

CITY of ALBUQUERQUE

TWENTY THIRD COUNCIL

COUNCIL BILL NO. O-19-79 ENACTMENT NO. _____

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

1 **ORDINANCE**

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

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

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

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

24 **WHEREAS, the Comp Plan establishes a complementary pair of**
25 **Development Areas – Areas of Change, where growth is encouraged and**
26 **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 are otherwise consistent with surrounding land use and
11 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 the land use and zoning pattern of the
3 surrounding area or that was not compatible, 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, in some cases additional survey information may be needed to
14 confirm a zone boundary that corresponds spatially with the piece of land on
15 which the property owner desires the zoning conversion; and

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

24 WHEREAS, owners of 1,226 eligible properties signed a Property Owner
25 Request and Agreement Form to opt in to the Phase 2 zoning conversion
26 process by the May 17, 2019 deadline and were subsequently submitted as
27 the second batch of properties for review and recommendation by the EPC;
28 and

29 WHEREAS, four (4) parcels (lots 1-4) have been removed from the
30 proposed zoning conversion boundary for a premises that included 7 parcels
31 (Form ID 697) at the request of the property owner since the EPC, so that only
32 lots 5-7 will remain in the process for conversion to MX-H under the
33 nonconforming use category; and

1 WHEREAS, one property owner provided additional information for Form ID
2 417 supporting a zoning conversion from MX-H to R-MC, rather than the MX-T
3 that staff initially recommended and EPC reviewed and recommended; and

4 WHEREAS, one property owner opted out of the Phase 2 zoning
5 conversion process for Form ID 1130; and

6 WHEREAS, the City of Albuquerque, as property owner, opted out of the
7 Phase 2 zoning conversion process for Form ID 1405 and Form ID 1473; and

8 WHEREAS, Planning staff confirmed the eligibility of these Batch 2
9 properties and recommended appropriate zoning conversions to address the 5
10 issues in R-18-29, meet the goals of IDO implementation, and further the goals
11 and policies in the Comp Plan; and

12 WHEREAS, Planning staff either confirmed the zoning conversion
13 requested by the property owner as appropriate or recommended a more
14 appropriate zoning conversion given the existing lawful use of the property
15 and the surrounding land use and zoning patterns; and

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

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

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

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

32 WHEREAS, concerns about the resulting changes to zoning patterns from
33 Phase 2 zoning conversions can be addressed through Community Planning

1 Area assessments, which may result in recommendations to City Council for
2 future zoning actions for certain neighborhoods, districts, or corridors, as
3 appropriate; and

4 WHEREAS, on July 11, 2019, the EPC, in its advisory role on land use and
5 planning matters, recommended approval of this request (Project 2018-
6 001843, Case RZ-2019-00035).

7 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
8 ALBUQUERQUE:

9 Section 1. ZONING CONVERSION RULES. The City Council hereby adopts
10 zoning conversion rules for the properties in Batch 2 of the Phase 2 zoning
11 conversion process as listed in Exhibit X.

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

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

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

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