

**Notice of Decision
City Council
City of Albuquerque
October 9, 2019**

AC-19-11 Project #2018-001924/RZ-2018-00063: Land Development Consultants LLC, Agents for Circle K Stores, Inc., appeals the decision of the Environmental Planning Commission (EPC) to deny a zone map amendment for Tract A and Tract B, a plat of Tracts, A, B, and C, Lands of Romero-Page Etal., zoned M-XL, to NR-C, located at 1100 Old Coors Dr. SW, between Bridge Blvd. SW and San Ygnacio Rd. SW, containing approximately 4.5 acres

Decision

On October 7, 2019, by a vote of 8 FOR, 0 AGAINST, the City Council voted to deny the appeal by accepting and adopting the recommendation and findings of the Land Use Hearing Officer.

Excused: Harris

**IT IS THEREFORE ORDERED THAT THE APPEAL IS DENIED, THE EPC IS AFFIRMED,
AND THE ZONE MAP AMENDMENT IS DENIED**

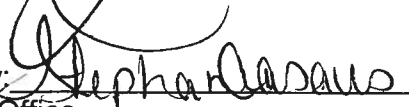
Attachments

1. Land Use Hearing Officer's Recommendation
2. Action Summary from the October 7, 2019 City Council Meeting

A person aggrieved by this decision may appeal the decision to the Second Judicial District Court by filing in the Court a notice of appeal within thirty (30) days from the date this decision is filed with the City Clerk.


Date: 10.10.19

Klarissa J. Peña, President
City Council

Received by:  Date: 10/10/19
City Clerk's Office

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ALBUQUERQUE CITY CLERK

**BEFORE THE CITY OF ALBUQUERQUE
LAND USE HEARING OFFICER**

APPEAL NO. AC-19-5

Project: PR-2018-001924; RZ-2018-00063; VA-2019-00216

**Land Development Consultants LLC,
Agents for Circle K Stores, Inc., Appellants,**

1 This is an appeal regarding a zone change decision of the Environmental Planning
2 Commission (EPC). The EPC denied a zone-change application from an existing MX-L zone
3 to a proposed NR-C zone under the Integrated Development Ordinance (IDO). The
4 Appellants are the applicants to the zone-change request. The location of the proposed zone-
5 change includes three abutting separate tracts of land totaling approximately 4.5-acres
6 situated at the southeast corner of the intersection of Old Coors Dr., SW and Bridge Blvd.,
7 SW. The address of the site is 1100 Old Coors Dr., SW. Currently, on one of the three tracts,
8 a 0.8-acre tract, there is a Valero gas-station with a small convenience store located at the
9 corner tract on the site of Bridge Blvd. and Old Coors Dr., SW. The other two tracts are
10 essentially vacant.

11 After reviewing the full record, hearing arguments and testimony from the parties and
12 from City Planning Staff, I find that the Appellants have not met their burden of proof under
13 the IDO for an appeal. I also find that the decision of the EPC denying the zone-change is
14 well-supported with substantial evidence in the record. I therefore respectfully recommend
15 that the appeal be denied.

16

17 **I. BRIEF RELEVANT HISTORY**

18 The record shows that the zone-change request began with a City pre-application
19 review meeting between the applicants and the City Planning Staff on October 18, 2018 [R.
20 99]. Apparently, a second meeting with City Staff was held on October 23, 2018 [R. 101].
21 The record further reflects that on December 21, 2018, Land Development Consultants, LLC
22 on behalf of Circle K Stores Inc. (the Applicants) submitted their zone-change application to
23 the EPC [R. 82]. In the request, the Applicants' claim that the purpose for the zone-change
24 is to raze the existing gas-station and rebuild a larger facility (4,968 sq. ft. on 2-acres) to
25 handle "twice the number of [fuel] dispensers" [R. 86]. In addition, the record reflects that
26 the applicants intend to utilize the remaining 2.5-acre zone-change site for an upgraded storm
27 water facility and for future unidentified commercial uses [R. 86-87].

28 The zone-change application was initially scheduled for the EPC's April 11, 2019
29 public hearing. On March 11, 2019, City Planning Staff advised the Applicants that their
30 application was "incomplete." In a four-page memo to them, City Staff laid out several
31 deficiencies in the application and asked the Applicants to clarify issues and add more detail
32 to their application [R. 110- 112]. Apparently, on March 22, 2019, the applicants responded
33 to the deficiency letter [R. 106].¹ But the response was apparently insufficient, because the
34 record also shows that the Applicants were sent two more subsequent deficiency letters; one
35 on March 22, and another on April 9, 2019 respectively [R. 106 and 103]. The affected

¹ I note that the March 22, 2019 response to the March 11, 2019 deficiency letter is not in the record. However, it is not necessary or particularly relevant to the appeal because there is a subsequent revised application which was submitted to the EPC.

36 neighborhood associations did not request a City sponsored facilitated meeting with the
37 Applicants [R. 22]. However, the Applicants did hold a neighborhood meeting with residents
38 of the nearby Los Altos subdivision [R. 15].

39 In the meantime, the EPC hearing was deferred from the April 11 docket to the EPC's
40 May 9, 2019 hearing docket [R. 74]. The Applicants revised its policy arguments to justify
41 the zone-change request in a letter it submitted to the EPC dated April 25, 2019 [R. 86].
42 Then, at its May 9, 2019 public hearing on the zone-change, the hearing was again deferred
43 by the EPC to June 13, 2019 [R. 146]. At its June 13, 2019 public hearing the EPC took up
44 the substantive issues and after a full hearing voted to deny the requested zone-change [146-
45 163]. In a detailed Official Notification of Decision, the EPC explained its rationale for the
46 denial [R. 12]. This timely appeal followed [R. 5]. The City Council referred this appeal to
47 its Land Use Hearing Officer (LUHO), and a LUHO hearing on the record was held on
48 August 21, 2019.

49 A review of an appeal is a whole record review to determine whether the EPC acted
50 fraudulently, arbitrarily, or capriciously; or whether the EPC's decision is not supported by
51 substantial evidence or if the EPC erred in applying the requirements of the IDO, a plan,
52 policy, or regulation [IDO, § 14-16-6-4(U)(4)]. At the appeal level of review, the decision
53 and record must be supported by substantial evidence to be upheld. The LUHO may
54 recommend to the City Council that an appeal be affirmed in whole or in part or reversed in
55 whole or in part. The LUHO has authority to remand an appeal in whole or in part [IDO, §
56 14-16-6-4(U)(1)(d)].

57 In addition, in § 6-4(F)(2) of the IDO, in a zone-change request, the Applicants bear

58 the burden of providing a sound justification for the request, and the justification must be
59 based on substantial evidence. Because in this appeal the applicants are the appellants, the
60 Appellants bear the burden to demonstrate that the EPC erred in one or more of the manners
61 referenced above.

62

63 II. DISCUSSION

64

65 Without the detail ordinarily required to justify appeals, Appellants first challenge EPC
66 findings 6.A and 6.B [R. 10]. EPC findings 6.A and 6.B are primary reasons for the EPC's
67 denial of the application [R. 18]. In their written appeal, and in their oral arguments at the
68 LUHO hearing, Appellants simply argue that the EPC misapplied the facts to the IDO [R. 10].
69 Appellants have not shown with any particularity how the EPC misapplied the facts or what
70 facts were misapplied. Without more, Appellants also generally claim that they interpret the
71 IDO differently than the EPC. [8-21-19 LUHO Hrg.]. Although on these issues Appellants
72 have entirely failed to meet their burden of proof with any specific evidence or a detailed
73 argument, a brief discussion of EPC findings 6.A and 6.B are in order.

74

75 EPC findings 6.A and 6.B concern the policies supporting how the City views land use
76 growth at Major Transit Corridors like the one at the zone-change site. It is undisputed that the
77 proposed zone-change site is located within the Bridge/Tower Blvd Major Transit Corridor [R.
78 65]. It is also undisputed that the zone-change site is a designated "Area of Change" under the
79 Comprehensive Plan (Comp. Plan). An Area of Change is an area within the City in which
80 higher densities and intensities of land uses are directed [Comp. Plan, 4-5]. In addition:

80

Areas of Change highlight places in Centers, Corridors, and

81 Metropolitan Redevelopment Areas where new development and
82 redevelopment are desired. They include vacant land and commercial
83 or industrial areas that would benefit from infill or revitalization.
84 Directing growth to Areas of Change is intended to reduce pressure on
85 established neighborhoods and rural areas to absorb growth and infill
86 at a scale and density that could negatively affect their character
87 [Comp. Plan, 4-13].
88

89 Implicit in EPC findings 6.A and 6.B is a policy judgement that mixed uses which are
90 allowed in an MX-L zone allow uses that are more compatible with a Major Transit Corridor
91 than the exclusive commercial uses contemplated in the NR-C zone. The policy rationale for
92 this is well-supported by the record. City Planning Staff advised the EPC that in the Comp.
93 Plan, mixed uses including residential uses are better suited in Major Transit Corridors and in
94 designated Areas of Change. In addition, in its finding 6.B, the EPC found that NR-C zones
95 generally include more auto-oriented uses than mixed uses do and conversely, mixed-use zones
96 tend to encourage pedestrian elements, more so than the uses in the NR-C zones do [R. 18].
97 The policy framework in the Comprehensive Plan supports findings 6.A and 6.B and are
98 therefore rationally related to the EPC's decision of denial. Specifically, in the Comp. Plan, it
99 is evident that mixed-use zones are better served by transit than are non-mixed-use zones [See
100 Comp. Plan, 5-4 and 5-23]. Because the proposed NR-C zone does not allow for mixed uses
101 as does the existing MX-L zone, I find that EPC findings 6.A and 6.B, are supported by the
102 Comp. Plan. I also find that the NR-C zone does not promote the Comp. Plan's transit
103 corridor policies to the extent that that the MX-L's mixed-use zone does. Said another way,
104 because the zone-change site is within a Transit Corridor, and an Area of Change, as well as
105 currently zoned for mixed uses, the EPC did not err in implicitly finding that the MX-L zone
106 is better suited for the site than is the NR-C zone. Thus, EPC findings 6.A and 6.B are not

107 erroneous. I also find that, when compared to the existing MX-L zone, the zone-change
108 conflicts with the “intent of a Major Transit Corridor designation of Bridge Blvd.” [R. 27].
109 Finally, regarding EPC findings 6.A and 6.B, I find that the Appellants have not satisfied their
110 burden of proof to show otherwise. At the LUHO hearing the Appellants argued that they
111 believe the evidence in the record supports the zone-change, but in an appeal, that is not the
112 standard for judging whether the EPC erred. The question is not whether evidence exists to
113 support the opposite result. The inquiry in an appeal concerns whether the evidence in the
114 record supports the result reached by the EPC.

115 Another primary basis for the EPC’s denial of the zone-change request can be found in
116 its finding number 7 (and its subparts) [R. 13]. In finding number 7, the EPC essentially found
117 that the Applicants failed to show with substantial evidence that they can satisfy significant
118 tests in the IDO required for a zone-change. First, the EPC specifically found that the
119 Applicants did “not adequately demonstrate” that the zone-change would be more
120 advantageous to the community as required in IDO, § 6-7(F)(3)(c)3 [R. 14].² Second, the
121 EPC found that the Applicants failed to “adequately address the issue of potential harm to the
122 neighborhood and the community” under IDO, § 6-7(F)(3)(d) [R. 14]. Having reviewed the
123 record, I find that the EPC’s findings regarding the “more advantageous” test in § 6-7(F)(3)(c)3
124 and the “harm” test in § 6-7(F)(3)(d) are supported with substantial evidence in the record. I
125 also find that both tests necessarily implicate the allowance for the sale of liquor at the site.

2 To support a zone-change under the IDO, an Applicant bears the burden to show with substantial evidence that “the existing zoning is inappropriate” because: (1) the zone classification was a mistake; (2) there’s been a significant change in neighborhood conditions; or (3) a different zone is more advantageous to the community [IDO, § 6-7(F)(3)(d)]. In their application, the Applicants attempted to justify their request using the “more advantageous” criteria.

126 The EPC astutely and discerningly grasped that the underlying purpose of the zone-
127 change request was not merely to upgrade the fueling and retail services at the existing gas-
128 station because these actions can be done without a zone-change. The chief purpose of the
129 zone-change is to bring the Applicants closer to being able to lawfully sell liquor at the site.
130 More so than the other above aspects of the Applicants request, it is this use (retail liquor sales)
131 that is the crux and the most problematic for the Applicants. EPC finding 7.D generally
132 concerns this issue.

133 First, EPC members at the hearing found that the Comprehensive Plan goals asserted
134 by the Applicants as justification for the zone-change are all similarly applicable if the zone
135 remained MX-L [R. 153]. However, it is undisputed that in certain MX-L zones liquor retail
136 sales are prohibited [IDO, § 4-3(D)(36)(e)]. Gas stations (or fueling stations as they are called
137 in the IDO) are conditionally permissive use in the MX-L zone [IDO, Table 4-2-1]. And
138 because the site already has a gas-station at the site, a zone-change is not required to “upgrade”
139 the site, building and use, and therefore the policy goals asserted to support the expansion of
140 the existing “fueling station” use is also applicable to the existing uses and zone.

141 Notably though, in the proposed NR-C zone the sale of liquor is permissible [IDO,
142 Table 4-2-1]. However, because the site and the sale of liquor is also “within 500 feet of any
143 Residential or NR-PO zone district or any group home use,” conditional use approval is also
144 required [IDO, § 4-3(D)(36)(c)]. It is undisputed that there exists a residential subdivision
145 across Bridge Blvd., SW, north of the subject site, zoned R-1B and is within 500 feet of the
146 subject site [R. 49]. Thus, under the NR-C zone, the applicants would be required to obtain
147 conditional use approval from the City’s Zoning Hearing Examiner (ZHE) before it could sell

148 liquor at the site if the zone changed to NR-C. Notwithstanding the ZHE process though,
149 Appellants failed to analyze the NR-C zone regarding liquor sales within 500-feet of a
150 residential zone under the Comp. Plan., and specifically under § 6-7(F)(3)(d) of the IDO. To
151 meet their burden of proof for the NR-C zone-change, under IDO, § 6-7(F)(3)(d), the
152 Applicants were required to show with substantial evidence that liquor retail as a fundamental
153 component of the fueling station use, “is not harmful to the adjacent community.”³ And if
154 there is evidence of a harmful impact, it must be demonstrated that Appellants can “adequately
155 mitigate those harmful impacts” [IDO, § 6-7(F)(3)(d)]. As shown below, in the record, there
156 are allegations that the sale of liquor at the proposed site may be harmful to the neighborhood.

157 However, the record is clear that Appellants did not meet their burden. Appellants
158 altogether failed to articulate or otherwise offer any evidence, one way or the other, regarding
159 the community impacts of liquor sales. And as indicated above, with respect to the application
160 site and the proposed changes in land uses planned for the site, liquor is what chiefly
161 differentiates the two zones (MX-L and NR-C). Moreover, liquor is the decisive issue for the
162 neighborhoods. I find that although the EPC did not expressly include liquor retail in its finding
163 7, EPC’s finding 7.D generally acknowledges this basic but significant fact.

164 Instead of supplementing the record to address the open question of whether liquor
165 sales harm the neighborhood, Appellants claim that the EPC erred because it concluded,
166 without evidence, that retail liquor sales are potentially harmful. The EPC did not make any
167 such conclusion. Although it could have, it didn’t need to because it was Appellants’ burden

3 I note that although there is a similar test for conditional use approval, the advent of liquor retail is still a relevant, necessary inquiry for a zone-change under § 6-7(F)(3)(d) as a (albeit conditionally) “permissive use.” In Table 4-2-1 of the IDO “liquor retail” is unmistakably a “use” and therefore Appellants should have evaluated it under § 6-7(F)(3)(d).

168 to show that “the zone change does not include permissive uses that would be harmful to
169 adjacent property, the neighborhood, or the community...” [IDO, § 6-7(F)(d)]. And, as stated
170 above, Appellants failed to make that showing in general and specifically with liquor as an
171 allowed use in the NR-C zone. In fact, Appellants ignored the open question altogether.

172 Notwithstanding Appellants’ failures, the record does include at least a dozen letters
173 from residents alleging the retail liquors sales will be harmful to their neighborhood [R. 37-
174 43, 135-143]. The City Planner assigned to review Appellants’ application also advised the
175 EPC that:

176 Neighbors, mostly from the Los Altos subdivision to the north, are
177 concerned about alcohol sales, light pollution, traffic, noise, crime,
178 potential for alcohol-related incidents, and other permissive uses
179 [R. 22].
180

181 Appellants were clearly placed on notice that the neighbors believe that retail sales of liquor
182 can be potentially harmful to the neighborhood. And although the record shows that Appellants
183 met with the Los Altos subdivision residents to discuss the issue of liquor, Appellants did not
184 deal with the issue in any meaningful way in their application and in terms of § 6-7(F)(3)(d)
185 of the IDO. In addition, Appellants all but ignored the issue at the EPC hearing, even when it
186 was the focus of opposing testimony.

187 At the EPC hearing the EPC heard testimony from several area residents regarding their
188 opinions of the harmful impacts retail liquor sales will have on their neighborhood [R. 155-
189 160]. The neighboring residents brought to the forefront the issue of harmful impacts of
190 liquor sales under § 6-7(F)(3)(d) and Appellants failed to rebut the testimony altogether.
191 However, they also failed to offer any meaningful evidence on the issue, as well as provide
192 adequate evidence of mitigation as required in the IDO. Thus, it cannot be over emphasized

193 that Appellants disregarded what was the most important aspect of their application (at least
194 to the EPC and to the neighborhood residents)—the advent of liquor retail sales at the site.

195 I also note that in the LUHO appeal hearing, Appellants similarly disregarded the issue
196 [See issues 4 and 5 of Appellants' appeal, R. 10-11]. As stated above, they merely responded
197 with the conclusion that they disagreed with the proposition that liquor is harmful to the
198 neighborhood. Accordingly, I find that the EPC appropriately concluded that the Appellants'
199 application was inadequate insofar as how they dealt with § 6-7(F)(3)(d) [R. 19]. I also find
200 that there is substantial evidence in the record to support EPC finding 7.D.

201 In conclusion, I find that the EPC's decision is well-supported with substantial evidence
202 in the record. Specifically, there is substantial evidence in the record to support a finding that
203 Appellants failed to satisfy their zone-change burdens under § 6-7(F)(3)(c)3 (more
204 advantageous requirement) and under § 6-7(F)(3)(d) (potential harm requirement) of the IDO.
205 In addition, regarding their appeal, Appellants similarly failed to meet their burdens of proof
206 to show that the EPC erred in its decision denying the application. Accordingly, I respectfully
207 recommend that the EPC's decision be upheld, and this appeal should be denied.



Steven M. Chavez, Esq.
Land Use Hearing Officer

September 2, 2019

Copies to:

Appellants,
Party Opponents,
City Staff



City of Albuquerque

Albuquerque/Bernalillo
County
Government Center
One Civic Plaza
Albuquerque, NM 87102

Action Summary

City Council

Council President, Klarissa J. Peña, District 3
Vice-President, Cynthia D. Borrego, District 5

Ken Sanchez, District 1; Isaac Benton, District 2
Brad Winter, District 4; Patrick Davis, District 6
Diane G. Gibson, District 7; Trudy E. Jones, District 8
Don Harris, District 9

Monday, October 7, 2019

5:00 PM

Vincent E. Griego Chambers
One Civic Plaza NW

Albuquerque/Bernalillo County Government Center

TWENTY-THIRD COUNCIL - FORTY-FOURTH MEETING

1. ROLL CALL

Present 9 - Klarissa Peña, Cynthia Borrego, Ken Sanchez, Isaac Benton, Brad Winter, Patrick Davis, Diane Gibson, Trudy Jones, and Don Harris

2. MOMENT OF SILENCE

Pledge of Allegiance - Isaac Benton, Councilor, District 2

3. PROCLAMATIONS & PRESENTATIONS

4. ECONOMIC DEVELOPMENT DISCUSSION

5. ADMINISTRATION QUESTION & ANSWER PERIOD

6. APPROVAL OF JOURNAL

September 18, 2019 Special Meeting

7. COMMUNICATIONS AND INTRODUCTIONS

8. REPORTS OF COMMITTEES

A motion was made by Councilor Benton to accept the September 25, 2019 Land Use, Planning and Zoning Committee reports. The motion failed by the following vote:

For: 2 - Sanchez, and Benton

Against: 6 - Peña, Borrego, Winter, Gibson, Jones, and Harris

Excused: 1 - Davis

A motion was made by Councilor Jones to reject the September 25, 2019 Land Use, Planning and Zoning Committee reports for R-19-190 and R-19-191. The motion carried by the following vote:

For: 7 - Peña, Borrego, Sanchez, Winter, Gibson, Jones, and Harris

Against: 1 - Benton

Excused: 1 - Davis

Pursuant to Council Rules of Procedure, this action resulted in the failure of these bills.

R-19-190

Establishing A Process For The City Council To Consider Re-Adoption Of The Goals And Policies Of Sector Development Plans Listed In Appendix D Of The Comprehensive Plan Until The First Community Planning Area Assessment Cycle Is Complete And The Comprehensive Plan Is Updated (Benton, Peña)

R-19-191

Establishing A Process For The City Council To Consider Reenactment Of The Sector Development Plans Listed In Appendix D Of The Comprehensive Plan, Including The Regulatory Aspects Of The Plans (Benton and Peña, by request)

Deferrals/Withdrawals

c. O-19-72

Amending §14-20, The "Dilapidated Commercial Buildings And Properties Ordinance" To Implement Permanent Procedures Following The Conclusion Of A 24-Month Pilot Project (Harris)

A motion was made by Councilor Harris that this matter be Postponed to November 4, 2019. The motion carried by the following vote:

For: 8 - Peña, Borrego, Sanchez, Benton, Winter, Gibson, Jones, and Harris

Excused: 1 - Davis

- h.** O-19-80 Authorizing The Issuance And Sale Of The City Of Albuquerque, New Mexico Taxable Industrial Revenue Bond (Arrive Albuquerque Hotel Project) Series 2019 In The Maximum Principal Amount Of \$22,000,000 To Provide Funds To Finance The Redevelopment, Renovation, Rehabilitation And Equipping Of A Hospitality Project; Authorizing The Execution And Delivery Of An Indenture, Lease Agreement, Bond Purchase Agreement, Bond, And Other Documents In Connection With The Issuance Of The Bond And The Project (Benton, by request)

A motion was made by Councilor Benton that this matter be Postponed to October 21, 2019. The motion carried by the following vote:

For: 8 - Peña, Borrego, Sanchez, Benton, Winter, Gibson, Jones, and Harris

Excused: 1 - Davis

- i.** R-19-178 Amending The Adopted Capital Implementation Program Of The City Of Albuquerque By Supplementing Current Appropriations For The Arenal/Crestview Bluff Open Space Land Acquisition (Peña)

A motion was made by President Peña that this matter be Postponed to November 4, 2019. The motion carried by the following vote:

For: 8 - Peña, Borrego, Sanchez, Benton, Winter, Gibson, Jones, and Harris

Excused: 1 - Davis

9. CONSENT AGENDA: {Items may be removed at the request of any Councilor}

- a.** EC-19-455 Mayor's Recommendation of Award to Paper Plane Branding and Marketing for "Citywide Website Design Services"

A motion was made by Vice-President Borrego that this matter be Approved. The motion carried by the following vote:

For: 8 - Peña, Borrego, Sanchez, Benton, Winter, Gibson, Jones, and Harris

Excused: 1 - Davis

- b.** EC-19-457 Mayor's Appointment of Jonathan R. Hollinger to the Environmental Planning Commission

A motion was made by Vice-President Borrego that this matter be Confirmed. The motion carried by the following vote:

For: 8 - Peña, Borrego, Sanchez, Benton, Winter, Gibson, Jones, and Harris

Excused: 1 - Davis

- c. EC-19-471 Approval of Supplement Agreement with MyDatt Services Inc. d.b.a Block By Block for a Clean, Safe and Friendly Downtown
- A motion was made by Vice-President Borrego that this matter be Approved. The motion carried by the following vote:
- For: 8 - Peña, Borrego, Sanchez, Benton, Winter, Gibson, Jones, and Harris
- Excused: 1 - Davis
- d. EC-19-472 Mayor's Appointment of Mr. Scott Forrester to the Open Space Advisory Board
- A motion was made by Vice-President Borrego that this matter be Confirmed. The motion carried by the following vote:
- For: 8 - Peña, Borrego, Sanchez, Benton, Winter, Gibson, Jones, and Harris
- Excused: 1 - Davis
- e. OC-19-40 Appointment of Ms. Barbara Taylor to the Open Space Advisory Board
- A motion was made by Vice-President Borrego that this matter be Confirmed. The motion carried by the following vote:
- For: 8 - Peña, Borrego, Sanchez, Benton, Winter, Gibson, Jones, and Harris
- Excused: 1 - Davis
- f. R-19-185 Approving And Authorizing The Acceptance Of Grant Funds Based On Applications For Federal And State Assistance For The Senior Corps Programs Including The Foster Grandparent Program (FGP), The Retired And Senior Volunteer Program (RSVP), And The Senior Companion Program (SCP), With The Corporation For National And Community Service (CNCS) And The New Mexico Aging And Long Term Services Department (ALTSD) And Providing For An Appropriation To The Department Of Senior Affairs In Fiscal Year 2020 (Gibson)
- A motion was made by Vice-President Borrego that this matter be Passed. The motion carried by the following vote:
- For: 8 - Peña, Borrego, Sanchez, Benton, Winter, Gibson, Jones, and Harris
- Excused: 1 - Davis

10. GENERAL PUBLIC COMMENTS

11. ANNOUNCEMENTS

12. PUBLIC HEARINGS: {Appeals, SAD Protest Hearings}

- a. AC-19-11 Project #2018-001924/RZ-2018-00063: Land Development Consultants LLC, Agents for Circle K Stores, Inc., appeals the decision of the Environmental Planning Commission (EPC) to deny a zone map amendment for Tract A and Tract B, a plat of Tracts, A, B, and C, Lands of Romero-Page Etal., zoned M-XL, to NR-C, located at 1100 Old Coors Dr. SW, between Bridge Blvd. SW and San Ygnacio Rd. SW, containing approximately 4.5 acres
- A motion was made by Councilor Jones To Accept the Land Use Hearing Officer Recommendation and Findings. The motion carried by the following vote:**
- For:** 8 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, and Jones
- Excused:** 1 - Harris
- b. AC-19-12 Project PR-2018-001198/ VA-2019-00247/ VA-2019-00188/ VA-2019-00190: Rene Horvath Appeals the Decision of the Environmental Planning Commission (EPC) to Approve Two Variances for all or a portion of Tract 1 and Tract 2, Bulk Land Plat of The Trails Unit 3A, zoned R-1B and R-1D, located on Woodmont Ave. NW, between the Petroglyph National Monument and Paseo del Norte Blvd. NW, containing approximately 20.4 acres
- A motion was made by Councilor Benton To Accept the Land Use Hearing Officer Recommendation and Findings. The motion carried by the following vote:**
- For:** 9 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris

13. APPROVALS: {Contracts, Agreements, and Appointments}

14. FINAL ACTIONS

- a. O-19-56 C/S Amending Article XII, Sections 2, 3, 5, And 8 Of The City Charter, And Amending Article XIII, Section 4, Of The City Charter (Peña, Harris, Sanchez, Borrego)
- A motion was made by Councilor Sanchez that this matter be Passed. The motion carried by the following vote:**
- For:** 9 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris
- b. O-19-57 C/S Amending The Lobbyist And Lobbyist Organization Registration And Disclosure Ordinance At Sections 2-3-2, 2-3-3, 2-3-4, 2-3-5, AND 2-3-7 (Peña, Harris, Sanchez, Borrego)
- A motion was made by Councilor Davis that this matter be Amended. Councilor Davis moved Floor Amendment No. 1. The motion carried by the following vote:**

For: 9 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris

A motion was made by Councilor Sanchez that this matter be Passed as Amended. The motion carried by the following vote:

For: 9 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris

d. O-19-73

Relating To The Redevelopment, Leasing And Sale Of A Metropolitan Redevelopment Project And The Issuance Of Metropolitan Redevelopment Revenue Bonds Payable From Rental Payments Therefor; Approving The Metropolitan Redevelopment Application Entitled "Broadstone Nob Hill Metropolitan Redevelopment Bond Application"; Authorizing The Acquisition Of Land And Existing Improvements And Construction Of A Building Within The Central/ Highland/ Upper Nob Hill Metropolitan Redevelopment Area; Authorizing The Disposition By Lease And Sale Of The City's Interest In Such Project To Broadstone Nob Hill, LLC, Its Successors And Assigns; Authorizing The Issuance And Sale Of The City Of Albuquerque, New Mexico Metropolitan Redevelopment Revenue Bonds Series 2020 In The Maximum Principal Amount Of \$21,500,000 To Provide Funds To Finance A Portion Of The Costs Of The Construction Of The Project (Davis, by request)

A motion was made by Councilor Davis that this matter be Passed. The motion carried by the following vote:

For: 9 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris

e. O-19-76

C/S Amending Chapter 2, Article 6, Part 11 Of The Revised Ordinances Of Albuquerque, The "Public Safety Tax Advisory Board Ordinance", To Redefine The Composition, And Roles And Responsibilities Of The Public Safety Tax Review Board (Benton)

A motion was made by Councilor Benton that this matter be Passed. The motion carried by the following vote:

For: 9 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris

f. R-19-197

Amending The Adopted Capital Implementation Program Of The City Of Albuquerque By Approving New Projects From The Proceeds Of City Of Albuquerque, New Mexico Gross Receipts Tax/Lodgers' Tax Refunding And Improvement Revenue Bonds Series 2019A (Peña)

A motion was made by Councilor Sanchez that this matter be Amended. Councilor Sanchez moved Floor Amendment No. 1. The motion carried by the following vote:

For: 5 - Peña, Borrego, Sanchez, Winter, and Harris

Against: 4 - Benton, Davis, Gibson, and Jones

Councilor Winter moved Floor Amendment No. 2.

A motion was made by Councilor Sanchez to Table Floor Amendment No. 2. The motion carried by the following vote:

For: 9 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris

A motion was made by Councilor Sanchez that this matter be Amended. Councilor Sanchez moved Floor Amendment No. 3. The motion carried by the following vote:

For: 9 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris

A motion was made by President Peña to take Floor Amendment No. 2 from the Table. The motion carried by the following vote:

For: 9 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris

A motion was made by President Peña that this matter be Amended. Councilor Peña moved Amendment No. 1 to Floor Amendment No. 2. The motion carried by the following vote:

For: 9 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris

A motion was made by Councilor Winter that this matter be Amended. Councilor Winter moved Floor Amendment No. 2, as Amended. The motion carried by the following vote:

For: 9 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris

A motion was made by President Peña that this matter be Passed as Amended. The motion carried by the following vote:

For: 8 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, and Harris

Against: 1 - Jones

g. O-19-77

F/S Authorizing The Issuance And Sale Of The City Of Albuquerque, New Mexico Tax Refunding And Improvement Revenue Bonds In Two Series In An Aggregate Principal Amount Not To Exceed \$47,000,000: (I) Gross Receipts Tax/Lodgers' Tax Refunding And Improvement Revenue Bonds, Series 2019A In The Maximum Principal Amount Of \$37,000,000, And (II) Gross Receipts Tax Refunding Revenue Bonds, Series 2019B In The Maximum Principal Amount Of \$10,000,000 For The Purpose Of (A) Financing The Cost Of Refunding The City's Outstanding Gross Receipts Tax/Lodgers' Tax Refunding Revenue Bonds, Series 2009A And The City's Outstanding Gross Receipts Tax Refunding Revenue Bond, Series 2009B, And (B) Studying, Designing, Developing, Constructing, Reconstructing, Rehabilitating, Renovating, Modernizing, Signing, Enhancing And Otherwise Improving The City's Convention Center And Other Tourist-Related Facilities and Attractions (Davis, by request)

A motion was made by Councilor Davis that this matter be Substituted. The motion carried by the following vote:

For: 9 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris

A motion was made by Councilor Davis that this matter be Passed as Substituted. The motion carried by the following vote:

For: 9 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris

j. R-19-186

Extending The Moratorium Established For The Section Of Irving Boulevard From Kayenta Place To Rio Los Piños Drive Through December 31st 2020 (Borrego)

A motion was made by Vice-President Borrego that this matter be Passed. The motion carried by the following vote:

For: 9 - Peña, Borrego, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris

15. OTHER BUSINESS: {Reports, Presentations, and Other Items}

a. OC-19-37

Internal Audit's Annual Report for Fiscal Year 2019

A motion was made by President Peña that this matter be Receipt Be Noted. The motion carried by the following vote:

For: 8 - Peña, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris

Excused: 1 - Borrego

b. OC-19-38

The Office of Inspector General's Annual Report for Fiscal Year 2019

A motion was made by President Peña that this matter be Receipt Be Noted. The motion carried by the following vote:

For: 8 - Peña, Sanchez, Benton, Winter, Davis, Gibson, Jones, and Harris

Excused: 1 - Borrego