



# City of Albuquerque

## Office of the City Clerk

Timothy M. Keller, Mayor

Ethan Watson, Acting City Clerk

### Interoffice Memorandum

February 12, 2020

To: CITY COUNCIL

From: Camille Cordova, City Clerk Executive Assistant *CC*

Subject: BILL NO. O-19-89; ENACTMENT NO. O-2020-006

I hereby certify that on February 12, 2020, the Office of the City Clerk received Bill No. O-19-89 as signed by the president of the City Council, Patrick Davis. Enactment No. O-2020-006 was passed at the February 3, 2020 City Council meeting. Mayor Keller did not sign the approved Ordinance within the 10 days allowed for his signature and did not exercise his veto power. Pursuant to the Albuquerque City Charter Article XI, Section 3, this Ordinance is in full effect without Mayor's approval or signature. This memorandum shall be placed in the permanent file for Bill No. O-19-89.

Sincerely,

Ethan Watson  
Acting City Clerk

# CITY of ALBUQUERQUE

## TWENTY THIRD COUNCIL

COUNCIL BILL NO. O-19-89 ENACTMENT NO. D-2020-006

SPONSORED BY: Isaac Benton and Trudy E. Jones, by request

### ORDINANCE

ADOPTING ZONING CONVERSION RULES FOR PROPERTIES IN BATCH 3 OF  
THE PHASE 2 ZONING CONVERSION EFFORT AS DIRECTED BY CITY  
COUNCIL RESOLUTION 18-29 AND UPDATING THE OFFICIAL ZONING MAP.

WHEREAS, the City Council, the governing body of the City of  
Albuquerque, has the authority to adopt and amend plans for the physical  
development of areas within the planning and platting jurisdiction of the City  
authorized by statute, Section 3-19-3, NMSA 1978, and by its home rule  
powers; and

WHEREAS, the City's zoning powers are established by the City Charter, in  
which Article I, Incorporation and Powers, allows the City to adopt new  
regulatory structures and processes to implement the Albuquerque/Bernalillo  
County Comprehensive Plan ("Comp Plan") and help guide future legislation;  
Article IX, Environmental Protection, empowers the City to adopt regulations  
and procedures to provide for orderly and coordinated development patterns  
and encourage conservation and efficient use of water and other natural  
resources; and Article XVII, Planning, establishes the City Council as the  
City's ultimate planning and zoning authority; and

WHEREAS, the City Council adopted an updated Comp Plan on March 20,  
2017 via R-16-108 (Enactment No. R-2017-026), including goals and policies to  
maintain healthy, vibrant, and distinct communities through zoning and  
design standards that are consistent with long-established residential  
patterns; and

WHEREAS, the Comp Plan establishes a complementary pair of  
Development Areas – Areas of Change, where growth is encouraged and  
higher-density and higher-intensity uses are the most appropriate, and Areas

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1 of Consistency, where the existing pattern of uses, density, and intensity is to  
2 be maintained and reinforced over time; and

3 WHEREAS, the Integrated Development Ordinance (IDO) was drafted as  
4 part of a citywide effort to update and replace the City's 40-year-old, 1970s-era  
5 Comprehensive Zoning Code, and as the primary regulatory tool to implement  
6 the Comp Plan for land within the municipal boundaries of the City of  
7 Albuquerque; and

8 WHEREAS, the IDO's stated purpose is to implement the Comp Plan;  
9 ensure that all development in the City is consistent with the intent of other  
10 plans and policies adopted by City Council; ensure provision of adequate  
11 public facilities and services for new development; protect quality and  
12 character of residential neighborhoods; promote economic development and  
13 fiscal sustainability of the City; provide efficient administration of City land  
14 use and development regulations; protect health, safety, and general welfare  
15 of the public; provide for orderly and coordinated development patterns;  
16 encourage conservation and efficient use of water and other natural  
17 resources; implement a connected system of parks, trails, and open spaces to  
18 promote improved outdoor activity and public health; provide reasonable  
19 protection from possible nuisances and hazards and to otherwise protect and  
20 improve public health; and encourage efficient and connected transportation  
21 and circulation systems for motor vehicles, bicycles, and pedestrians; and

22 WHEREAS, the IDO was drafted to be consistent with and implement Comp  
23 Plan goals and policies; and

24 WHEREAS, the IDO helps to implement Comp Plan goals and policies by  
25 providing a set of zone districts (§14-16-2) that range from low intensity to  
26 high intensity and designating the appropriate mix of land uses in each zone  
27 district; and

28 WHEREAS, with the adoption of the IDO, the City Council adopted zoning  
29 conversion rules for approximately 750 categories of Special Use zones that  
30 were site-specific (i.e. SU-1 zones), approximately 450 Special Use zones  
31 established by the adoption of Sector Development Plans (i.e. SU-2 and SU-3  
32 zones), and approximately 20 base zones from the Comprehensive Zoning  
33 Code to convert pre-existing zone districts to base zone districts established

1 by the IDO in the Official Zoning Map (§14-16-1-6) that matched as closely as  
2 possible the permissive uses in each zone; and

3 WHEREAS, the intent of the IDO was to update the City's land use and  
4 zoning framework to protect the character of existing development and to  
5 regulate future development without eliminating or limiting the ability of  
6 lawful, existing land uses to continue after the IDO's adoption; and

7 WHEREAS, the City understands that predictability of zoning and  
8 compatibility of land use and zoning are essential in order to maintain and  
9 strengthen economic value and viability for property owners and businesses,  
10 and to ensure appropriate and adequate protections for neighboring  
11 properties; and

12 WHEREAS, the Official Zoning Map is used to apply land use regulations in  
13 the IDO to development throughout the city and in decision-making for zoning  
14 map amendments and long-range planning; and

15 WHEREAS, an accurate and transparent Official Zoning Map is critical to  
16 the City's role in providing for the health, welfare, and safety of the public; and

17 WHEREAS, updating the Official Zoning Map to better match zoning with  
18 existing land uses is consistent with the objectives of the IDO and the Comp  
19 Plan and benefits the City and property owners by eliminating  
20 nonconformities where appropriate and improving the accuracy of information  
21 and regulatory requirements for individual parcels; and

22 WHEREAS, many uses developed legally on properties either before City  
23 zoning was established in 1959, before City zoning actions in subsequent  
24 years that disallowed particular uses in particular zones, or before the IDO  
25 established different allowable uses in the new zone districts, making such  
26 existing uses legally nonconforming; and

27 WHEREAS, many properties in the City have developed with a low-density  
28 residential use (e.g. townhouse, duplex, or single-family detached house) in  
29 zones that otherwise would have allowed more dense and more intense uses,  
30 and converting these properties to a zone district that allows less dense and  
31 less intense uses with the permission of the property owner will help preserve  
32 neighborhood stability and land use predictability – thus advancing two  
33 leading objectives of the City's in the area of land use regulation; and

1       WHEREAS, there are many properties with two or more zone districts  
2       covering a single lot (whether based on plat or deed) for a variety of historical  
3       reasons, which has resulted in a floating zone line that cannot accurately be  
4       associated with any actual recorded boundary for purposes of implementing  
5       the respective zoning requirements of the multiple zones; and

6       WHEREAS, there are many undeveloped properties that had former Special  
7       Use (SU) or R-D zoning, which often required further review and decision  
8       processes to define allowable uses, that converted in Phase 1 to zones that  
9       may not accurately allow uses matching those that were previously  
10      anticipated and that may be otherwise inconsistent with surrounding land use  
11      and zoning patterns; and

12      WHEREAS, pursuant to the Phase 1 conversion rules, many properties  
13      were converted to PD (which properties may or may not have an approved Site  
14      Plan) or NR-BP (which properties may or may not have an approved Master  
15      Development Plan) even though they do not all meet the size thresholds for  
16      those zone districts established by the IDO, and although this may not impact  
17      the ultimately usability of those properties, it does present a nonconformity  
18      that can otherwise be cured; and

19      WHEREAS, City Council Resolution 18-29 directed the Planning  
20      Department to create a Phase 2 zoning conversion process to evaluate,  
21      analyze, process, and recommend citywide zoning conversions consistent  
22      with the Comprehensive Plan and the IDO implementation goals, wherein  
23      property owners would voluntarily convert the zoning on their properties to  
24      address one or more of 5 following issues that were known at the time of the  
25      IDO adoption but not resolved by the initial zoning conversion that became  
26      effective as of May 17, 2018: 1) Nonconforming use(s), 2) Voluntary downzone,  
27      3) Floating zone line(s), 4) Prior Special Use (SU) or R-D zoning, and 5) Size  
28      thresholds for PD and NR-BP; and

29      WHEREAS, City Council Resolution 18-29 directed the Planning  
30      Department to evaluate each property whose owner submitted a request and  
31      agreement form to determine whether it reasonably falls within at least one of  
32      the 5 identified criteria and decline to process those that do not; and

1 WHEREAS, for properties to be eligible through the nonconforming use  
2 criterion, Planning Department staff determined that the existing use had to  
3 have been legally allowed when the use began or that the use began before  
4 the City established regulations on that use; and

5 WHEREAS, for properties to be eligible through the voluntary downzone  
6 criterion, Planning Department staff determined that the property was zoned  
7 R-T, R-ML, R-MH, MX-T, MX-L or MX-M and had an existing low-density  
8 residential use (e.g. single-family detached house, duplex, or townhouse), and  
9 that there was a less intense or less dense zone district that still allowed the  
10 existing use and was compatible with surrounding land use and zoning  
11 patterns or that the property had a City park or Major Public Open Space in a  
12 zone that was not NR-PO; and

13 WHEREAS, for properties to be eligible through the floating zone line  
14 category, Planning Department staff determined that the property had to have  
15 2 zone districts on one parcel – either a platted parcel (as mapped by AGIS) or  
16 deeded parcel (as mapped by the Bernalillo County Assessor); and

17 WHEREAS, for properties to be eligible through the prior Special Use (SU)  
18 or R-D zoning criterion, Planning Department staff determined that the  
19 property had to be undeveloped (i.e. contained no structure up to the time the  
20 Phase 2, Batch 2 properties were submitted to the Environmental Planning  
21 Commission (EPC) for review and recommendation) and had previously been  
22 zoned SU-1, SU-2, SU-3, or R-D; and

23 WHEREAS, for properties to be eligible through the size threshold criterion  
24 for PD or NR-BP, Planning Department staff determined that a property zoned  
25 PD had to be less than 2 acres in size or greater than 20 acres in size or that a  
26 property zoned NR-BP had to be less than 20 acres in size and not part of an  
27 approved Master Development Plan; and

28 WHEREAS, properties zoned NR-BP that are less than 20 acres in size and  
29 part of an approved Master Development Plan are governed by the Master  
30 Development Plan, and changing the zoning on those properties would make  
31 it less transparent to the fact that they would still be governed by the Master  
32 Development Plan unless the Master Development Plan were amended to  
33 remove those properties from the Master Development Plan boundary; and

1       WHEREAS, for those properties whose owners requested conversion to a  
2       zone district that did not match or that was not compatible with the land use  
3       and zoning pattern of the surrounding area, Planning staff recommended a  
4       zoning conversion that was more compatible with the surrounding land use  
5       and zoning pattern and that still resolved the relevant issues in the criteria of  
6       R-18-29; and

7       WHEREAS, there are many properties with lot lines that differ spatially  
8       between platted lots (approved by the City, recorded by the Bernalillo County  
9       Clerk, and mapped by AGIS) and deeded lots (recorded and mapped by the  
10      Bernalillo County Assessor); and

11      WHEREAS, Phase 2 zoning conversions will be completed only on lots  
12      mapped in the AGIS layer "City Parcel"; and

13      WHEREAS, the Planning Department conducted public outreach efforts  
14      that included advertisements in print media, online media, and radio; inserts  
15      mailed with the Property Tax Bill to all property owners in Albuquerque; an  
16      insert mailed with the water bill to all developed properties; direct mailings to  
17      property owners of over 30,000 properties that likely qualify for this process;  
18      tabling at community events to distribute information; attendance and  
19      presentations at Neighborhood Association meetings; and one-on-one office  
20      hour appointments; and

21      WHEREAS, owners of 36 eligible properties signed a Property Owner  
22      Request and Agreement Form to opt in to the Phase 2 zoning conversion  
23      process by the May 17, 2019 deadline and were subsequently submitted as the  
24      third batch of properties for review and recommendation by the EPC; and

25      WHEREAS, Planning staff confirmed the eligibility of these Batch 3  
26      properties and recommended zoning conversions to address the applicable  
27      issues in R-18-29, meet the goals of IDO implementation, and further the goals  
28      and policies in the Comp Plan; and

29      WHEREAS, Planning staff found adopted Comprehensive Plan goals and  
30      policies that both supported and conflicted with the request to convert 29  
31      properties from MX-L to MX-T; and

32      WHEREAS, Planning staff either confirmed the zoning conversion  
33      requested by the property owner as appropriate or recommended a more

1 appropriate zoning conversion given the existing lawful use of the property  
2 and the surrounding land use and zoning patterns; and

3 WHEREAS, the voluntary process established by R-18-29 necessarily  
4 results in a phased conversion of various parcels on a citywide basis; and

5 WHEREAS, the City amended the Comp Plan in 2001 via R-01-343  
6 (Enactment No. 171-2001) to identify Community Planning Areas and provide  
7 goals and policies to protect and enhance distinct community identity in each  
8 area; and

9 WHEREAS, the Comp Plan describes a Community Planning Area  
10 assessment process to provide opportunities for community engagement and  
11 analysis of each of the City's 12 Community Planning Areas every 5 years,  
12 culminating in an update to the goals and policies in the Comp Plan, as  
13 recommended by the assessments; and

14 WHEREAS, the IDO establishes a Community Planning Area assessment  
15 process as the City's new process for long-range planning with communities,  
16 intended to provide opportunities on a 5-year cycle to analyze and recommend  
17 zoning and regulatory changes in specific geographic areas to better  
18 implement the Comp Plan; and

19 WHEREAS, concerns about the resulting changes to zoning patterns from  
20 Phase 2 zoning conversions can be addressed through Community Planning  
21 Area assessments, which may result in recommendations to City Council for  
22 future zoning actions for certain neighborhoods, districts, or corridors, as  
23 appropriate; and

24 WHEREAS, the City Council finds that the request for 29 properties to  
25 convert from MX-L to MX-T is appropriate and meets applicable conversion  
26 criteria as outlined in R-18-29.

27 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
28 ALBUQUERQUE:

29 Section 1. ZONING CONVERSION RULES. The City Council hereby adopts  
30 zoning conversion rules for the 7 properties in Batch 3 of the Phase 2 zoning  
31 conversion process as listed in Exhibit 1.



1       Section 2. OFFICIAL ZONING MAP. The City Planning Department shall  
2       update the Official Zoning Map to reflect the adopted zoning conversion rules  
3       for the Batch 3 properties in Exhibit 1.

4       Section 3. SEVERABILITY. If any section, paragraph, sentence, clause,  
5       word or phrase of this Ordinance is for any reason held to be invalid or  
6       unenforceable by any court of competent jurisdiction, such decision shall not  
7       affect the validity of the remaining provisions of this Ordinance. The Council  
8       hereby declares that it would have passed this Ordinance and each section,  
9       paragraph, sentence, clause, word or phrase thereof irrespective of any  
10      provision being declared unconstitutional or otherwise invalid.

11      Section 4. EFFECTIVE DATE. This Ordinance shall take effect five days  
12      after publication by title and general summary.

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1 PASSED AND ADOPTED THIS 3<sup>rd</sup> DAY OF February, 2020  
2 BY A VOTE OF: 8 FOR 0 AGAINST.

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10 Patrick Davis, President  
11 City Council  
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14 APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020  
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17 Bill No. O-19-89  
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24 Timothy M. Keller, Mayor  
25 City of Albuquerque  
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28 ATTEST:  
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31 Ethan Watson, Acting City Clerk  
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