

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

October 20, 2022

Todd Megrath – Mack ABQ I LLC  
10540 W. Cheyenne Ave.  
Las Vegas, NV 89109

**Project # PR-2019-003120**  
RZ-2022-00049 – Zoning Map Amendment (Zone Change)

### **LEGAL DESCRIPTION:**

Consensus Planning, agent for Todd Megrath/Mack ABQ I, LLC, requests a zoning map amendment from MX-T to MX-L for all or a portion of Tract A-2, Unser & Sage Marketplace, located on Unser Blvd. SW, between Sage Rd. SW and Secret Valley Dr. SW, approximately 1.01 acres  
(M-10)  
Staff Planner: Megan Jones

On October 20, 2022, the Environmental Planning Commission (EPC) voted to APPROVE Project # PR-2019-003120, RZ-2022-00049 – a Zoning Map Amendment (Zone Change), based on the following Findings:

1. The request is for a zoning map amendment (zone change) for an approximately 1.01-acre site legally described as Tract A-2, Plat of Tracts A-1 Thru A-6 Unser & Sage Marketplace, (being a replat of Tract A Unit 1-B Lands of Albuquerque South), and comprising a portion of land between Sage Rd. SW and Secret Valley Dr SW, along Unser Blvd. SW (the “subject site”).
2. The subject site is zoned MX-T (Mixed Use-Transition Zone District). The applicant is requesting a zone change to MX-L (Mixed-Use – Low Intensity Zone District) to facilitate future development under the MX-L zone, which includes a proposed restaurant with a drive-through.
3. The subject site is in an Area of Consistency, and is along a Commuter Corridor as designated in the Comprehensive Plan. The subject site is not located within any designated Activity Center.
4. 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.
5. The furthers the following, applicable Goal and Policy from Chapter 5: Land Use, regarding Commuter Corridors:

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.

The request would allow for higher-intensity uses than are currently allowed in the MX-T zone that are auto-oriented. Development along Commuter Corridors is intended to be auto oriented.

The MX-L zone allows a variety of auto-oriented uses included drive-throughs and light-vehicle uses. The subject site is within an Area of Consistency, which typically include development along Commuter Corridors, and non-residential development outside of Centers. This request is consistent with the MX-L land use adjacent to the subject site to the north.

6. The request furthers the following goal, policy and sub-policies in Chapter 5-Land use, with respect to complete communities.
  - 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 generally contribute to creating a healthy and sustainable community because it would facilitate future development of commercial uses. The requested zone change is located within an Area of Consistency where development is expected to be consistent with the character of the surrounding area.

Proposed future development is a restaurant with drive-through, although a variety of uses are allowable in the MX-L zone. Any future development would be conveniently accessible to surrounding neighborhood and commercial uses via transit and pedestrian access, the Unser Blvd. commuter corridor and existing bike lane and multi-use trail.

- B. Sub policy 5.2.1(k): Discourage zone changes to detached single-family residential uses on the West Side.

The zone change request would remove single-family dwellings as an allowable use, therefore, discouraging a zone change to detached single-family residential uses on the Westside.

- C. Sub policy 5.2.1(n): Encourage more productive use of vacant lots and under-utilized lots, including surface parking.

The zone change to NR-C would encourage the development of an under-utilized lot, which has been vacant for several years.

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

The requested MX-L zone could encourage future commercial development on a vacant site, which would foster employment opportunities on the West Side, although a variety of other uses are allowable in the MX-L zone, including residential.

7. The request furthers the following goal and policy in Chapter 5-Land use, regarding infill Development

- A. 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 subject site is already served by existing infrastructure and public facilities, so future development would generally promote efficient development patterns and use of land.

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

The request would support additional growth on an infill site located in an area already served by existing infrastructure and public facilities.

- C. Sub 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 request would facilitate infill development on the subject site, adjacent to existing commercial uses and an established neighborhood. Although Areas of Consistency are intended to develop with some infill development and new uses, new development or redevelopment should be compatible in scale and character with the surrounding area. The subject site's status as a designated commuter corridor and regional arterial promotes good access by vehicles. These corridor/street types are encouraged to be developed with auto-oriented development, which the MX-L zoning would allow. The request would generally promote infill development that is compatible in form and scale to the immediately surrounding development and could add a complementary use to the adjacent commercial site.

8. The request furthers following Policy regarding City Development Areas in chapter 5-Land Use.

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 located within an existing single-family neighborhood and outside of Centers designated by the Comprehensive Plan. Development in Areas of Consistency is intended to be compatible with the existing scale and character of surrounding neighborhoods. The MX-L zone would allow uses that are generally compatible with the adjacent commercial uses and surrounding neighborhoods.

9. 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: The applicant's policy-based response adequately demonstrates that the request furthers a preponderance of applicable Goals and Policies regarding Land Use, Commuter

Corridors, Efficient development patterns, and Infill Development and does not present any significant conflicts with the Comprehensive Plan. Therefore, the request is generally consistent with the City's health, safety, and general welfare.

- B. Criterion B: Criterion B is a two-part test, which the applicant has adequately demonstrated that the request would meet. The proposed zone would clearly reinforce or strengthen the established Area of Consistency. The MX-L zone would permit future development that is generally consistent with the surrounding commercial land uses. The proposed zoning would facilitate future proposed commercial uses that would serve the surrounding community and would be more advantageous than the existing MX-T zone. The request would not permit development that is significantly different through infill development, utilization of existing utilities and infrastructure and maintain the development patterns of existing commercial development north of the site
- C. Criterion C: The subject site is located wholly in an Area of Consistency. Therefore, criterion C does not apply.
- D. Criterion D: The applicant provided a partial comparison of the existing MX-T zoning and the proposed MX-L zoning. Some uses that would become permissive under the M-L zone, which are not currently allowed, are Group Home, Car Wash, Light Vehicle fueling station, sales, rental and repair, Club or event facility, commercial services, Bakery, grocery store, artisan manufacturing, and cannabis cultivation and manufacturing. Several uses with become conditional which are currently not allowed and would require a ZHE review and decision.

The applicant discussed, some new permissive uses and included discussion on those that have potential to be harmful: Cannabis sales, manufacturing and cultivation, grocery stores in conjunction with liquor and nicotine sales, and artisan manufacturing. The applicant discusses the applicable IDO Use-Specific standards and State laws that would adequately regulate these uses and mitigate any potential harm to the surrounding properties, the neighborhood, or the community.

Although the applicant does not discuss the following uses that would be potentially harmful to the surrounding neighborhood, they did include them in a comparison table of the MX-L and MX-T zone districts: club or event facility, light vehicle and equipment sales, rental, fueling, and repair, or car wash.

Staff generally agrees to with the discussion and the focus on said uses that were discussed, and that the MX-L zoning would create or facilitate consistency with the surrounding land uses in the area.

- E. Criterion E: The request meets the requirement that the City's existing infrastructure and public improvements adequately serve the subject site and have adequate capacity to serve the development made possible by the change of zone (requirement 1).
- F. Criterion F: The subject site's location along designated Regional Principal Arterial, Unser Blvd. SW, provides some rationale for the proposed MX-L zoning. However, this is not the primary reason for the request. Rather, this rational is tied to the policy analysis, which

adequately demonstrates that the request furthers a preponderance of applicable Comprehensive Plan Goals and Policies.

- G. Criterion G: Economic considerations are a factor, but the applicant's justification is not completely or predominantly based upon them. Nor is the justification based completely or predominantly upon the cost of land.
- H. Criterion H: Criterion H is a two-part test which the request meets. The applicant has adequately demonstrated that the request would not create a "spot zone" because the adjacent Tracts A-3, A-4 and A-5 are zoned MX-L in addition to the NE site at the intersection of Unser Blvd. SW and Sage Rd. SW. The MX-L zone would remain consistent with the adjacent MX-L zoning to the north of the subject site, in addition to MX-L zoning across Unser Blvd., south west of the subject site.

The applicant has demonstrated how the MX-L zone is more suitable for subject site and surrounding area due to the amount of traffic that travels along Unser Blvd SW, a designated Commuter Corridor and because applicable comprehensive plan goals and policies are furthered. The requested zone change to MX-L is consistent with the surrounding land uses.

10. The affected neighborhood organizations are the South West Alliance of Neighborhoods, Westside Coalition of Neighborhood Associations, South Valley Coalition of Neighborhood Associations, Stinson Tower NA, and the Westgate Heights NA. They were all required to be notified, which the applicant did. Property owners within 100 feet of the subject site were also notified, as required.
11. The applicant stated in their project letter that a meeting was held between the Board members from the Stinson Tower Neighborhood Association to discuss the request before the April 21, 2022 EPC hearing, which the NA was in support of.
12. A pre-application neighborhood meeting was not held for this request. A facilitated meeting was not requested.
13. As of this writing, Staff has not received any correspondence or phone calls and is unaware of any opposition.

**APPEAL**: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **November 4, 2022**. 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,

*Catalina Lehner*

for Alan M. Varela,  
Planning Director

AV/CL/MJ

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EPC File