

PLANNING DEPARTMENT  
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## OFFICIAL NOTIFICATION OF DECISION

July 15, 2021

Western Hills Investments LLC  
PO Box 45688  
Rio Rancho, NM 87114

Project #2021-005301  
SI-2021-00452—Major Amendment Site Plan-EPC

### LEGAL DESCRIPTION:

Tierra West, agent for Western Hills Investments LLC, requests the above action for Tract C-4-A, plat of Tracts C-3-A, C-3-B, C-3-C, and C-4-A, Seven Bar Ranch Addition, zoned NR-BP, located north of Ellison Dr. NW and east of Coors Bypass NW/Coors Blvd. NW, at 3615 NM 528 NW, approximately 2.0 acres (A-14)  
Staff Planner: Catalina Lehner

On July 15, 2021, the Environmental Planning Commission (EPC) voted to APPROVE Project # 2021-005301/SI-2021-00452, a Major Amendment to a Site Plan-EPC, based on the following Findings and subject to the following Conditions of Approval:

### FINDINGS:

1. The request is for a Major Amendment to an existing site development plan for an approximately 2-acre site, legally described as Tract C-4-A, plat of Tracts C-3-A, C-3-B, C-3-C, and C-4-A, Seven Bar Ranch Addition and addressed as 3615 NM528 (the “subject site”).
2. The applicant proposes to re-develop the subject site with two restaurants with drive-thru facilities. Phase I includes a 950 sf coffee drive-thru and Phase II includes a 3,350 sf restaurant with a drive-thru. The office building that occupied the subject site was recently demolished.
3. The subject site is located north of Ellison Dr. NW and east of Coors Bypass NW/Coors Blvd. NW, and across the street from the Cottonwood Employment Center, in an Area of Consistency. NM State Hwy 528/Alameda Rd., a Regional Principal Arterial and designated Commuter Corridor, abuts the subject site to the west.
4. The subject site is zoned NR-BP [Non-Residential Business Park Zone District, IDO 14-16-2-5(B)]. Restaurant is a permissive use; applicable use-specific standards are found in IDO 14-16-4-3(D)(8). A drive-through or drive-up facility is an accessory use; applicable use-specific

standards are found in IDO 14-16-4-3(F)(4). Prior to the IDO, the subject site was zoned SU-1 for IP Uses (Special Use Zone for Industrial Park uses) and was part of the larger Seven Bar Sector Development Plan area.

5. The request exceeds the thresholds for a Minor Amendment and is being considered pursuant to IDO Section 14-16-6-4(Y)(1)(b)1, which states that Major Amendments shall be reviewed by the original decision-making body. The EPC approved the controlling site development plan in 2017, prior to effective date of the IDO. Pursuant to IDO Section 14-6-4(P)(2), the decision-making body may impose conditions necessary to bring the application into compliance with IDO requirements.
6. The request covers the same geographic boundaries as the controlling site development plan and would replace and supersede it with a new Site Plan-EPC. The request would subsequently go to the Development Review Board (DRB) for a minor subdivision action to create the two lots and to address infrastructure issues.
7. The Albuquerque/Bernalillo County Comprehensive Plan and the Integrated Development Ordinance (IDO) are incorporated herein by reference and made part of the record for all purposes.
8. The request meets the Site Plan-EPC Review & Decision Criteria in IDO Section 14-16-6-6(H)(3) as follows:

- A. 6-6(H)(3)(a) The Site Plan is consistent with the ABC Comp Plan, as amended.

As demonstrated by the policy analysis, overall the request is generally consistent with applicable Comprehensive Plan Goals and policies despite some instances of conflict. Conditions of approval can be applied to address the inconsistencies to the greatest extent possible.

- B. 6-6(H)(3)(b) The Site Plan is consistent with any applicable terms and conditions in any previously approved NR-SU or PD zoning covering the property and any related development agreements and/or regulations.

The subject site is not zoned NR-SU or PD. The controlling site plan (2017) contains design standards (special regulations). As part of the request the applicant is asking to be allowed to develop the subject site pursuant to the IDO and not according to the design standards- which would be vacated if the request is approved.

- C. 6-6(H)(3)(c) The Site Plan complies with all applicable provisions of this IDO, the DPM, other adopted City regulations, and any terms and conditions specifically applied to development of the property in a prior permit or approval affecting the property.

With implementation of conditions of approval, the site plan will comply with applicable provisions of the IDO. The request will need to be reviewed by the Development Review Board (DRB) to ensure compliance with applicable provisions of the Development

Process Manual (DPM), particularly those pertaining to transportation and grading and drainage.

- D. 6-6(H)(3)(d) The City's existing infrastructure and public improvements, including but not limited to its street, trail, drainage, and sidewalk systems, have adequate capacity to serve the proposed development, and any burdens on those systems have been mitigated to the extent practicable.

The request will be reviewed by the Development Review Board (DRB), which is charged with addressing infrastructure and ensuring that infrastructure such as streets, trails, sidewalks, and drainage systems have sufficient capacity to serve a proposed development.

- E. 6-6(H)(3)(e) The application mitigates any significant adverse impacts on the surrounding area to the maximum extent practicable.

The future, proposed development will be required to comply with the decisions of two bodies- the EPC and the DRB. The EPCs' conditions of approval will improve compliance with the IDO, which contains regulations to mitigate site plan impacts to surrounding areas. The DRB's conditions will ensure infrastructure is adequately addressed so that a proposed development will not adversely impact the surrounding area.

- F. 6-6(J)(3)(f) If the subject property is within an approved Master Development Plan, the Site Plan meets any relevant standards in the Master Development Plan in addition to any standards applicable in the zone district the subject property is in.

Not applicable. The subject site is not a part of a Master Development Plan.

- G. 6-6(J)(3)(g) If a cumulative impact analysis is required in the Railroad and Spur Area pursuant to Subsections 14-16-5-2(E) (Cumulative Impacts) and 14-16-6-4(H) (Cumulative Impacts Analysis Requirements), the Site Plan incorporates mitigation for all identified cumulative impacts. The proposed development will not create material adverse impacts on water quality or other land in the surrounding area through increases in traffic congestion, parking congestion, noise, vibration, light spillover, or other nuisances without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts.

Not applicable. The subject site is not in a designated Railroad and Spur Area.

9. The request is generally consistent with the following, applicable Comprehensive Plan Goals and policies from Chapter 5- Land Use:

- A. 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 in an Area of Consistency, where growth is intended to reinforce the character and intensity of the surrounding area. The area is developed with mostly

commercial uses, but also has some office, multi-family, and a large-lot County subdivision nearby. The request would facilitate development generally compatible with the intensity of other development along the Commuter Corridor, which includes fast-food, restaurants, and retail of various sizes (including big-box). However, the future development would be less intense than the uses to the west, which is consistent with the subject site's location north of a small-scale office building and west of the large-lot subdivision.

- B. Policy 5.1.12-Commuter Corridors: Allow auto-oriented development along Commuter Corridors that are higher-speed and higher-traffic volume routes for people going across town, often as limited-access roadways.

Subpolicy c: Support traffic flow by limiting new curb cuts, encouraging shared access of driveways and business access roads, or providing access from perpendicular local roads.

The request would facilitate auto-oriented development along a designated commuter corridor- NM 528/Alameda Blvd., a high-volume traffic route for going to and from Rio Rancho. Development of auto-oriented uses, such as the future restaurants with drive-thru facilities, is generally intended along such corridors. Access to the subject site is via two, existing driveways; new curb cuts are not proposed.

- C. 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 request would facilitate re-development of a site already served by existing infrastructure and public facilities, thereby maximizing the utility of both. Using infrastructure and land this way generally supports the public good because it is more efficient than adding infrastructure and/or developing land on the urban fringe.

- D. Policy 5.3.1- Infill Development: Support additional growth in areas with existing infrastructure and public facilities.

The subject site is located in an already-developed area that has existing infrastructure and public facilities and the request would support additional growth.

- E. Policy 5.4.2- West Side Jobs: Foster employment opportunities on the West Side.

The future development of two small, restaurant uses would help foster some employment opportunities on the Westside.

10. The request is partially consistent with the following, applicable Comprehensive Plan policies from Chapter 5- Land Use:

- A. Goal 5.4- Jobs-Housing Balance: Balance jobs and housing by encouraging residential growth near employment across the region and prioritizing job growth west of the Rio Grande.

The subject site is in a commercial area and across the street from a designated Employment Center. The future development of two small, restaurant uses would bring some service jobs to the Westside, in though it would not create balance by encouraging residential growth near employment that is already there.

- B. Policy 5.6.3-Areas of Consistency: Protect and enhance the character of existing single-family neighborhoods, areas outside of Centers and Corridors, parks, and Major Public Open Space.

The subject site is outside of the designated Employment Center to the west, but is along a designated Commuter Corridor (NM 528). Development in Areas of Consistency is intended to be compatible with surrounding uses in terms of scale, location, and character. Surrounding uses include a wide variety of sizes and scales of commercial retail, a small office building, a multi-family use, and a large-lot County subdivision. The request would be generally consistent with the character of the uses around it, although it would create a concentration of drive-thru uses in a relatively small area and could adversely affect the established neighborhood. Conditions of approval could address many of the effects.

11. The request is partially consistent with the following, applicable Comprehensive Plan policies from Chapter 6- Transportation:

- A. Policy 6.2.3- Pedestrian & Bicycle Connectivity: Provide direct pedestrian and bicycle access to and circulation within Centers, commercial properties, community facilities, and residential neighborhoods.

The subject site is a commercial property. Direct pedestrian and bicycle access is provided via connection to the established sidewalk, and pathways help facilitate non-vehicular circulation and safety. However, this is only available from the NM 528 side of the subject site. Bicycle and pedestrian access from the west is complicated by the lack of safe crossings of NM 528/Alameda, and there is no connection to facilitate non-vehicular travel from the residential uses to the east.

- B. Policy 6.2.8 Auto Network: Prioritize automobile travel on Commuter Corridors and balance it with other travel modes on other streets.

The request would result in development of two drive-thru uses, which are auto-oriented by definition and would prioritize automobile travel along this designated Commuter Corridor. However, balancing of the request with other travel modes on other streets would be limited in scope.

- C. Subpolicy a: Provide continuous, safe, and convenient vehicular circulation to achieve and maintain smooth traffic flow at steady, moderate speeds.

The request would generally provide continuous and convenient vehicular circulation, though it is possible that traffic flow and speeds could be impacted by the introduction of two, new auto-oriented uses in an area that already has many.

- D. Subpolicy b: On Commuter Corridors and other auto-oriented arterials, provide convenient access to auto-oriented uses, minimize conflicts with pedestrians and cyclists, and provide safe and convenient pedestrian crossings.

The request would provide convenient access to the future auto-oriented uses from the west, but not from the east. The proposed pathways and pedestrian crossings of contrasting material would be generally safe and convenient from the west, but not the east.

12. The request is partially consistent with the following, applicable Comprehensive Plan policies from Chapter 7- Urban Design:

- A. Goal 7.3- Sense of Place: Reinforce sense of place through context-sensitive design of development and streetscapes.

The request is generally designed to be similar to the context to the west, which is a wide variety of chain commercial uses, but is different than the context to the south (Territorial style office building) and to the east (residential uses).

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

The request would result in infill development that would add another drive-thru use to an area that already has many, so therefore it would not be complementary. The form and scale would be generally compatible with surrounding development.

13. The request is partially consistent with the following, applicable Comprehensive Plan policies from Chapter 8- Economic Development:

- A. 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.

In a limited way, the request would encourage economic development efforts and generally contribute to a more robust and diverse economy. A new service in the area could have a positive impact, but the resulting potential for increased traffic and noise in an already busy area could adversely affect existing residents.

- B. Subpolicy 8.1.2c: Prioritize local job creation, employer recruitment, and support for development projects that hire local residents.

The request would result in some job creation and would constitute general support for a development project that would hire local residents. Again, it would be on a limited scale due to the subject site's small size.

14. The request is generally inconsistent with the following, applicable Comprehensive Plan Goals and policies:

A. 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 provide additional restaurant options in the area, though their drive-thru nature would generally not facilitate creation of healthy and sustainable communities because such uses promote automobiles- not walking or bicycling. The area is characterized by various chain retail uses and is not distinct in that regard; however, the neighborhood to the east has existed since the 1960s and is distinct. The future uses would be conveniently accessible from NM 528, but not from the residential uses to the east due to the lack of vehicular and pedestrian access.

B. Subpolicy 5.2.1a: Encourage development and redevelopment that brings goods, services, and amenities within walking and biking distance of neighborhoods and promotes good access for all residents.

The request would result in redevelopment of the subject site. For the reasons in Finding 14.A, the request is generally inconsistent with Subpolicy a.

C. Goal 6.2- Multi-Modal System: Encourage walking, biking, and transit, especially at peak-hour commuting times, to enhance access and mobility for people of all ages and abilities.

The addition of more drive-thru uses, which are auto-oriented by nature, along a Commuter Corridor would generally discourage walking, biking, and transit usage. Though the on-site pedestrian connections are compliant and would hopefully facilitate walking to and within this destination, peak-hour commuting times already have high traffic volume that complicates the use of alternative transportation and generally complicates mobility.

D. Goal 7.4- Context Sensitive Parking: Design parking facilities to match the development context and complement the surrounding built environment.

The parking facility (lot) is designed to provide three times the amount of required parking (24 spaces provided, 8 required) for a use that does not have sit-down service. The excess parking is shown in the location of a stand of mature trees, which would be removed. This generally does not match the development context to the east or to the south and is not context-sensitive to most of the area.

15. Parks and Recreation Department Staff visited the subject site on June 30, 2021 to determine the condition of the mature trees. They evaluated several existing large trees and noted their condition. A couple of the trees are in good condition, most are in fair condition, and some (specifically the Siberian elms near the northeastern corner) are recommended for removal and replacement.

16. The application of Conditions of Approval to provide clarification, ensure compliance, and address mitigation of adverse impacts would also improve the extent to which the request is consistent with applicable Comprehensive Plan Goals and policies.
17. The registered neighborhood organization is the Westside Coalition of Neighborhoods, which the applicant notified as required. The applicant also notified property owners within 100-feet of the subject site's boundaries as required. The Skyview Neighborhood Association, which is in unincorporated Bernalillo County, was not on the list from the Office of Neighborhood Coordination (ONC) and was not required to be notified. Yellow signs were posted as required more than 15 days prior to the June 17 hearing date, which was when this case was first heard.
18. Prior to the June 17, 2021 hearing, Staff received a phone call and written comments from four residents of the subdivision northeast of the subject site. Neighbors expressed concern about traffic generation, cars queuing into the street, cumulative impacts, cut-through traffic in the neighborhood, noise from outdoor speakers, light spillage, impacts to wildlife, and trash collecting in the detention area and blowing into the neighborhood. The request was continued for a month to allow time for the applicant to meet with neighbors, for neighbors to obtain details about the project, and for mitigation possibilities to be discussed.
19. During the continuance period, Staff received additional comments from concerned neighbors. A couple of neighbors indicated opposition to the request. Some requested mitigation measures, such as additional landscaping, walls to capture trash, and limitations on hours of amplified sound and lighting. The applicant revised the site plan to address many of the concerns. Other concerns are captured through Staff's recommended conditions.

CONDITIONS OF APPROVAL:

1. The Environmental Planning Commission (EPC) delegates final sign-off authority of this site plan to the Development Review Board (DRB) to ensure that all technical issues are resolved. The DRB is also responsible for ensuring that the EPC's Conditions of Approval are satisfied and that other applicable City requirements are met.
2. A letter shall accompany the submittal, specifying all revisions that have been made to the site plan since the EPC hearing, including how the site plan has been modified to meet each of the EPC conditions. Unauthorized changes to this site plan, including before or after DRB final sign-off, may result in forfeiture of approvals.
3. The applicant shall meet with the Staff planner prior to applying to the DRB to ensure that all conditions of approval are addressed and met. Upon receiving sign-off from the DRB, the applicant shall submit a finalized version of the site plan for filing at the Planning Department.
4. Dimensional Standards:

The side setback of the Phase I building shall be a minimum of 10 feet pursuant to Section 14-16-5-1 Dimensional Standards for the NR-BP zone.



5. Pedestrian, Bicycle, and Transit Access:

A pedestrian-pass through shall be provided, where the 3 foot wall bends on the eastern side of the Phase I area, to facilitate pedestrian traffic coming from the west.

6. Landscaping- Trees:

- A. Two Pinon Pine trees shall be added to the triangular shaped area of the subject site that extends to the northeast.
- B. The three elms in the southern landscaping buffer shall be on the irrigation system and receive adequate irrigation.
- C. The large Siberian elms near the subject site's NE corner shall be on the irrigation system and be maintained until such time as the three additional trees (intended to replace them) are of sufficient size and maturity, as determined by Parks and Recreation Staff, that they can be removed.

7. Landscaping- Clarification:

- A. One curb notch shall be added to the northern landscaping strip and one to the southern landscaping strip for supplemental irrigation.
- B. The location of the three existing trees in the southern landscape buffer shall be clarified.
- C. The total coverage figure shall match the figure used in the landscaping calculations.

8. Lighting

Note 15 shall be re-worded to indicate that all lighting shall comply with IDO 14-16-5-8, Outdoor and Site Lighting.

9. Signage:

- A. The approximately 20 sf brand sign shall be removed from the northeast elevation.
- B. The logo sign on the northeast elevation shall not be illuminated.
- C. The colors and materials of the signage shall be specified.

10. Walls/Fences:

- A. The wall on the eastern side of the Phase I area shall be six feet tall.
- B. A three foot screen wall shall be added to the eastern side of Phase II area.
- C. Pedestrian access through the wall shall be provided.

D. The wall shall comply with IDO 14-15-5-7(E) regarding wall design.

11. Noise:

A. Amplified sound (ex. music) shall not occur before 10 AM and after 5 PM.

B. Noise shall not exceed the sound level limits established by the City's Noise Ordinance (Chapter 9, Article 9).

C. The applicant shall hire an independent consultant to conduct a study of amplified sound on the subject site, to be completed within the first year of operation.

12. Grading and Drainage Plan: Curb notches shall be shown in the same locations as on the landscaping plan.

13. CONDITIONS FROM THE CITY ENGINEER/TRANSPORTATION:

A. A combination of the two restaurants shall require a Traffic Impact Study. Any infrastructure that would be required as part of the study shall be placed onto an infrastructure list.

B. A shared access agreement shall be established between the lots.

C. 6-foot public sidewalk on Alameda Boulevard is required along the frontage of the property.

D. Provide all sidewalk widths on plan. A 6-foot ADA pathway shall be established from the main building to the right-of-way and from the handicapped spots to the main building.

E. Use keyed notes to call out all curb ramps on the plans. Provide curb, curb ramp, and sidewalk details. The sidewalk detail shall indicate a 2% maximum cross-slope.

F. Call out curb on the plan, and call out all curb radii. A minimum 6" to 8" high curb is required for separation between parking and sidewalk or landscaped islands.

G. The bike rack for the Dutch Brothers shall not obstruct the ADA pathway. Provide dimensioning for the bicycle spaces and adjacent pathway to make sure this will work.

H. Label "No Parking" at the back of the van accessible aisles, and dimension all van accessible aisles on the site plan.

14. CONDITIONS FROM THE WATER UTILITY AUTHORITY (ABCWUA):

A. Development on proposed Tract 2 will require its own availability statement.

B. Each proposed lot shall have separate private sanitary sewer services.

C. The site plan shall indicate if the existing water services are to be used.

D. The location of existing private water and/or private sanitary sewer services, to determine if private service easements are needed to preserve the existing service(s) for the newly created lots, shall be field-verified.

E. The width of the private service easement shall be determined by the engineer or surveyor.

15. CONDITIONS FROM THE FLOOD CONTROL AUTHORITY (AMAFCA):

A. Storm water drainage connection to the AMAFCA Facility (Octopus Pond) will require coordination with AMAFCA. A License Agreement or Turnkey Agreement may be required.

B. The existing AMAFCA drainage easement needs to be shown on the site plan. Any improvements within that Easement will require coordination with AMAFCA and License Agreement.

16. CONDITION FROM PNM:

The applicant shall contact PNM's New Service Delivery Department to coordinate electric service regarding the project. Please submit a service application at [www.pnm.com/erequest](http://www.pnm.com/erequest) for PNM to review.

**APPEAL:** If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **July 30, 2021**. 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 the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-6-4(V) of the 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 EPC Recommendations to City Council; rather, a formal protest of the EPC's Recommendation can be filed within the 15 day period following the EPC's recommendation.

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 City Zoning Code must be complied with, even after approval of the referenced application(s).

Sincerely,

for Brennon Williams  
Planning Director

OFFICIAL NOTICE OF DECISION

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BW/CL

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