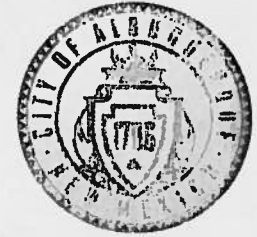


CITY OF ALBUQUERQUE



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

OFFICIAL NOTIFICATION OF DECISION

May 13, 2016

Palo Alto, Inc.
Jeff Geller
924 W. Colfax Ave., #203
Denver, CO 80204

Project# 1005280
16EPC-40022 Site Development Plan for Building Permit
Amendment

LEGAL DESCRIPTION:

The above action for all or a portion of Lot 1, McMahon Marketplace, zoned "SU-1 for C-1 uses including grocery store with package liquor sales incidental to that use, restaurant with full-service liquor for on-premise consumption", located near the SE corner of the intersection of Unser Blvd. NW and McMahon Blvd. NW (10600 Unser Blvd. NW), containing approximately 1.2 acres. (A-11) Staff Planner: Catalina Lehner

PO Box 1293

On May 12, 2016 the Environmental Planning Commission (EPC) voted to APPROVE Project #1005280/16EPC-40022, a Site Development Plan for Building Permit Amendment, based on the following findings and subject to the following conditions of approval:

FINDINGS:

- New Mexico 87103
- www.cabq.gov
- This is a request for Site Development Plan for Building Permit Amendment for a 1.2-acre site described as Lot 1, McMahon Marketplace (the "subject site"), which is part of a larger, approximately 13 acre shopping center site that comprises the southeastern corner of the intersection of Unser Blvd. NW and McMahon Blvd. Lot 1 is located in the southwestern corner of the shopping center, known as McMahon Marketplace.
 - The applicant proposes to develop a fast-food restaurant with a drive-up service window on Lot 1. Adjacent south of the subject site is a subdivision of single-family homes. The lot to the north has developed with a strip of small shops; lots east of the subject site are undeveloped.
 - A site development plan for subdivision with design standards (Project #1005280, finalized in 2009) controls the McMahon Marketplace. The proposal that originally developed McMahon Marketplace consisted of a zone map amendment, a site development plan for subdivision and a site development plan for building permit. The design standards apply to all nine lots, including the subject site.
 - The subject site is zoned SU-1 for C-1 uses including grocery store with package liquor sales incidental to that use, restaurant with full-service liquor for on-premise consumption. A fast-food restaurant with a drive-up service window is permissive under the current zoning. Though a

OFFICIAL NOTICE OF DECISION

Project #1005280

May 12, 2016

Page 2 of 7

drive-up service window is a conditional use in the C-1 zone, the zoning references "C-1 uses"—so both permissive and conditional uses are allowed permissively.

5. A fast-food restaurant with a drive-up service window was approved on Lot 1 in 2009 with the site development plan for subdivision for McMahon Marketplace. The applicant is requesting an amendment to the site development plan for building permit because the elevations of the proposed fast-food restaurant vary substantially from the approved elevations.
6. The subject site is in the Established Urban Area of the Comprehensive Plan. The West Side Strategic Plan, the Westside-McMahon Land Use & Transportation Guide, and the Unser Boulevard Design Overlay Zone also apply.
7. The Albuquerque/Bernalillo County Comprehensive Plan, the West Side Strategic Plan, the Westside-McMahon Land Use & Transportation Guide, the Unser Boulevard Design Overlay Zone and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.
8. The request partially furthers the *Transportation and Transit Goal in the Comprehensive Plan*. The proposed restaurant use is auto-oriented and the area is currently underserved by Transit. However, the pathway to Unser Blvd. and the pathway adjacent to the residences, as shown on the approved site development plan for subdivision, are proposed. The site has excellent access to the road network, and there is a bicycle lane on Unser Blvd.
9. The request furthers the Comprehensive Plan land use Policy II.B.5.e - New growth contiguous to existing services. The subject site is vacant. Development would be contiguous to existing urban facilities (ex. roads, infrastructure), the use of which would generally not disrupt neighborhood integrity.
10. The request partially furthers the following, applicable Comprehensive Plan policies:
 - A. Policy II.B.5a-full range of urban land uses. The request would add another fast-food restaurant to the area, which is characterized by a range of urban land uses such as retail (gym, animal clinic, pharmacies and fast-food restaurants) and residential uses. There is another fast-food restaurant in the area already so the request would not contribute to more land use diversity.
 - B. Policy II.B.5d-neighborhood values/environmental conditions/ other concerns. The proposed new development would be generally appropriate in terms of its location and intensity. The subject site is located in an existing shopping center site that is subject to design standards, which were established to respect neighborhood values and conditions of the area, which is not considered a scenic or natural environment. The proposed restaurant would not be more intense than existing development nearby. There is no known neighborhood opposition as of this writing, though some concerns have been expressed.
 - C. Policy II.B.5l-quality design/new development. The design is franchise and modern and would not be of comparable quality to other buildings in the shopping center. The proposed restaurant would be generally appropriate for the area, though improvements in design and

OFFICIAL NOTICE OF DECISION

Project #1005280

May 12, 2016

Page 3 of 7

materials are needed to increase the building's quality and compatibility.

- D. Policy II.D.4.g- pedestrian opportunities/safe, pleasant conditions. Pedestrian pathways are proposed in the locations shown on the approved site development plan for subdivision: one pedestrian pathway leads from the restaurant to Unser Blvd. and the other runs along the southern boundary with the residences. To an extent, these would help mitigate the drive-thru use; however, by its nature, drive-thru uses are auto-oriented and safe and pleasant pedestrian opportunities cannot be thoroughly integrated with them.

11. The request generally furthers the following, applicable policies of the West Side Strategic Plan (WSSP):

- A. WSSP Policy 1.1: The request would result in development of a commercial use in a designated activity center—the McMahon/Unser Neighborhood Center, which would continue to be surrounded by residential development. The proposed non-residential development would occur in a designated center.
- B. WSSP Policy 3.4 (Seven Bar Ranch): The McMahon/Unser Neighborhood Center contains non-residential uses and serves many surrounding subdivisions, such as Tuscany and Skies West. The request would provide an additional commercial use in a shopping center; safe pedestrian and bicycle access would be provided.

12. The request complies with Sections 4(A), 4(A)(2) and 4(C) of Enactment 117-1999, The Westside-McMahon Land Use and Transportation Guide. The proposed fast-food restaurant with drive-up service window is a C-1 use, and C-1 "Low Commercial" uses are envisioned at this location (WSSP, p. 140, 4A and 4A2). The request proposes pedestrian connections to Unser Blvd. and another to a trail along the subject site's southern boundary. This will help contribute to "safe and efficient" pedestrian movements (4C).

13. The Unser Boulevard Design Overlay Zone (UBDOZ), which contains signage regulations, applies. The McMahon Marketplace design standards comply with the UBDOZ; since the request will be consistent with the design standards it will be consistent with the UBDOZ.

14. The affected neighborhood organizations are the Tuscany Neighborhood Association (NA) and the Westside Coalition of NAs, which were notified as required. Property owners within 100 feet of the subject site were also notified as required.

15. A facilitated meeting was held on April 20, 2016. Neighbors are concerned about hours of operation, trash control and the retaining wall on the subject site's southern side. As of this writing, Staff has received a written comment from a property owner in the shopping center who is concerned about signage size, the refuse enclosure, and building architecture and design. He submitted a copy of the shopping center's CCRs (Covenants, Conditions and Restrictions), which will be enforced privately.

16. Conditions of approval are needed to improve compliance with the design standards and provide clarity.

OFFICIAL NOTICE OF DECISION

Project #1005280

May 12, 2016

Page 4 of 7

CONDITIONS:

1. The EPC delegates final sign-off authority of this site development plan to the Development Review Board (DRB). The DRB is responsible for ensuring that all EPC Conditions have been satisfied and that other applicable City requirements have been met. A letter shall accompany the submittal, specifying all modifications 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.
2. Prior to application submittal to the DRB, the applicant shall meet with the Staff planner to ensure that all conditions of approval are met.
3. The request shall comply with the design standards in the site development plan for subdivision for McMahon Marketplace.
4. Pedestrian Connections & Areas:
 - A. The pedestrian crossing, over the drive-thru lane, shall be at least 8 feet wide and of textured colored concrete as required by the design standards (Standard B.1.3). Show location and add keyed note.
 - B. The material and width of the ADA pathway to Unser Blvd. shall be specified and dimensioned.
 - C. Pedestrian scale lighting shall be provided to illuminate pedestrian gathering areas (Standard G.6). Indicate location and provide a detail.
5. Landscaping Plan:
 - A. The following trees shall be replaced by trees on the design standards' approved landscape palette: Ash, Honey Locust, Austrian Pine, Oklahoma Redbud, Crepe Myrtle and Palm Yucca.
 - B. The following shrubs and groundcovers shall be replaced by trees on the design standards' approved landscape palette: Feather Reed Grass, Winter Barberry, Buffalo Juniper, Blue Mist, and Annual Flowers.
 - C. The curb notches shown on the Grading & Drainage plan shall be shown on the landscaping plan, in the same locations.
 - D. The number of parking lot trees required and provided shall be stated.
 - E. A few plants (2 or 3) shall be added to the barren area near the ADA pathway leading to Unser Blvd.
6. Architecture:

Colors and materials from the approved building color schedule for McMahon Marketplace shall be used and noted on the building elevation sheets.

OFFICIAL NOTICE OF DECISION

Project #1005280

May 12, 2016

Page 5 of 7

7. Signage:

- A. The building mounted signage on the western elevation shall be reduced from 6.8% of façade to comply with the 6% of façade limitation (Standard I.2.a.1).**
- B. The "signage cut sheets" shall be labeled illustrative and supplemented with sign details that depict the signage proposed.**
- C. The color and material of the monument sign base and casing shall be specified.**

- 8. Screening: The screen wall between the subject site and the subdivision to the south shall be 6 feet from top to grade as shown in the detail on the site development plan for subdivision.**

9. Detail Sheets:

- A. Provide a face-on detail of the retaining wall(s) and specify materials and colors on the detail sheet.**
- B. Specify the color of the refuse enclosure walls and gate on the detail sheet.**

10. Minor Clarifications:

- A. Use a consistent symbol for the existing retaining wall (Sheet C1.0).**
- B. The patio area shall be dimensioned and clearly indicated (Sheet C1.0).**
- C. Keynote the bench (Sheet C1.0).**
- D. Add a scale and north arrow to the landscaping plan (Sheet L1.0).**
- E. Specify the color of the landscape gravel as Santa Fe Brown (Sheet L1.0).**
- F. Keyed note 1 shall be revised to refer to "monument sign", not "marquee sign" (Sheet C1.0).**
- G. Label the elevations using directions (Sheets A4.0 and A4.1).**

11. Conditions from the City Engineer:

- A. Please identify and dimension all existing buildings, drive isle, sidewalks, curbs, drive pads, walls and anything that influences the parking and circulation on the site.**
- B. Identify all existing access easements and rights of way width dimensions.**
- C. Identify the right of way width, medians, curb cuts, and street widths on Unser Blvd.**
- D. Clearly identify and dimension all ADA pathways between buildings and from public ROW.**

12. Conditions from Hydrology Staff:

- A. Development of this site should follow the McMahon Marketplace Master Drainage Plan (Drainage File A11D011).**
- B. All new development projects shall manage the runoff from precipitation which occurs during the 90th Percentile Storm Events, referred to as the "first flush." The Site Plan/Drainage Plan must indicate all areas and mechanisms intended to capture the first flush. For volume calculations, the 90th Percentile storm event is 0.44 inches. For Land Treatment D the initial**

OFFICIAL NOTICE OF DECISION

Project #1005280

May 12, 2016

Page 6 of 7

abstraction is 0.1", therefore the first flush volume should be based on $0.44'' - 0.1'' = 0.34''$ and only consider the impervious areas.

- o State how the first flush will be managed and supporting calculations
- o State the area of Land Treatment D on the plan

C. See attached general Hydrology Criteria. (Note from Staff: included with your comment e-mail).

13. Conditions from the Water Utility Authority:

Request an availability statement online at the following

link: http://www.abcwua.org/Availability_Statements.aspx. Requests shall include fire marshal requirements. An executed statement must be obtained prior to service.

14. Conditions from the Public Service Company of New Mexico (PNM):

A. It is the applicant's obligation to determine if existing utility easements or rights-of-way are located on or adjacent to the property and to abide by any conditions or terms of those easements.

B. It is necessary for the developer to contact PNM's New Service Delivery Department to coordinate electric service regarding this project and to discuss the proposed sign location, tree location and height, and lighting height in order to ensure sufficient safety clearances from existing overhead electric distribution facilities. Contact: Mike Moyer, PNM Service Center, 4201 Edith Boulevard NE, Albuquerque, NM 87107 Phone: (505) 241-3697

C. Ground-mounted equipment screening will be designed to allow for access to utility facilities. All screening and vegetation surrounding ground-mounted transformers and utility pads are to allow 10 feet of clearance in front of the equipment door and 5-6 feet of clearance on the remaining three sides for safe operation, maintenance and repair purposes. Refer to the PNM Electric Service Guide at www.pnm.com for specifications.

15. Three bollards, of a tan color, shall be added to the NE area of the subject site at the curve in the drive-thru area.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **MAY 27, 2016**. 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 14-16-4-4 of the Zoning Code. 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 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

OFFICIAL NOTICE OF DECISION

Project #1005280

May 12, 2016

Page 7 of 7

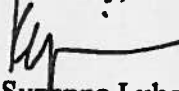
of approval have been met. Successful applicants are reminded that other regulations of the City Zoning Code must be complied with, even after approval of the referenced application(s).

ZONE MAP AMENDMENTS: Pursuant to Zoning Code Section 14-16-4-1(C)(16), a change to the zone map does not become official until the Certification of Zoning (CZ) is sent to the applicant and any other person who requests it. Such certification shall be signed by the Planning Director after appeal possibilities have been concluded and after all requirements prerequisite to this certification are met. If such requirements are not met within six months after the date of final City approval, the approval is void. The Planning Director may extend this time limit up to an additional six months.

SITE DEVELOPMENT PLANS: Pursuant to Zoning Code Section 14-16-3-11(C)(1), if less than one-half of the approved square footage of a site development plan has been built or less than one-half of the site has been developed, the plan for the undeveloped areas shall terminate automatically seven years after adoption or major amendment of the plan: within six months prior to the seven-year deadline, the property owners shall request in writing through the Planning Director that the Planning Commission extend the plan's life an additional five years. Additional design details will be required as a project proceeds through the Development Review Board and through the plan check of Building Permit submittals for construction. Planning staff may consider minor, reasonable changes that are consistent with an approved Site Development Plan so long as they can be shown to be in conformance with the original, approved intent.

DEFERRAL FEES: Pursuant to Zoning Code Section 14-16-4-1(B), deferral at the request of the applicant is subject to a \$110.00 fee per case.

Sincerely,


for Suzanne Lubar
Planning Director

SL/CLL

cc: Palo Alto, Inc, Jeff Geller, 924 W. Colfax Av., #203, Denver, CO 80204
HCI Engineering, Attn: Cole Haberer, 621 Southpark Dr. #1600, Littleton, CO 80120
Harry Hendriksen, Tuscany NA, 10592 Rio Del Sol Ct. NW. ABQ, NM 87114-2701
Harry Hendriksen, Westside Coalition of NAs, 10592 Rio Del Sol Ct. NW. ABQ, NM 87114-2701
Janelle Johnson, Tuscany NA, P.O. Box 6270, ABQ, NM 87197
Rene Horvath, Westside Coalition of NAs, 5515 Palomino Dr. NW, ABQ, NM 87120