

PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
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OFFICIAL NOTIFICATION OF DECISION

October 19, 2023

Oso Negro Energy Storage LLC
1780 Hughes Landing Blvd.
Suite 675
Woodlands, TX 77380

Project # PR-2023-009701
RZ-2023-00027– Zoning Map Amendment
(Zone Change)

LEGAL DESCRIPTION:

Consensus Planning, Inc., agent for Oso Negro Energy Storage LLC, requests a zoning map amendment from NR-C to NR-LM, for all or a portion of Tract 7, Ladera Business Park, located at 7301 La Morada Pl. NW, between Vista Oriente St. NW, and East Cul-de-Sac NW, north of the Mirehaven Diversion Channel, approximately 4.5 acres. (H-10)
Staff Planner: Seth Tinkle

On October 19, 2023 the Environmental Planning Commission (EPC) voted to APPROVE Project # PR-2023-009701, RZ-2023-00027– Zoning Map Amendment (Zone Change), based on the following Findings:

1. The request is for a zoning map amendment (zone change) for an approximately 4.5-acre site legally described as all or a portion of Tract 7, Ladera Business Park, located at 7301 La Morada Pl. NW, between Vista Oriente St. NW, and East Cul-de-Sac NW, north of the Mirehaven Diversion Channel (the “subject site”).
2. The subject site is zoned NR-C (Non-Residential – Commercial) and is currently vacant. The applicant is requesting a zone change to NR-LM (Non-Residential – Light Manufacturing) to facilitate development on the subject site.
3. The subject site is in an area that the Comprehensive Plan designates an Area of Change. It is not within a designated Center or along a designated Corridor.
4. The subject site is in the Ladera Business Park. The Ladera Industrial Park Master Plan applies.
5. The City of Albuquerque Integrated Development Ordinance (IDO) and the Comprehensive Plan are incorporated herein by reference and made part of the record for all purposes.

6. The request clearly facilitates the following applicable Policies from Comprehensive Plan Chapter 4: Character:

A. Goal 4.1 Character: Enhance, protect, and preserve distinct communities.

The request would enhance a distinct community because the NR-LM Zone District and its allowed uses are cohesive with the stated goals and objectives of the Ladera Industrial Park Master Development Plan. The request would protect and preserve surrounding communities given the purpose of the NR-LM Zone District, which is to accommodate moderate-intensity commercial and industrial uses “while buffering adjacent lower-intensity, Residential and Mixed-use zone districts from traffic, noise, and other impacts of those uses.”

B. Policy 4.1.1 Distinct Communities: Encourage quality development that is consistent with the distinct character of communities.

The request would encourage quality development that is consistent with the distinct character of the surrounding community because uses allowed in the NR-LM Zone District are appropriate within the context of the Ladera Business Park and do not conflict with any surrounding or adjacent land uses.

7. The request clearly facilitates the following applicable Goals and Policies regarding complete communities and efficient development patterns from Comprehensive Plan Chapter 5: Land Use:

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. Any development made possible by the request would promote efficient development patterns and use of land. Future development on the subject site featuring uses allowed in the NR-LM Zone District would support the public good in the form of economic development, job creation, and an expansion to the tax base.

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

The subject site is an infill site located in an area already served by existing infrastructure and public facilities. The request would support development on the project site.

C. Policy 5.3.2 Leapfrog Development: Discourage growth in areas without existing infrastructure and public facilities.

The subject site is located in an area already served by existing infrastructure and public facilities. Any development made possible by the request would result in in-fill development in an area that has experienced leapfrog development in the past.

8. The request clearly facilitates the following applicable Goal and Policy in Comprehensive Plan Chapter 8-Economic Development:

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

The subject site's location is on the West Side of Albuquerque, so any development made possible by the request would foster employment opportunities on the West Side.

B. 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. The request would encourage, enable, and direct growth to this Area of Change. It would also reinforce the character and intensity of the surrounding area given the compatibility between the uses allowed in NR-LM and the land uses nearby and adjacent to the subject site.

C. 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 would facilitate growth and more intense development on the subject site, which is located in the Ladera Business Park and within an Area of Change.

9. The request clearly facilitates the following applicable Goal and Policy in Comprehensive Plan Chapter 8-Economic Development:

Policy 8.1.5 Available Land: Maintain sufficient land that is appropriately zoned to accommodate projected employment growth in targeted areas.

The request would result in land that is appropriately zoned to accommodate employment growth in a targeted area because any development that would occur due to this request would promote job growth on the West Side of Albuquerque, which is a stated Goal (5.4) and Policy (5.4.2) within the Comprehensive Plan.

10. The request clearly facilitates the following applicable Goal and Policy from Comprehensive Plan Chapter 12-Infrastructure, Community Facilities & Services:

A. Goal 12.1 Infrastructure: Plan, coordinate, and provide for efficient, equitable, and environmentally sound infrastructure to support existing communities and the Comp Plan's vision for future growth.

The request would result in efficient, equitable, and environmentally sound infrastructure because it would facilitate the development of uses allowed in the NR-LM Zone District, such as a BESS, which is a permissive use in the NR-LM Zone District, but not in the NR-C Zone District. The request generally furthers Goal 12.1 Infrastructure.

B. Policy 12.1.6 Energy Systems: Coordinate with energy providers to safeguard essential infrastructure to serve existing development and ensure a safe, adequate, and reliable supply to support growth.

The request would facilitate development of uses allowed in the NR-LM Zone District, such as a BESS facility, which is appropriate in the context of the subject site's close

proximity to the PNM West Mesa Substation and location within the Ladera Business Park. Development of the subject site would require coordination with energy providers to serve existing development and ensure a safe, adequate, and reliable supply to support growth because of its proximity to the PNM West Mesa Substation.

11. 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: 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.
 - B. Criterion B: The subject site is located wholly in an Area of Change, so this criterion does not apply.
 - C. Criterion C: The subject site is located wholly in an Area of Change. The applicant’s policy-based analysis demonstrates that the request clearly facilitates a preponderance of applicable Comprehensive Plan Goals and policies and therefore would be more advantageous to the community than the current zoning.
 - D. Criterion D: The applicant stated that the NR-LM Zone District does not include permissive uses that would be harmful to adjacent properties, neighborhoods, or communities. They compared uses within the existing NR-C zone and the proposed NR-LM zone, discussed the context surrounding the subject site, and indicated how harmful uses would be mitigated per the neighborhood agreement that was completed, signed, and recorded as part of the original approval of the Ladera Industrial Park Master Development Plan. Staff finds that the Use-specific Standards in Section 16-16-4-3 of the IDO that are associated with new permissive uses will adequately mitigate harmful impacts associated with those uses.
 - E. Criterion E: The subject site is an infill site that is adequately served by existing infrastructure (requirement 1).
 - F. Criterion F: The applicant is not completely basing the justification for the request upon the subject site’s location on a Major Collector roadway. Rather, the applicant has adequately demonstrated that the request clearly facilitates a preponderance of applicable Comprehensive Plan Goals and policies.
 - G. Criterion G: 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.
 - H. Criterion H: The request would result in a spot zone because it would apply a zone different from surrounding zone districts. The applicant acknowledges that the request would create

a spot zone, but explains that it would be justified because the subject site will function as a transition between adjacent zone districts and would clearly facilitate implementation of the Comprehensive Plan as shown in the response to Criterion A.

The subject site will function as a transition between the existing Ladera Business Park and the substation to the north. The subject site is abutted by properties zoned NR-C, however, the property north of the site (Tract 8) is a drainage easement. The property abutting Tract 8 to the north (the PNM West Mesa Substation) is zoned NR-BP. Because the subject site is separated from the PNM West Mesa substation by only a drainage easement, it is considered adjacent to the PNM West Mesa substation according to the IDO's definition of "adjacent" (see Definitions above). Therefore, the requested NR-LM Zone District would serve as a transition between the PNM West Mesa Substation located north, the Ladera Business Park, and the residential neighborhoods south. This is appropriate given that the NR-LM Zone District is meant to buffer "adjacent lower-intensity, Residential and Mixed-use zone districts from traffic, noise, and other impacts (14-16-2-5(C))."

As required, the applicant has shown that the request will clearly facilitate implementation of the ABC Comp Plan and is applicable to sub-criteria number one.

12. 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. The applicant notified the Ladera West Neighborhood Association and the Westside Coalition of Neighborhood Associations of their request.
13. No pre-submittal neighborhood meeting was requested; however, questions were received regarding the height of the structures, distance to the dog park, security, noise generation, and emissions. Each of these questions were answered by the applicant. The applicant provided re-notification to the property owners and Neighborhoods Associations after the original request was deferred so that they could be aware of this context and the change to the request.
14. As of this writing, Staff 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 3, 2023**. 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).

Sincerely,

Catalina Lehner

for Alan M. Varela,
Planning Director

AV/CL/ST

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