.

Att: Copy of email sent from Michael Pittman, C.P.F.S, Field Operations Officer, City Environmental Health Department dated March 10, 2022

From: [Pittman, Michael](#)
To: [Jackie Fishman](#)
Cc: [Charlene Johnson](#)
Subject: RE: Paradise Hills Golf Course
Date: Thursday, March 10, 2022 6:47:40 PM
Attachments: [image002.png](#)

So that is something I can answer right away for you...

First Off, we enforce both on the A-Weighted and the C-Weighted frequencies. The A-weighted is going to be those mid-range and higher range sound. The C-weighted is going to be those deeper bass sounds, those that people will actually feel, that bumping sound. Most people will complain more frequently when the C-Weighted is at or above the allowed levels.

The maximum levels are as follows:

A-Weighted

Commercial 65dB Daytime and 60dB Nighttime

Residential 55dB Daytime and 50dB Nighttime

C- Weighted

Commercial 70dB Daytime and 65dB Nighttime

Residential 60dB Daytime and 55dB Nighttime

Nighttime = 10:00pm – 7:00am.

These readings may only be taken from within the receptor source. If a complaint is received from the receptor premise, we would issue a letter stating that the complaint had been submitted and discusses the possibility of the civil citation. Upon a second complaint, a second notification letter is sent by certified mail which states the same. Then upon the third complaint we would schedule the noise reading from within that receptor premise and possibly proceed with the issuance of the \$250 Civil Citation. Our citation may go as high as \$500 for each subsequent offense, each requiring another noise reading.

I will check with my boss to see if it will be acceptable to join the conversation beyond that.



Michael Pittman C.P.F.S

field operations officer | environmental health department

o 505-768-4234

m 505-228-0560

cabq.gov/environmentalhealth/

From: Jackie Fishman <fishman@consensusplanning.com>

Sent: Thursday, March 10, 2022 4:17 PM
To: Pittman, Michael <mpittman@cabq.gov>
Cc: Charlene Johnson <Johnson@consensusplanning.com>
Subject: Paradise Hills Golf Course

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Michael –

Thanks again for talking with us. I forgot to mention that it would be good to hear from you what the difference in lay terms of the decibel levels for residential vs commercial receptors, day and nighttime. Anything you can provide that would help the EPC understand this would be great.

Jacqueline Fishman, AICP
Principal
Consensus Planning, Inc.
302 Eighth Street NW
Albuquerque, NM 87102
P: 505.764.9801