

CITY OF ALBUQUERQUE



PLANNING DEPARTMENT
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OFFICIAL NOTIFICATION OF DECISION

October 10, 2019

Group II U26 VC, LLC
& Volcano Cliffs, Inc.
8860 Desert Finch Lane NE
Albuquerque, NM 87109

Project #2019-002663
RZ-2019-00043 – Zone Map Amendment
(Zone Change)

LEGAL DESCRIPTION:

The above action for the northerly 436.01 feet of Lot 1, Block 2, Volcano Cliffs Unit 26 and Lot 1-A-1, Block 3, Volcano Cliffs Unit 26, zoned MX-L to MX-M, located at the southwestern corner and the southeastern corner of the intersection of Paseo del Norte Blvd. NW and Kimmick Dr. NW, containing approximately 16 acres. (C-11)

Staff Planner: Catalina Lehner **(DEFERRED FROM SEPTEMBER 12, 2019 Hearing)**

PO Box 1293

On October 10, 2019 the Environmental Planning Commission (EPC) voted to APPROVE Project 2019-002663, RZ-2019-00043, a Zone Map Amendment (Zone Change), based on the following findings:

FINDINGS:

1. The request is for a zone map amendment (zone change) for an approximately 16 acre site known as the northerly 436.01 feet of Lot 1, Block 2, and Lot 1A-1, Block 3, Volcano Cliffs Unit 26 (the "subject site"). The subject site is located at the southwestern corner and the southeastern corner of the intersection of Paseo del Norte Blvd. NW and Kimmick Dr. NW.
2. The subject site is not in an activity center designated by the Comprehensive Plan. The Volcano Heights Urban Center, one of the two designated urban centers in the City, is located north and west of the subject site.
3. The subject site is in an Area of Change. Paseo del Norte Blvd. NW is a designated Commuter Corridor with a Premium Transit Overlay. At this time, Premium Transit policies do not apply because no premium transit projects have identified station locations or have been funded in this location; only policies for the underlying corridor designation (Commuter Corridor) apply.
4. The subject site is zoned MX-L (Mixed-Use Low Intensity Zone) and located along a Commuter Corridor and adjacent to an urban center. The applicant is requesting the MX-M zone (Mixed

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Use-Medium Intensity Zone) to facilitate future development of the subject site under a more intense zoning designation. The purpose of the MX-M zone is to provide a wide array of moderate-intensity retail, commercial, institutional, and moderate-density residential uses.

5. 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.
6. The subject site is more than 330 feet from the Major Public Open Space and is outside the open space edges area. The IDO includes use-specific standards and development standards that address potential impacts to the Major Public Open Space in the area.
7. The IDO defines infill development as “an area of platted or unplatted land that includes no more than 20 acres of land and where at least 75 percent of the parcels adjacent to the proposed development have been developed and contain existing primary buildings”. The request does not meet this definition because none of the lots adjacent to the subject site have developed.
8. The request generally furthers the following, applicable Comprehensive Plan Goal and policies regarding growth, as follows:
 - A. Goal 5.1-Centers and Corridors: Grow as a community of strong Centers connected by a multi-modal network of Corridors.

Policy 5.1.1- Desired Growth: Capture regional growth in Centers and Corridors to help shape the built environment into a sustainable development pattern.

The request will capture regional growth along a designated Corridor and adjacent to an urban center and will not compete with the adjacent Urban Center. The subject site abuts a designated Commuter Corridor that is also a future Premium Transit Corridor, and a zone change that allows for more variety and intensity of uses along those Corridors will help fulfill the desire for regional growth and employment density in these areas. While the surrounding area is largely vacant, there is development farther away in all directions. Much of the vacant land is the designated Volcano Heights Urban Center, so promoting development that may lead to development of the adjacent Center is beneficial to the community.

- B. Policy 5.1.2-Development Areas: Direct more intense growth to Centers and Corridors and use Development Areas to establish and maintain appropriate density and scale of development within areas that should be more stable.

The request directs more intense growth to the subject site, which is located along a designated Corridor in an Area of Change. The request furthers this policy because changing the zoning for a portion of the property from MX-L to MX-M will allow for that more intense growth to occur while maintaining the appropriate density and scale of development within other nearby areas that are not along the Commuter Corridor and are considered Areas of Consistency.

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- C. 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 for a change from MX-L to MX-M will allow more intense, auto-oriented uses such as drive-through facilities and larger retail stores along Paseo del Norte, which is a designated Commuter Corridor with a posted speed limit of 35 miles per hour past the subject site. East of the subject site, below the escarpment, the speed limit is 45 miles per hour where the road cross section is more complete. In addition, the request considers the surrounding residential zoning and maintains the existing MX-L as a buffer to the lower-density residential/and uses developing to the south, as well as other residential lots and the Petroglyph National Monument approximately 785 feet to the east.

9. The request generally furthers the following Goal and policy with respect to Areas of Change:

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.

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 directs more intense growth to a site in an Area of Change adjacent to an Urban Center and Commuter Corridor. Allowing a greater variety of moderate intensity commercial uses and higher density housing will expand employment opportunities in the area and support the development of surrounding properties including the Urban Center, and support future higher-capacity transit service as desired along Paseo del Norte. In addition, the subject site is located adjacent to one of a limited number of truck freight routes in the northwest part of Albuquerque. The applicant has carefully considered the transitions and buffers to neighboring residential uses by leaving approximately 9.1 acres of property to the south and 6.42 acres to the east of the subject site with the existing MX-L zoning.

10. The request furthers the following, applicable Goal and policy with respect to complete communities:

Goal 5.2-Complete Communities: Foster communities where residents can live, work, learn, shop, and play together.

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 will help "accommodate growth primarily in and around Centers connected by key Corridors" (Comprehensive Plan, p. 5-1). Development of the subject site with a shopping center and supportive uses would provide new opportunities for nearby residents to work,

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shop, and play closer to their homes and potentially by walking rather than driving. Additional development on nearby properties, where it is encouraged, with moderate intensity uses will contribute to quality of life of residents and commuters on Paseo del Norte Blvd. NW by providing additional goods and services conveniently accessible to neighborhoods.

11. The request furthers the following, applicable Goal and policy with respect to infrastructure:

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 request would support development of the site which, while in an area that is mostly undeveloped, has access to existing infrastructure including multiple-lane arterial roadways, storm drainage facilities, water and sewer, and other utilities unlike those properties located in the adjacent Urban Center. Development of the subject site will maximize use of infrastructure to support the public good and may help catalyze additional development in this area.

B. Policy 7.6.2-Transportation Infrastructure: Match infrastructure capacity, design, and maintenance to the development context, expected land use intensities of abutting development, and all travel modes.

The request matches the proposed land use intensity to the abutting regional principal arterial and other more intense zoning categories along this Commuter Corridor. The City has made the expansion of Paseo del Norte Blvd. a high priority and changing the zoning of the subject site to MX-M will add complementary uses to the type of roadway planned to abut the subject site. Paseo del Norte Blvd. is a limited access roadway, so future development will coordinate auto access and circulation using Kimmick Dr., a future Collector street, and its signalized intersection with Paseo del Norte Blvd.

12. The applicant has justified the request pursuant to Integrated Development Ordinance (IDO) Section 6-7(F)(3)-Review and Decision Criteria for Zone 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 other plans if applicable) and does not significantly conflict with them. The applicant has adequately demonstrated that the request would further a preponderance of applicable Goals and policies.

B. Criterion B: The subject site is located wholly in an Area of Change, so this criterion does not apply.

C. Criterion C: A different zone district (MX-M) would generally be more advantageous to the community as a whole than the existing zoning (MX-L). The additional uses allowed by the MX-M zone may help facilitate development in the area, along a designated Commuter Corridor and adjacent to the Volcano Heights Urban Center, and would provide additional goods and services in close proximity to neighbors and commuters in this developing area.

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D. Criterion D: The requested zone (MX-M) includes a greater variety of non-residential uses than the existing MX-L zone. In MX-L, only General Retail, Small is allowed. In MX-M, General Retail, Small and General Retail, Medium are allowed. General Retail, Large is a conditional use in MX-M.

Other notable differences between the two zones are: bar, light vehicle fueling station, and light vehicle sales and rental, mortuary, pawn shop, and transit facility are conditional uses in MX-L but become permissive uses in MX-M. Hospital, catering service, and nightclub are not allowed in MX-L, but are permissive in MX-M. Liquor retail is an accessory use in MX-L and a permissive use in MX-M. A drive-through is a conditional use in MX-L and an accessory use in MX-M.

The following uses, proposed to be permissive, are often considered harmful to adjacent property, the neighborhood, or the community: bar, light vehicle fueling station, light vehicle sales and rental, pawn shop, nightclub, liquor retail, and drive through. The distance separation between the subject site (Lot 1) and the nearest low-density residential use (R-1B zoned lots) is approximately 540 feet. This distance creates adequate separation to protect the low-density residential uses from harmful impacts. In addition, the IDO contains use-specific standards that further reduce the potential for harmful effects on adjacent property and the neighborhood.

E. Criterion E: Infrastructure necessary for the subject site's development is in place, and infrastructure in the area continues to develop. The City Council passed legislation that prioritizes the intersection of Paseo del Norte and Unser Blvds., which is at the heart of the Volcano Heights Urban Center. Bill No. R-18-84 was enacted in November 2018 and includes roadway infrastructure in the City's capital implementation program (CIP).

F. Criterion F: The subject site is located adjacent to Paseo del Norte Blvd. NW, a commuter corridor. The applicant has demonstrated that the request furthers a preponderance of applicable Comprehensive Plan Goals and policies, and is not relying on the subject site's location to justify the request.

G. Criterion G: The applicant's justification is not based completely or predominantly on the cost of land or economic considerations. Rather, the applicant has demonstrated that the request furthers a preponderance of applicable Comprehensive Plan Goals and policies.

H. Criterion H: The request would not apply a zone district different from surrounding zone districts to one small area. The subject site is approximately 16 acres in size and does not constitute a strip of land along a street.

13. The affected neighborhood organizations are the Paradise Hills Civic Association and the Westside Coalition were required to be notified, which the applicant did. Property owners within 100 feet of the subject site were also notified, as required. Though the applicant's letter refers to the portion of Lot 1 north of the vacated ROW of Valiente Rd. NW, because there is no platted lot line, all of Lot 1 is required to be buffered for notification purposes. The corrected buffer resulted in three more parties required to be notified, which the applicant did more than 15 days before the public hearing, as required.

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14. A pre-application facilitated meeting was held on July 17, 2019, in which only three neighbors attended. Neighbors are opposed to the request and expressed several concerns that include consequences of the proposed zone change and overall effect on the area, range of uses that would be allowed, possibility of big box stores, increased building height affecting views, loss of character, and diminished property values. The applicant stated that the lots are not large enough for big-box stores and that the applicants are not developers, but want to sell the land.
15. Staff received letters of opposition from the Open Space Division and the National Park Service. The Open Space Division is concerned that the request may have adverse effects on the Major Public Open Space nearby and about future development near sensitive lands. The National Park Service is concerned that the request could have an adverse effect on the Petroglyph National Monument, and that the MX-M zone would allow additional uses that would be incompatible with the sensitivity of the cultural resources nearby. They prefer commercial development further from the monument to avoid such impacts. However, the distance between the proposed MX-M zone and the Major Public Open Space is approximately 560 feet to the south and 1,065 feet to the east; further away than other more intense or similar zoning is to Major Open Space on the north side of Paseo del Norte within the Volcano Heights Urban Center.
16. Three neighbors, who share the same concerns, submitted letters of opposition. They believe that many uses allowed under the MX-M designation are incompatible with the area's culturally sensitive nature and character protected by CPO-12. They believe that the existing zoning can provide for neighborhood-serving needs and that the zoning established by the IDO should not be readily discarded.
17. The National Park Service (NPS) has concerns about building height exceeding 35 feet and site lighting, which should be considered in the review of future site plan submittals. The applicant has expressed a willingness to work with the NPS to address such concerns.

CONDITION:

1. The zone map amendment shall not become effective until Lot 1, Block 2 is replatted and a lot line is created that corresponds to the proposed zone boundary, located at 436.01 feet south of the Paseo del Norte Blvd. NW right-of-way, and the plat is recorded.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **OCTOBER 25, 2019**. 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(U) 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

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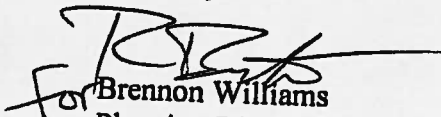
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of approval have been met. Successful applicants are reminded that other regulations of the City Zoning Code must be complied with, even after approval of the referenced application(s).

Sincerely,


For Brennon Williams
Planning Director

BW/CL

cc: Group II U26 VC, LLC & Volcano Cliffs, Inc., 8860 Desert Finch Ln NE, ABQ, NM 87122
Consensus Planning, Inc., 302 Eight St. NW, ABQ, NM 87102
Westside Coalition of NAs, Rene Horvath, 5515 Palomino Dr. NW, ABQ, NM 87120
Westside Coalition of NAs, Harry Hendriksen, 10592 Rio Del Sol NW, ABQ, NM 87114
Paradise Hills Civic Association, Maria Warren 5020 Russell Dr. NW, ABQ, NM 87114
Paradise Hills Civic Association, Tom Anderson, 10013 Plunkett Dr., NW, ABQ, NM 87114
Bill Wright, 4112 Blue Ridge Pl., NE, ABQ, NM 87111
Modulus Architects, Attn: Angela Williamson, 100 Sun Ave. NE, Suite 305, ABQ, NM 87109
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