

# CITY OF ALBUQUERQUE



## *Planning Department*

*Brennon Williams, Interim Planning Director*

### *Development Review Division*

600 2nd Street NW – 3rd Floor

Albuquerque, NM 87102

## NOTICE OF APPEAL

October 25, 2019

### TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on October 24, 2019. 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-19-17**

**PLANNING DEPARTMENT CASE FILE NUMBER:**

**PR-2019-002663, RZ-2019-00043**

PO Box 1293

Albuquerque

NM 87103

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

**APPLICANT: Sharon & Bill Stepler**  
**8220 Burdock St. NW**  
**Albuquerque NM, 87120**

**Sandy & Bob Lujan**  
**8216 Burdock St. NW**  
**Albuquerque NM, 87120**

**Westside Coalition of NA's**  
**Dr. Joe L. Valles**  
**5020 Grande Vista Ct. NW**  
**Albuquerque NM 87120**

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  
Group II U26 VC, LLC & Volcano Cliffs, Inc., 8860 Desert Finch Ln NE, ABQ, NM 87122  
Consensus Planning, Inc., 302 Eight St. NW, ABQ, NM 87102  
Westside Coalition of NAs, Rene Horvath, 5515 Palomino Dr. NW, ABQ, NM 87120  
Westside Coalition of NAs, Harry Hendriksen, 10592 Rio Del Sol NW, ABQ, NM 87114  
Paradise Hills Civic Association, Maria Warren 5020 Russell Dr. NW, ABQ, NM 87114  
Paradise Hills Civic Association, Tom Anderson, 10013 Plunkett Dr., NW, ABQ, NM 87114  
Bill Wright, 4112 Blue Ridge Pl., NE, ABQ, NM 87111  
Modulus Architects, Attn: Angela Williamson, 100 Sun Ave. NE, Suite 305, ABQ, NM 87109  
Sharon Stepler, 8220 Burdock St. NW, ABQ, NM 87120  
Rene Horvath, [aboard10@juno.com](mailto:aboard10@juno.com)  
Alan Varela, [avarela@cabq.gov](mailto:avarela@cabq.gov)

*Albuquerque - Making History 1706-2006*



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

Administrative Decisions	Decisions Requiring a Public Meeting or Hearing	Policy Decisions
<input type="checkbox"/> Archaeological Certificate (Form P3)	<input type="checkbox"/> Site Plan – EPC including any Variances – EPC (Form P1)	<input type="checkbox"/> Adoption or Amendment of Comprehensive Plan or Facility Plan (Form Z)
<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 Historic Designation (Form L)
<input type="checkbox"/> Alternative Signage Plan (Form P3)	<input type="checkbox"/> Historic Certificate of Appropriateness – Major (Form L)	<input type="checkbox"/> Amendment of IDO Text (Form Z)
<input type="checkbox"/> Minor Amendment to Site Plan (Form P3)	<input type="checkbox"/> Demolition Outside of HPO (Form L)	<input type="checkbox"/> Annexation of Land (Form Z)
<input type="checkbox"/> WTF Approval (Form W1)	<input type="checkbox"/> Historic Design Standards and Guidelines (Form L)	<input type="checkbox"/> Amendment to Zoning Map – EPC (Form Z)
	<input type="checkbox"/> Wireless Telecommunications Facility Waiver (Form W2)	<input type="checkbox"/> Amendment to Zoning Map – Council (Form Z)
		<b>Appeals</b>
		<input type="checkbox"/> Decision by EPC, LC, ZHE, or City Staff (Form A)

### APPLICATION INFORMATION

Applicant: Sharon & Bill Stepler	Sandy and Bob Lujan	Phone: 464-863-7037 (Stepler)
Address: 8220 Burdock St. NW	8216 Burdock St. NW	Email: 1991sb@gmail.com (Stepler)
City: Albuquerque	State: NM	Zip: 87120
Professional/Agent (if any):		Phone: 505-264-0262 (Lujan)
Address:		Email: sandylujan1968@gmail.com
City:	State:	Zip:
Proprietary Interest in Site:	List all owners:	

### BRIEF DESCRIPTION OF REQUEST

Appeal of EPC 10/10/19 approval of #2019-002663

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

Lot or Tract No.: Part of Lot 1, Lot A-1-A	Block: 2, 3	Unit: 26
Subdivision/Addition: Volcano Cliffs	MRGCD Map No.:	UPC Code:
Zone Atlas Page(s): C-11	Existing Zoning: MX-L	Proposed Zoning: MX-M
# of Existing Lots:	# of Proposed Lots:	Total Area of Site (acres): 16

### LOCATION OF PROPERTY BY STREETS

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

Signature: [Signatures]	Date: 10/24/19
Printed Name: Sharon Stepler, Bill Stepler, Sandy Lujan, Bob Lujan	<input checked="" type="checkbox"/> Applicant or <input type="checkbox"/> Agent

### FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees	Case Numbers	Action	Fees
VA-2019-00384	Appeal	\$130.00			

Meeting/Hearing Date:	Fee Total: \$130.00
Staff Signature: [Signature]	Date: 10-24-19 Project # PR-2019-002663

## 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? NO 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: 2019-002663

☒ Application number of the case being appealed, if applicable: RZ-2019-00043

☒ Type of decision being appealed: EPC Approval

\_\_\_ 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: [Signatures]

Date: 10/24/19

Printed Name: Sharon Stepler Bill Stepler Sandy Lujan Bob Lujan

☒ Applicant or ☐ Agent

**FOR OFFICIAL USE ONLY**

Case Numbers:

Project Number:

VA-2019-00384

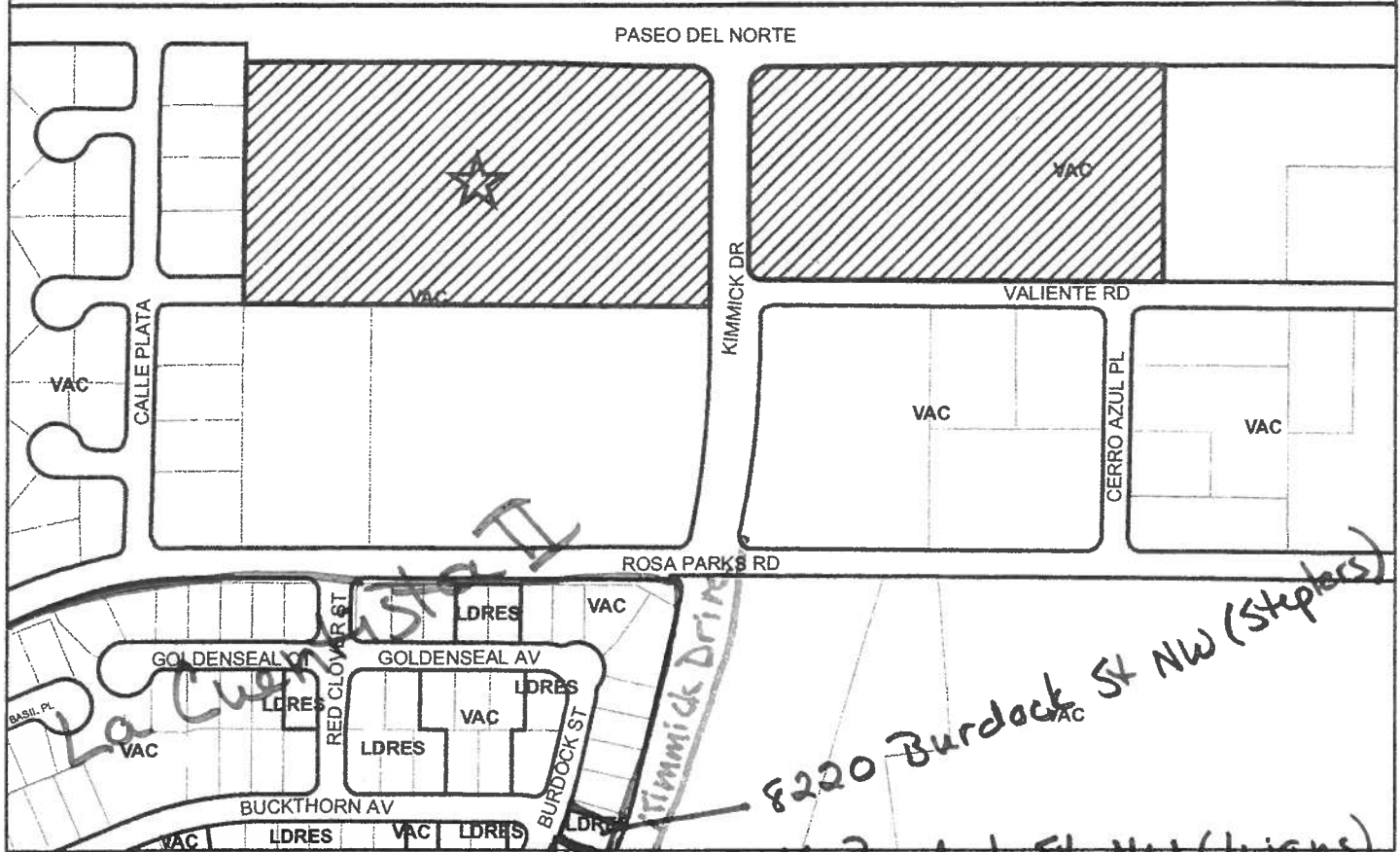
PR-2019-002663

Staff Signature: [Signature]

Date: 10-24-19



Ex. A to Appellants' Statement of Standing  
 Stepler / Lujan Appeal of #2019-002663



## LAND USE MAP

Note: Gray shading  
 indicates County.

Key to Land Use Abbreviations	
LDRES   Low-density Residential	APRT   Airport
MULT   Multi-family	TRANS   Transportation
COMM   Commercial Retail	AGRI   Agriculture
CMSV   Commercial Services	PARK   Parks and Open Space
OFC   Office	DRNG   Drainage
IND   Industrial	VAC   Vacant
INSMED   Institutional / Medical	UTIL   Utilities
ED   Educational	CMTY   Community
	KAFB   Kirtland Air Force Base

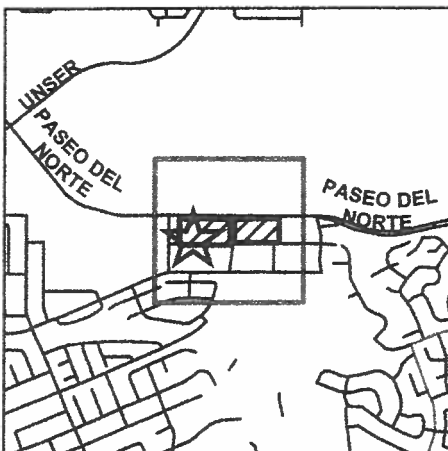


1 inch = 325 feet

Hearing Date:  
 9/12/2019

Project Number:  
 PR-2019-002663  
 Case Numbers:  
 RZ-2019-00043

Zone Map Page:  
 C-11



**APPEAL FROM ENVIRONMENTAL PLANNING COMMISSION APPROVAL  
of  
PROJECT #2019-002663 (RZ-2019-00043 - ZONE MAP AMENDMENT)**

**Appellants' Statement of Standing to Appeal**

Appellants Sharon and Bill Stepler (the “Steplers”) and Sandy and Bob Lujan (the “Lujans”) appeal the Environmental Planning Commission’s (“EPC’s”) October 10, 2019, approval of the above-referenced Zone Map Amendment (the “EPC Decision”). The property covered by the EPC Decision (the “Subject Site”) is approximately 16 acres of unimproved property located at the southwestern and southeastern corners of the intersection of Paseo del Norte and Kimmick Drive, as more particularly described in the EPC Decision.

The Steplers, who live at 8220 Burdock St. NW, Albuquerque, NM 87120, and the Lujans, who live at 8216 Burdock St. NW, Albuquerque, NM 87120, have standing under § 6-4(U)(2)(a)(4) of the Integrated Development Ordinance (“IDO”) and NM Stat. § 3-21-8(B). Appellants are homeowners in La Cuentista II, a new subdivision still under development, which is the neighborhood closest to the Subject Site; their lots back up to Kimmick Drive. *See Ex. A.*<sup>1</sup> Because of their homes’ location, Appellants will suffer particular injury from the more intensive commercial development of the Subject Site permissible under the EPC Decision, as set out in the “Reasons for Appeal” Section below. They are therefore specially and adversely affected by the EPC Decision, as required by the IDO, and are “aggrieved person[s]” within the meaning of NM Stat. § 3-21-8(B).

The La Cuentista II Homeowners Association (“LaC II HOA”) which is still under the developers’ control, has not yet been recognized as a “Neighborhood Association,” as referenced in § 6-3(F), and thus was not part of the neighborhood engagement process.<sup>2</sup> Had LaC II HOA

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<sup>1</sup> Ex. A is based on the Land Use Map attached to the Rezoning Application. Please Note: Although the Land Use Map and the other maps submitted with the Rezoning Application show Kimmick Drive ending at Rosa Parks Road, Kimmick Drive is actually a through street running from Unser Boulevard to Paseo del Norte. Appellants’ lots back up to Kimmick. The more intensive commercial uses permitted by the EPC Decision will inevitably generate greater vehicular traffic on Kimmick Drive than would those uses permitted under the current zoning.

<sup>2</sup> The EPC Decision mentions that “only three neighbors” attended the July 17, 2019, pre-application facilitated meeting. *EPC Decision, p. 6, para. 14.* As Mrs. Stepler brought to the EPC’s attention during the October 10 hearing, Appellants had no notice or opportunity to participate in the procedures for neighborhood engagement set out in IDO §§ 6-4(C) and 6-4-(D), despite La Cuentista’s proximity to the Subject Site, because LaC II HOA was not a

been a recognized Neighborhood Association within the homeowners' control when the rezoning process began, LaC II HOA would clearly have appellate standing under IDO § 6-4(U)(5) and Table 6-4-3 (within 660 feet of the Subject Site); however, the very newness of the La Cuentista II development has effectively deprived Appellants of the possibility of working through LaC II HOA to appeal the EPC Decision. Appellants therefore respectfully submit that it would be arbitrary and capricious to dismiss this appeal solely because their individual homes are more than 330 feet from the Subject Site, and they contend that their rights to due process and equal protection would be violated by a dismissal of this appeal for lack of standing.

Appellants have made appearances of record by submitting written opposition to the Rezoning via email. In addition, Mrs. Stepler spoke in opposition at the EPC's October 10 hearing.

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recognized part of the process. Appellants first learned of the proposed rezoning from the yellow notice sign erected on the Subject Tract shortly before the EPC's September 12 hearing.

**APPEAL FROM ENVIRONMENTAL PLANNING COMMISSION APPROVAL  
of  
PROJECT #2019-002663 (RZ-2019-00043 - ZONE MAP AMENDMENT)**

**Appellants' Statement of the Case (Reasons for Appeal)**

Appellants Sharon Stepler, Bill Stepler, Sandy Lujan, and Bob Lujan contend that the EPC Decision should be overturned for the reasons outlined below and discussed in more detail in the referenced sections of the original September 12, 2019, Staff Report ("OSR"), and the October 10, 2019, Supplemental Staff Report ("SSR"), explaining the planning staff's reasons for recommending denial of the zoning change.

1. The EPC Decision is an arbitrary and capricious action in these respects [*see* IDO § 6-4(U)(4)(a)]:

(a) The Subject Site is not in a designated activity center, yet the zoning change will "...direct[] more intense growth to the subject site" and will "...allow more intense, auto-oriented uses such as drive-through facilities and larger retail stores [.]” (*EPC Decision, Finding 2 and Finding 8 (B) and 8(C)*);

(b) The Volcano Heights Urban Center "...is the appropriate, designated location for commercial and higher-density residential uses and has been relied upon to establish land use patterns in the area." (*SSR, p. 3; emphasis added; see also Comprehensive Plan Policy 11.3.6 (Volcano Mesa) and subparts (b) and (d)*<sup>1</sup>). Residential development is ongoing at La Cuentista II and the entire Volcano Cliffs area, and Appellants and others have purchased new homes with the reasonable expectation that the City would adhere to the policy and goal of directing more intense commercial development to the Volcano Heights Urban Center. The EPC Decision upends these reasonable expectations.

2. The EPC Decision is not supported by substantial evidence on these points [*see* IDO § 6-4(U)(4)(b)]:

(a) There is no evidence in the record to support Finding 8 (rezoning would further Comprehensive Plan goals and policies regarding growth). To the contrary; as detailed throughout the OSR and SSR, the zoning change conflicts with those goals and policies. *See, e.g., OSR, pp. 9-10, pp. 12-13, and pp. 20-21; SSR, p. 3.*

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<sup>1</sup> Policy 11.3.6(b) encourages "...development that is sensitive to the open, natural character of the area and geological and cultural conditions." Policy 11.3.6(d) encourages "...urban development in the Volcano Heights Urban Center [.]”

(b) There is no evidence in the record to support Finding 10 (rezoning would foster complete, healthy communities and would "...contribute to quality of life of residents"). Appellants and other nearby homeowners submitted written opposition to the rezoning request, as did the Westside Coalition, the National Park Service, and the City's own Open Space Division, among others. There is no evidence properly in the record of any residents arguing in favor of the rezoning.<sup>2</sup> As noted above, the EPC Decision itself found that the rezoning would allow "more intense, auto-oriented uses" for the Subject Site. Increased vehicular traffic on Kimmick Drive and elsewhere on Volcano Cliffs, along with the noise and light pollution attendant to more intense development, would degrade the quality of life for Appellants and other neighborhood residents.

3. The EPC Decision is based on erroneous applications of the IDO and the Comprehensive Plan in the following respects [*see* IDO § 6-4(U)(4)(c)]:

(a) The EPC Decision is contrary to the IDO and the Comprehensive Plan, as set out in Parts 1 and 2 of this Statement.

(b) The EPC Decision is contrary to the IDO and the Comprehensive Plan as set out in the planning staff's analysis, which Appellants hereby adopt and incorporate by reference. *See OSR, Sections A (pp. 9-11), Section C (pp. 11-13), and D (pp. 13-15); πSSR, pp. 3-5.*

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<sup>2</sup> During the October 10 hearing, an individual who had appeared as an agent in support of a different rezoning request spoke in support of the application. However, she did not provide a residence address showing that she actually lives anywhere near the Subject Site. Appellants therefore object to considering her remarks as part of the appellate record.



# 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

October 10, 2019

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

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

### LEGAL DESCRIPTION:

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

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

PO Box 1293

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

### FINDINGS:

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

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NM 87103

## OFFICIAL NOTICE OF DECISION

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

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

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

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

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

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

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- C. Policy 5.1.12-Commuter Corridors: Allow auto-oriented development along Commuter Corridors that are higher-speed and higher-traffic volume routes for people going across town, often as limited-access roadways.

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

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

Goal 5.6 City Development Areas: Encourage and direct growth to Areas of Change where it is expected and desired and ensure that development in and near Areas of Consistency reinforces the character and intensity of the surrounding area.

Policy 5.6.2 Areas of Change: Direct growth and more intense development to Centers, Corridors, industrial and business parks, and Metropolitan Redevelopment Areas where change is encouraged.

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

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

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

Policy 5.2.1- Land Uses: Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.

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

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

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

- A. Goal 5.3 Efficient Development Patterns: Promote development patterns that maximize the utility of existing infrastructure and public facilities and the efficient use of land to support the public good.

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

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

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

12. The applicant has justified the request pursuant to Integrated Development Ordinance (IDO) Section 6-7(F)(3)-Review and Decision Criteria for Zone Map Amendments, as follows:

- A. Criterion A: Consistency with the City's health, safety, morals and general welfare is shown by demonstrating that a request furthers applicable Comprehensive Plan Goals and policies (and other plans if applicable) and does not significantly conflict with them. The applicant has adequately demonstrated that the request would further a preponderance of applicable Goals and policies.
- B. Criterion B: The subject site is located wholly in an Area of Change, so this criterion does not apply.
- C. Criterion C: A different zone district (MX-M) would generally be more advantageous to the community as a whole than the existing zoning (MX-L). The additional uses allowed by the MX-M zone may help facilitate development in the area, along a designated Commuter Corridor and adjacent to the Volcano Heights Urban Center, and would provide additional goods and services in close proximity to neighbors and commuters in this developing area.

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

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

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

- E. Criterion E: Infrastructure necessary for the subject site's development is in place, and infrastructure in the area continues to develop. The City Council passed legislation that prioritizes the intersection of Paseo del Norte and Unser Blvds., which is at the heart of the Volcano Heights Urban Center. Bill No. R-18-84 was enacted in November 2018 and includes roadway infrastructure in the City's capital implementation program (CIP).
- F. Criterion F: The subject site is located adjacent to Paseo del Norte Blvd. NW, a commuter corridor. The applicant has demonstrated that the request furthers a preponderance of applicable Comprehensive Plan Goals and policies, and is not relying on the subject site's location to justify the request.
- G. Criterion G: The applicant's justification is not based completely or predominantly on the cost of land or economic considerations. Rather, the applicant has demonstrated that the request furthers a preponderance of applicable Comprehensive Plan Goals and policies.
- H. Criterion H: The request would not apply a zone district different from surrounding zone districts to one small area. The subject site is approximately 16 acres in size and does not constitute a strip of land along a street.
13. The affected neighborhood organizations are the Paradise Hills Civic Association and the Westside Coalition were required to be notified, which the applicant did. Property owners within 100 feet of the subject site were also notified, as required. Though the applicant's letter refers to the portion of Lot 1 north of the vacated ROW of Valiente Rd. NW, because there is no platted lot line, all of Lot 1 is required to be buffered for notification purposes. The corrected buffer resulted in three more parties required to be notified, which the applicant did more than 15 days before the public hearing, as required.

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

**CONDITION:**

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

**APPEAL:** If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **OCTOBER 25, 2019**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 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 14-16-6-4(U) of the IDO, Administration and Enforcement. A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed. It is not possible to appeal EPC Recommendations to City Council; rather, a formal protest of the EPC's Recommendation can be filed within the 15 day period following the EPC's recommendation.

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time

OFFICIAL NOTICE OF DECISION


Project #2019-002263

October 10, 2019

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

Sincerely,

  
For Brennan Williams  
Planning Director

BW/CL

cc: Group II U26 VC, LLC & Volcano Cliffs, Inc., 8860 Desert Finch Ln NE, ABQ, NM 87122  
Consensus Planning, Inc., 302 Eight St. NW, ABQ, NM 87102  
Westside Coalition of NAs, Rene Horvath, 5515 Palomino Dr. NW, ABQ, NM 87120  
Westside Coalition of NAs, Harry Hendriksen, 10592 Rio Del Sol NW, ABQ, NM 87114  
Paradise Hills Civic Association, Maria Warren 5020 Russell Dr. NW, ABQ, NM 87114  
Paradise Hills Civic Association, Tom Anderson, 10013 Plunkett Dr., NW, ABQ, NM 87114  
Bill Wright, 4112 Blue Ridge Pl., NE, ABQ, NM 87111  
Modulus Architects, Attn: Angela Williamson, 100 Sun Ave. NE, Suite 305, ABQ, NM 87109  
Sharon Stepler, 8220 Burdock St. NW, ABQ, NM 87120  
Rene Horvath, [aboard10@juno.com](mailto:aboard10@juno.com)  
Alan Varela, [avarela@cabq.gov](mailto:avarela@cabq.gov)

October 25, 2019

To: Albuquerque Planning Department

Re: **Appeal #VA-2019-00384 - Adding West Side Coalition as Appellant**

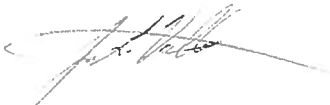
Greetings,

The West Side Coalition of Neighborhood Associations (WSCONA) has approved enjoining the above referenced Appeal.

Standing: 1) the property in question is located within the boundaries of WSCONA - 2) the Land Use Chair for WSCONA, Rene Horvath, testified at the associated EPC Hearing.

Please reference attached co-appellants' approval to enjoin the West Side Coalition of Neighborhood Associations as co-appellant.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Dr. Joe L. Valles", with a long horizontal flourish extending to the right.

Dr. Joe L. Valles for WSCONA



10/25/2019

Appeal #VA-2019-00384 - Adding West Side Coalition as Appellant

Subject: **Appeal #VA-2019-00384 - Adding West Side Coalition as Appellant**  
Date: 10/25/2019 9:38:47 AM Mountain Standard Time  
From: 1991sb@gmail.com  
To: joevalles@aol.com  
Cc: sandylujan1968@gmail.com, 1991sb@gmail.com, aboard10@juno.com

Dear Joe,

We and our co-appellants, Sandy and Bob Lujan, would be very pleased to have the West Side Coalition join us as an additional appellant in Appeal #VA-2019-00-384 (appeal of EPC's 10/10/19 approval of PR 2019-002663).

Thank you.

Sharon & Bill Stepler