

# CITY OF ALBUQUERQUE

***Planning Department***  
***David Campbell, Director***

***Development Review Division***

600 2<sup>nd</sup> Street NW – 3<sup>rd</sup> Floor

Albuquerque, NM 87102



## NOTICE OF APPEAL

February 28, 2018

### TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on February 28, 2018. You will receive a Notice of Hearing as to when the appeal will be heard by the **Land Use Hearing Officer**. If you have any questions regarding the appeal please contact Alfredo Salas, Planning Administrative Assistant at (505) 924-3370.

***Please refer to the enclosed excerpt from the City Council Rules of Procedure for Land Use Hearing Officer Rules of Procedure and Qualifications for any questions you may have regarding the Land Use Hearing Officer rules of procedure.***

Any questions you might have regarding Land Use Hearing Officer policy or procedures that are not answered in the enclosed rules can be answered by Crystal Ortega, Clerk to the Council, (505) 768-3100.

**CITY COUNCIL APPEAL NUMBER: AC-19-5**

**PLANNING DEPARTMENT CASE FILE NUMBER: PR-2018-001840**

**RZ-2018-00053**

**VA-2019-00071**

PO Box 1293

Albuquerque

NM 87103

[www.cabq.gov](http://www.cabq.gov)

**APPLICANT: University Heights Association**  
**105 Stanford SE**  
**Albuquerque NM 87106**

cc: Crystal Ortega, City Council, City county bldg. 9<sup>th</sup> floor  
Kevin Morrow/Legal Department, City Hall, 4<sup>th</sup> Floor-  
EPC File  
Jeannett Martinez, 1026 Dorothy St. NE, ABQ, NM 87112  
Nob Hill NA, Gary Eyster, 316 Amherst Dr. SE, ABQ, NM 87106  
Nob Hill NA, Curtis Bayer, 201 Aliso Dr. SE, ABQ, NM 87108  
University Heights NA, Julie Kidder, 120 Vassar SE, ABQ, NM 87106  
University Heights NA, Don Hancock, 105 Stanford SE, ABQ, NM 87106  
District 6 Coalition of NA's, Eileen Jessen, 420 General Hodges St. NE,  
ABQ, NM 87123  
District 6 Coalition of NA's, Gina Dennis, 1816 Buena Vista Dr. SE, ABQ, NM 87106  
Julie Kidder, 405 Vassar SE, ABQ, NM 87106  
Eugene Trosterud, 123 Vassar Dr. SE, ABQ, NM 87106  
John DuBois, [jdubois@cabq.gov](mailto:jdubois@cabq.gov)



Please check the appropriate box and refer to supplemental forms for submittal requirements. All fees must be paid at the time of application.

<b>Administrative Decisions</b>	<input type="checkbox"/> Historic Certificate of Appropriateness – Major (Form L)	<input type="checkbox"/> Wireless Telecommunications Facility Waiver (Form W2)
<input type="checkbox"/> Archaeological Certificate (Form P3)	<input type="checkbox"/> Historic Design Standards and Guidelines (Form L)	<b>Policy Decisions</b>
<input type="checkbox"/> Historic Certificate of Appropriateness – Minor (Form L)	<input type="checkbox"/> Master Development Plan (Form P1)	<input type="checkbox"/> Adoption or Amendment of Comprehensive Plan or Facility Plan (Form Z)
<input type="checkbox"/> Alternative Signage Plan (Form P3)	<input type="checkbox"/> Site Plan – EPC including any Variances – EPC (Form P1)	<input type="checkbox"/> Adoption or Amendment of Historic Designation (Form L)
<input type="checkbox"/> WTF Approval (Form W1)	<input type="checkbox"/> Site Plan – DRB (Form P2)	<input type="checkbox"/> Amendment of IDO Text (Form Z)
<input type="checkbox"/> Minor Amendment to Site Plan (Form P3)	<input type="checkbox"/> Subdivision of Land – Minor (Form S2)	<input type="checkbox"/> Annexation of Land (Form Z)
<b>Decisions Requiring a Public Meeting or Hearing</b>	<input type="checkbox"/> Subdivision of Land – Major (Form S1)	<input type="checkbox"/> Amendment to Zoning Map – EPC (Form Z)
<input type="checkbox"/> Conditional Use Approval (Form ZHE)	<input type="checkbox"/> Vacation of Easement or Right-of-way (Form V)	<input type="checkbox"/> Amendment to Zoning Map – Council (Form Z)
<input type="checkbox"/> Demolition Outside of HPO (Form L)	<input type="checkbox"/> Variance – DRB (Form V)	<b>Appeals</b>
<input type="checkbox"/> Expansion of Nonconforming Use or Structure (Form ZHE)	<input type="checkbox"/> Variance – ZHE (Form ZHE)	<input checked="" type="checkbox"/> Decision by EPC, LC, DRB, ZHE, or City Staff (Form A)

### APPLICATION INFORMATION

Applicant: University Heights Association c/o Don Hancock		Phone: 505-262-1862
Address: 105 Stanford, SE		Email: sricdon@earthlink.net
City: Albuquerque	State: NM	Zip: 87106
Professional/Agent (if any):		Phone:
Address:		Email:
City:	State:	Zip:
Proprietary Interest in Site:		List all owners:

### BRIEF DESCRIPTION OF REQUEST

Appeal of EPC Decision to grant Zone Change

### SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)

Lot or Tract No.: 13	Block: 25	Unit:
Subdivision/Addition: University Heights Addition	MRGCD Map No.:	UPC Code: 10160572472383302
Zone Atlas Page(s): K-16	Existing Zoning: R-ML	Proposed Zoning: MX-T
# of Existing Lots: 1	# of Proposed Lots: 1	Total Area of Site (acres): 0.16

### LOCATION OF PROPERTY BY STREETS

Site Address/Street: 123 Girard, SE	Between: Central	and: Silver
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### CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)

Project #2018-001840/RZ-2018-00053 - Zone Map Amendment - EPC Decision of February 14, 2019

Signature:	Date: 2/28/19
Printed Name: Don Hancock	<input type="checkbox"/> Applicant or <input type="checkbox"/> Agent

### FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees
UA-2019-00071	Appeal	\$130.00
Meeting/Hearing Date:	Fee Total: \$130.00	
Staff Signature:	Date: 2-28-19	Project # PR-2018-001840

## FORM A: Appeals

**Complete applications for appeals will only be accepted within 15 consecutive days, excluding holidays, after the decision being appealed was made.**

- ☐ APPEAL OF A DECISION OF CITY PLANNING STAFF (HISTORIC PRESERVATION PLANNER) ON A HISTORIC CERTIFICATE OF APPROPRIATENESS – MINOR TO THE LANDMARKS COMMISSION (LC)
- ☐ APPEAL OF A DECISION OF CITY PLANNING STAFF ON AN IMPACT FEE ASSESSMENT TO THE ENVIRONMENTAL PLANNING COMMISSION (EPC)
- ☒ APPEAL TO CITY COUNCIL THROUGH THE LAND USE HEARING OFFICER (LUHO)

\_\_\_ Interpreter Needed for Hearing? \_\_\_ if yes, indicate language: \_\_\_\_\_

☒ A Single PDF file of the complete application including all documents being submitted must be emailed to [PLNDRS@cabq.gov](mailto:PLNDRS@cabq.gov) prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD. PDF shall be organized with the Development Review Application and this Form A at the front followed by the remaining documents in the order provided on this form.

☒ Project number of the case being appealed, if applicable: 2018-001840

☒ Application number of the case being appealed, if applicable: R2-2018-00053

☒ Type of decision being appealed: EPC Zone Map Amendment (Zone Change)

☒ Letter of authorization from the appellant if appeal is submitted by an agent

☒ Appellant's basis of standing in accordance with IDO Section 14-16-6-4(U)(2)

☒ Reason for the appeal identifying the section of the IDO, other City regulation, or condition attached to a decision that has not been interpreted or applied correctly, and further addressing the criteria in IDO Section 14-16-6-4(U)(4)

☒ Copy of the Official Notice of Decision regarding the matter being appealed

**I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting or hearing, if required, or otherwise processed until it is complete.**

Signature: Don Henrick

Date: 2/28/2019

Printed Name: Don Henrick

☐ Applicant or ☒ Agent

### FOR OFFICIAL USE ONLY

Case Number: Project#

Case ~~Project~~ Number:

PR-2018-001840

VA-2019-00071

Staff Signature: [Signature]

Date: 2-28-19



# UNIVERSITY HEIGHTS ASSOCIATION

105 Stanford, SE  
Albuquerque, NM 87106



February 28, 2019

## **Appeal to City Council through Land Use Hearing Officer (LUHO)**

**Project Number being appealed: 2018-001840**

**Case Number being appealed: RZ-2018-00053 – Zone Map Amendment (Zone Change)**

**Action appealed: Environmental Planning Commission Decision of February 14, 2019**

**Appellant: University Heights Association (“UHA”)** by its authorized President Julie Kidder and Secretary/Treasurer Don Hancock

**Appellant’s standing:** The University Heights Association (“UHA”) has standing because it is the recognized neighborhood association where the subject property at 123 Girard, SE is located. Section 14-16-6-4(U)(2)(a)5 of the Integrated Development Ordinance (“IDO”). That fact is stated in EPC Finding #9. UHA submitted letters of opposition to the zone change on December 10, 2018 and February 11, 2019 and its President and neighborhood residents testified against zone change at the February 14, 2019 Environmental Planning Commission (“EPC”) hearing. The UHA opposition was acknowledged in EPC Finding #13.

### **Reason for the Appeal:**

1. A fundamental fact is that the subject property does not meet the requirements for MX-T zoning. The property does not meet the MX-T requirement of a minimum 15-foot rear setback. IDO Table 2-4-1: MT-Zone District Dimensional Standards Summary, D states that the rear minimum setback standard is 15 feet. The 15-foot minimum rear setback requirement is also in Table 5-1-2. The subject property has zero rear setback (EPC Staff Report (“SR”), page 60 of PDF) where a residential unit is located.

The applicant never discussed the rear setback dimension nor that the property does not comply with the minimum rear setback requirement in the application or at the public hearing. At the public hearing, when the inadequate rear setback was pointed out by the UHA President, City staff erroneously stated that the MX-T rear setback requirement was from 0-15 feet. The EPC decision is in err because it contains no finding that the property meets the MX-T zone rear setback requirement.

Section 14-16-6-7(F)(3)(b) requires that the applicant “demonstrate[] that the new zone would clearly reinforce or strengthen the established character of the surrounding Area of Consistency and would not permit development that is significantly different from that character.” A development that does not meet the MX-T rear setback requirement does not reinforce or

strengthen the established character of the area, which has many properties that do meet the requirements for the existing R-ML zoning. The applicant does not address the established character of the area related to R-ML zoning. The EPC made no finding that specifically addresses the established character of the surrounding area with R-ML zoning. The EPC made no finding that the applicant demonstrated that the zone change would reinforce or strengthen that established character. Rather, EPC Finding #7.a states that “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.” Thus, the EPC erred in approving a zone change that does not comply with the Section 14-16-6-7(F)(3)(b) requirement.

2. It is uncontroverted in the record that the property has an existing parking deficit and cars park illegally on the sidewalk along the Silver Bike Boulevard, blocking pedestrians and preventing Americans for Disability Act (“ADA”) access on the sidewalk. It is uncontroverted in the record that the commercial uses allowed in the MX-T zone would increase the actual parking deficit, which is not advantageous to the community. Section 14-16-6-7(F)(3)(b)3 requires that the applicant demonstrate that the different zone district is more advantageous to the community. The EPC erred in not finding that this increased parking deficit is not advantageous. EPC Findings #7.a, 7.b, and 7.i are in error for ignoring the increasing parking deficit.

3. IDO Section 14-16-5-3(C)(3)(b) provides that “No new curb cuts may be added in the following mapped area within the University Heights Area” and specifically includes the subject property in the mapped area. The provision was established to restrict curb cuts on the Silver Bicycle Boulevard in this immediate area to limit conflicts with pedestrians and bicyclists and motorized vehicles crossing the sidewalk and entering the bike boulevard. The subject property has a curb cut on Silver that is used for illegal parking that block the sidewalk. While not a new curb cut, an unnecessary curb cut that is used for illegal parking is contrary to the policy for the bike boulevard and the spirit of the IDO prohibition. The applicant has not demonstrated that the zone change would not perpetuate the existing injury to the community from the illegal parking and violating ADA requirements, which is not advantageous to the community. Further, the curb cut historically provided access to three garages, which could provide parking for the property, but are no longer used for parking. The EPC erred in making no finding regarding the curb cut policy and the injury to the neighborhood and violation of ADA requirements.

4. It is uncontroverted in the record that the commercial uses allowed in the MX-T zone would cause increased motorized vehicular traffic on the Silver Bike Boulevard and on Girard. Such traffic conflicts with the City policy to reduce motorized vehicles on the Silver Bike Boulevard to increase safety for bicyclists and pedestrians. The additional motorized vehicles also will increase congestion at the Silver/Girard intersection, which has a bike-permeable median diverter to reduce motorized vehicle traffic on Silver. Vehicles coming northbound on Girard to the property will likely make illegal left turns across Girard, creating additional traffic congestion and possible accidents. The zone change is not consistent with Policy 4.1.2.1 regarding circulation patterns for all transportation modes, streetscape elements and amenities, and parking for vehicles and bicycles. The EPC erred in making no finding regarding Policy 4.1.2.1. The evidence is that the MX-T zoning is contrary to that Policy.

5. EPC finding #6.c is that the zone change furthers Policy 4.1.4 and 4.1.4.b. However, a significant part of protecting and preserving the neighborhood is its pedestrian orientation and the Silver Bike Boulevard. The preponderance of the evidence is that those characteristics of the neighborhood are not enhanced by maintaining a curb cut on the north side of Silver, which is used only for illegally parked cars that block the sidewalk, and by encouraging more motorized vehicle traffic on the Silver Bike Boulevard. Policy 4.1.4.b is “Leverage community resources to identify issues, opportunities, and special places and promote strong community identity.” There is no evidence that any community resources are leveraged by the project, and, in fact, the significant community resource of the Silver Bike Boulevard is being undermined by the zone change. Thus, EPC finding 6.c is erroneous because Policies 4.1.4 and 4.1.4.b are not furthered.

6. EPC finding #6.d states that the request furthers Policy 4.2.2. That Policy is “Leverage community resources to identify issues, opportunities, and special places and promote strong community identity.” There is no evidence that the zone change leverages any community resources. The EPC finding is based on “the applicant conducted notification and outreach beyond what is required,” which, in fact, is not part of the Policy or any of the specified actions. There is no evidence that the applicant’s “outreach” resulted in any documented support for the project. On the contrary, since UHA represents nearby neighbors that did express concern to the applicant, the preponderance of the evidence is that EPC finding 6.d is erroneous.

7. EPC finding 6.e is that the request furthers Policies 5.1.1 and 5.1.9 because the zone change will “enhance the existing walkability of the area, including Central Avenue, a designated Main Street Corridor.” While Central Avenue is such a corridor, there is no evidence that the proposed project would enhance Central’s walkability more than the existing residential uses. The finding also ignores the uncontroverted evidence of the existing problems at the property caused by illegal parking that blocks the sidewalk and significantly injures walkability, including ADA usage, on Silver. Increased vehicular traffic accessing the commercial uses from Girard and Silver actually would reduce walkability by adding more vehicles crossing the sidewalks on Girard and Silver. EPC finding 6.e is erroneous, and the request does not further Policy 5.1.9.

8. EPC’s findings repeatedly refer to “rehabilitation of the existing historic home” (Findings #6.a, 6.b, 6.c, 6.g, 6.q, 6.r), as a significant basis for the zone change furthering city policies. The findings ignore the fact that much of the property (approximately 3,000 of the 4,300 square feet of building) is not the Tudor Revival architecture that is deemed historically distinctive, and the vast majority of area homes are pre-1965 and are not considered historic. Moreover, the zone change does not, and cannot, require renovation of any of the building, all of which could be renovated under the existing R-ML zoning. The EPC errs in basing several findings on renovation that is not for the large majority of the property, which cannot be required by the zone change, and could be accomplished with the existing zoning.

9. EPC’s findings repeatedly refer to “medical office” or “requested office use” (Findings 3, 6.b, 6.c, 6.f, 6.j, 6.l, 6.n, 6.o, 6.q, 6.r), as a significant basis for the zone change furthering city policies. The applicant does state that is her current plan. However, the zone change cannot, and does not, require such uses. The EPC errs in basing compliance with city policies on a speculative use.

Moreover, MX-T zoning allows several permissive uses, including adult or child day care facility, museum or art gallery, vocational school, health club or gym, hotel or motel, bank, and office that could result in as much or more motorized vehicular traffic as the proposed medical or dental clinic, which is not advantageous to the community. EPC Findings #7.e, 7.f and 7.g are in err by ignoring those traffic issues and finding that those uses would not be harmful to the community.

10. EPC's findings refer to "affordable housing" (Findings 6.i, 6.o, 6.p), as a significant basis for the zone change furthering city policies. EPC findings #3 and 6.i states that five rental units will remain. However, the PRT Form states that 3,000 square feet of residential zoning would be changed to commercial. Staff Report ("SR"), page 43 of PDF. The Traffic Impact Study Form also shows that four units of 3,000 square feet would be changed from residential to commercial use. SR, page 47 of PDF. In the January 23, 2019 justification letter, the applicant states: "I, Jeannett Martinez, the applicant, request to repurpose the multifamily living building composed of one main house with 3 attached ground apartment rental units, approximating 3,000 square feet for the use of a new integrated wellness center. There are 3 additionally remaining apartments on the second level. The 3 remaining rental units on the second level will remain rental apartment units. The second level is approximately 1300 square feet." SR, page 48 of the PDF. The justification letter further states: "This includes the main house and 3 attached apartment rental units, estimating 3000 sq ft, from residential to MX-T. The 3 apartments above will remain apartment units intended for renting living space." SR, page 50 of the PDF. The public notice letter of 10/5/2018 and 11/21/2018 states that only three apartment units will remain. SR, pages 63 and 82 of the PDF. Thus, the applicant five times specifically states that there will be three, not five, residential units. The justification letter also states: "Removing the majority use of multi family living units on the subject site will improve the quality of development and site condition." SR, page 53 of the PDF. Again, that sentence is consistent with removing four of the seven existing living units. The justification letter also, contradictorily, states: "This request furthers Policy 5.2.1 (d) because there will still be 5 remaining rental units." SR, page 53 of the PDF. The preponderance of the evidence does not support EPC findings #3 and 6.i regarding five rental units remaining. Thus, those findings are in err. Furthermore, the zone change does not – and cannot – require that any rental units remain or that any specified amount of square footage is used for commercial use or for residential use.

11. The EPC makes no findings regarding parking. However, the applicant's justification letter and the SR give attention to parking because of UHA's repeatedly stated concerns to the applicant in her two meetings with UHA (EPC Finding #11 is in error that the applicant attended only one UHA meeting) and in the two letters of opposition and testimony at the EPC public hearing. The SR states that 8 spaces would be required before a 30 percent reduction, which results in five spaces required. SR page 5. However, as noted in #10 above, the justification letter states that the commercial uses would be approximately 3,000 square feet and there would be three remaining apartments. IDO Table 5-5-1: Off-street Parking, provides that multi-family dwellings have one parking space per unit and medical or dental clinic have three spaces for each 1,000 square feet. Thus, 12 spaces, not 8, are required before the 30 percent reduction. Of course, the zoning change does not – and cannot – require that any specific amount of the property be

used for residential or for commercial use. However, the increased parking requirement caused by the commercial uses further supports UHA point #2 above that the MX-T zoning will result in a greater parking deficit, which is not advantageous to the community.

12. The applicant did not demonstrate that the new zone would clearly reinforce or strengthen the established character of the surrounding Area of Consistency, as the property does not meet the rear setback requirement of the MX-T zone. The zone change allows development that is significantly different from that character of the neighborhood. The applicant has not met the burden to show that the zone change meets the preponderance of the applicable goals and is more advantageous to the community, so that EPC Finding #7.b is in error. Thus, the zone change should be denied. The EPC approval of the zone change request is erroneous and should be overturned or remanded.



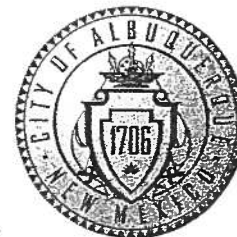
Julie Kidder  
UHA President



Don Hancock  
UHA Secretary/Treasurer  
Phone: 262-1862



# 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

February 14, 2019

Jeannett Martinez  
1026 Dorothy St. NE  
Albuquerque, NM 87112

**Project #2018-001840**  
RZ-2018-00053 – Zone Map Amendment (Zone Change)

### LEGAL DESCRIPTION:

The above action for all or a portion of Lot 13, Block 25, University Heights, zoned RM-L to MX-T, located at 123 Girard Blvd. SE on the northwest corner of Girard Blvd. and Silver Ave. SE, containing approximately 0.2 acre. (K-16)  
Staff Planner: Cheryl Somerfeldt

On February 14, 2019 the Environmental Planning Commission (EPC) voted to APPROVE Project 2018-001840/SI-2018-00053, a Zone Map Amendment (Zone Change), based on the following findings and conditions:

Albuquerque

### **FINDINGS, Findings, Zoning Map Amendment (Zone Change)**

NM 87103

www.cabq.gov

1. This is a request for a Zone Map Amendment (Zone Change) for Lot 13, Block 25, University Heights, located at 123 Girard Blvd. SE, on the northwest corner of Girard Boulevard SE and Silver Avenue SE and containing approximately 0.2 acres.
2. The request is to re-zone the property from the existing R-ML, Residential-Multi-Family Low Density Zone District, to the MX-T, Mixed-Use-Transition Zone District in order to use the existing 4300 square foot building for a mix of office and residential uses.
3. The applicant intends to operate a medical office / wellness clinic on the ground floor of the main house, 3 apartments upstairs, and 2 apartments in the back of the house for a total of 5 dwelling units.
4. The subject site is not within the boundaries of a Character Protection Overlay (CPO), a Historic Protection Overlay (HPO), or a View Protection Overlay (VPO).
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.

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Project #2018-001840

February 14, 2019

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6. The subject site is within an Area of Consistency as designated by the Comprehensive Plan and the following policies apply:
  - a. The request furthers Policy 4.1.1 because the subject site is part of the University Heights neighborhood, one of Albuquerque's older communities. The request would permit rehabilitation of the existing historic home, thereby consistent with the distinct character of University Heights.
  - b. The request furthers Policy 4.1.2 and Policy 4.1.2 a) because the requested MX-T zone would permit the rehabilitation of the existing historic home, thereby protecting the identity and cohesiveness of the University Heights neighborhood and ensuring the existing character of building design. The requested office use is an appropriate scale of development and mix of uses as shown by the existing MX-T properties across the street to the east and MX-L properties to the west.
  - c. The request furthers Policy 4.1.4 and 4.1.4 b) because the requested MX-T zone will enhance, protect, and preserve the University Heights and Nob Hill traditional communities by permitting the re-use of the existing tudor style home into a mix of office and residential uses that will contribute to long-term health and vitality of the neighborhood. The property is located near the University of New Mexico in a location where both higher density smaller unit residential and office uses are existing and needed. Silver Avenue SE is a designated Bicycle Boulevard that represents a local recreational resource that will support low-intensity mixed-uses.
  - d. The request furthers Policy 4.2.2 because the applicant conducted notification and outreach beyond what is required by the IDO in order to receive extensive feedback from the surrounding neighbors, and to make sure the existing neighborhood's values, social, cultural and recreational resources continue to be respected. Although, opposition exists from the established University Heights NA and partly from the Nob Hill NA, the applicant went door-to-door to gauge the opinions of the immediately surrounding neighbors and did not find concern.
  - e. The request furthers Policies 5.1.1 and 5.1.9 because the mix of uses proposed by the change to MX-T will enhance the existing walkability of the area, including Central Avenue, a designated Main Street Corridor.
  - f. The request furthers Policy 5.2.1 because the requested MX-T zone will permit a medical office, which will contribute to the health of the community through wellness services, and will be conveniently accessible from surrounding neighborhoods.
  - g. The request furthers Policy 5.2.1 a) because the requested MX-T zone will encourage the redevelopment of the existing property and bring services and amenities within biking and walking distance of the University Heights and Nob Hill neighborhoods. Because it is located on Silver Avenue SE, a Bicycle Boulevard, and one block from Central Avenue, the Albuquerque Rapid Transit, the proposed project provides good access for local residents and for the broader community.
  - h. The request furthers Policy 5.2.1 b) because the requested MX-T zone will maintain the characteristics of the communities through zoning and design standards that are consistent with the established University Heights and Nob Hill development pattern. Girard Boulevard SE is a Major Collector and a more heavily-used north-south corridor with a

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mix of uses compared to the other surrounding local roads. In addition, The IDO applies Use Specific Standards that would limit the scope of the more controversial uses in the requested MX-T zone compared to the higher intensity mixed-use zones.

- i. The request furthers Policy 5.2.1 d) because the requested MX-T zone will continue to permit affordable housing options to meet a range of incomes and lifestyles with 5 of the 7 existing affordable rental units remaining.
- j. The request furthers Policy 5.2.1 d) e) because the requested MX-T zone will permit the proposed wellness center which will support community health through multi-disciplinary wellness services and a mix of office and residential uses conveniently accessible from the surrounding neighborhoods by walking, bicycling, transit, and single-occupancy vehicular travel.
- k. The request furthers Policy 5.6.3 because the subject site is in an Area of Consistency, and the adjacent properties to the north, west, and east are already zoned for multi-family and mixed-use development; therefore the requested MX-T zone would be consistent with the existing and future character of the surrounding area within a Main Street Corridor. Any new development is subject to the IDO's Neighborhood Edges standards (5-9) along the southern boundary, which would protect the adjacent R-T properties to the south.
- l. The request furthers Policy 6.4 because the requested MX-T zone will permit a medical office which will promote individual and community health, and the location on a Bicycle Boulevard encourages active transportation.
- m. The request furthers Policies 8.1.1 and 8.1.2 because the mix of uses allowed in the MX-T zone will contribute to a diverse place south of Central Avenue near UNM, and permit a more resilient and diverse economy than solely residential uses as permitted in the existing zone.
- n. The request furthers Policy 8.2.1 because the requested MX-T zone will permit the applicant to operate a local business, a wellness clinic/medical office, thereby supporting the local economy.
- o. The request furthers Policy 11.2.1 because the requested MX-T zone will permit the applicant to operate the desired medical office in the existing tudor styled house, therefore preserving the historic architecture at the same time conserving the affordable smaller apartments on the subject site.
- p. The request furthers Policy 11.2.1 a) because the requested MX-T zone permits multi-family use which maintains a range of housing options and affordability levels to ameliorate displacement of students to other areas.
- q. The request furthers Policy 11.2.1 b) because the requested MX-T zone will permit the medical office which will encourage the applicant to rehabilitate, preserve, and enhance the existing house.
- r. The request furthers Policy 11.2.3 and 11.2.3 a) because the requested MX-T zone will permit the applicant to operate the desired wellness center/medical business while considering the existing historic structure which is part of the identity, local history, and visual environment and has a unique historic significance to Albuquerque and the surrounding communities.

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Project #2018-001840

February 14, 2019

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7. Pursuant to section 14-16-6-7(F)(3) of the Integrated Development Ordinance, Review and Decision Criteria, "An application for a Zoning Map Amendment shall be approved if it meets all of the following criteria".
  - 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, in his policy-based response, that the request would be consistent with the City's health, safety, morals and general welfare.
  - b. The zone change to MX-T would be more advantageous to the community than the current zoning (R-ML) because the request furthers a preponderance of applicable Goals and policies in the Comprehensive Plan regarding Community Identity, Land Use, Transportation, Economic Development, and Heritage Conservation and does not significantly conflict with the Comprehensive Plan.
  - c. This criterion is not applicable because the subject site is located entirely in an Area of Consistency.
  - d. The purpose of the MX-T zone is to serve as a transition between a more intense zone such as the MX-L to the west and residential zones such as the R-T to the south. That purpose would be achieved with the proposed zone change.
  - e. The applicant listed the uses that would become permitted if the zone change is approved. Staff finds that the permissive uses would not be harmful to adjacent property, the neighborhood, or the community because Use-specific Standards in Section 16-16-4-3 will adequately mitigate those harmful impacts.
  - f. The existing R-ML zone permits small and medium sized community residential facilities whereas the proposed MX-T zone will permit a large community residential facility, which is a facility in which a person resides for more than 24 hours and can include persons who are handicapped but cannot include persons currently using or addicted to controlled substances who are not in a separate recognized recovery program. All sizes of this facility are subject to the same regulations for distance from other facilities, and a large facility is unlikely due to the size of the site. A small Group Home for those protected against housing discrimination, would also be permitted if it meets all other regulations. An Adult or Child Day Care Facility would not include overnight care.
  - g. The subject parcel is approximately 7,100 square feet or 0.163 acres making it difficult to support a school, museum, health club, hotel or motel, bank of significant size, and small versions of these uses would not be harmful to the community. A bed & breakfast is currently permitted as accessory but would be permitted without an on-site resident in the proposed MX-T zone.
  - h. The subject site has adequate infrastructure capacity to serve development made possible by the request. This established urban area has sufficient infrastructure to support the uses of the requested MX-T zone on the approximately 0.163 acre subject site. Central Avenue is also a designated Premium Transit Corridor, which will provide a transportation option for residents and customers.

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- i. The subject site's location at the northwest corner of Girard Boulevard SE, a Major Collector, and Silver Avenue SE, a local road. Rather than being a major street, the applicant's justification for the zone change is based on the request furthering a preponderance of applicable Comprehensive Plan policies regarding Community Identity, Land Use, Transportation, Economic Development, and Heritage Conservation as demonstrated in the response to Criterion A.
  - j. Economic considerations are always a factor with a private development project, but 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 policies regarding Community Identity, Land Use, Transportation, Economic Development, and Heritage Conservation.
  - k. This zone change request is not does not apply to a zone district different from surrounding districts to the subject parcel, because the requested zone is also located across the street, Girard Boulevard SE, to the west.
8. The applicant has adequately justified the proposed zone change from R-ML to MX-T. The applicant's policy-based analysis shows that the request furthers a preponderance of applicable goals and policies in the Comprehensive Plan and does not conflict with them.
9. The subject site is located on the east edge of the University Heights Association boundaries, and just outside of the western boundary of the Nob Hill Association.
10. The applicant notified the Nob Hill Neighborhood Association, the University Heights Neighborhood Association, and the District 6 Coalition of Neighborhood Associations and property owners within 100 feet of the subject site as required.
11. The applicant attended three neighborhood meetings with the Nob Hill Neighborhood Association and one neighborhood meeting with the University Heights Neighborhood Association and the Silver Hills Neighborhood Association.
12. The Nob Hill Neighborhood Association submitted a letter to staff expressing that during an association meeting, the project was opposed by 4, and supported by 3 members.
13. The University Heights Association submitted a letter to staff stating a vote of 8 to 0 in opposition to the request. The association feels it would not be advantageous to the community, and would exacerbate the existing significant parking deficit on the property that could create additional parking and dangerous traffic problems in the community. The UHA states that the applicant did not fully consider circulation patterns for all transportation modes, streetscape elements and amenities, and parking for vehicles and bicycles.

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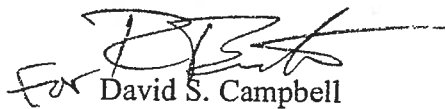
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**APPEAL:** If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **MARCH 1, 2019**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15<sup>th</sup> day falls 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 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 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,

  
David S. Campbell  
Planning Director

DSC/CS

cc: Jeannett Martinez, 1026 Dorothy St. NE, ABQ, NM 87112  
Nob Hill NA, Gary Eyster, 316 Amherst Dr. SE, ABQ, NM 87106  
Nob Hill NA, Curtis Bayer, 201 Aliso Dr. SE, ABQ, NM 87108  
University Heights NA, Julie Kidder, 120 Vassar SE, ABQ, NM 87106  
University Heights NA, Don Hancock, 105 Stanford SE, ABQ, NM 87106  
District 6 Coalition of NA's, Eileen Jessen, 420 General Hodges St. NE, ABQ, NM 87123  
District 6 Coalition of NA's, Gina Dennis, 1816 Buena Vista Dr. SE, ABQ, NM 87106  
Julie Kidder, 405 Vassar SE, ABQ, NM 87106  
Eugene Trosterud, 123 Vassar Dr. SE, ABQ, NM 87106  
John DuBois, [jdubois@cabq.gov](mailto:jdubois@cabq.gov)