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Title: Adopting Zoning Conversion Rules For Properties In Batch 1 Of The Phase 2 Zoning Conversion Effort As Directed By City Council Resolution 18-29 And Updating The Official Zoning Map (Jones and Benton, by request)

Sponsors: Isaac Benton (By Request), Trudy Jones (By Request)

Indexes:

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Attachments: 1. O-65, 2. O-65 Exhibit X.pdf, 3. O-65 EPC Record, 4. O-65Enacted

Date	Ver.	Action By	Action	Result
9/3/2019	2	City Clerk	Published	
8/22/2019	2	Mayor	Not Signed by the Mayor	
8/19/2019	1	City Council	Sent to Mayor for Signature	
8/5/2019	1	City Council	Amended	Pass
8/5/2019	1	City Council	Amended	Pass
8/5/2019	1	City Council	Passed as Amended	Pass
6/17/2019	1	City Council	Accepted Without Recommendation, as Amended	
6/12/2019	1	Land Use, Planning, and Zoning Committee	Amended	Pass
6/12/2019	1	Land Use, Planning, and Zoning Committee	Sent to Council Without Recommendation, as Amended	Pass
5/29/2019	1	President	Referred	
5/29/2019	1	City Council	Introduced and Referred	

CITY of ALBUQUERQUE
TWENTY THIRD COUNCIL

COUNCIL BILL NO. O-19-65 **ENACTMENT NO. _____**

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

ORDINANCE

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Adopting Zoning Conversion Rules For Properties In Batch 1 Of The Phase 2 Zoning Conversion Effort As Directed By City Council Resolution 18-29 And Updating The Official Zoning Map (Jones and Benton, by request)

ADOPTING ZONING CONVERSION RULES FOR PROPERTIES IN BATCH 1 OF THE PHASE 2 ZONING CONVERSION EFFORT AS DIRECTED BY CITY COUNCIL RESOLUTION 18-29 AND UPDATING THE OFFICIAL ZONING MAP.

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

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

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

WHEREAS, the Comp Plan establishes a complementary pair of Development Areas - Areas of Change, where growth is encouraged and higher-density and higher-intensity uses are the most appropriate, and Areas of Consistency, where the existing pattern of uses, density, and intensity is to be maintained and reinforced over time; and

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

WHEREAS, the IDO's stated purpose is to implement the Comp Plan; ensure that all development in the City is consistent with the intent of other plans and policies adopted by

City Council; ensure provision of adequate public facilities and services for new development; protect quality and character of residential neighborhoods; promote economic development and fiscal sustainability of the City; provide efficient administration of City land use and development regulations; protect health, safety, and general welfare of the public; provide for orderly and coordinated development patterns; encourage conservation and efficient use of water and other natural resources; implement a connected system of parks, trails, and open spaces to promote improved outdoor activity and public health; provide reasonable protection from possible nuisances and hazards and to otherwise protect and improve public health; and encourage efficient and connected transportation and circulation systems for motor vehicles, bicycles, and pedestrians; and

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

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

WHEREAS, with the adoption of the IDO, the City Council adopted zoning conversion rules for approximately 750 categories of Special Use zones that were site-specific (i.e. SU-1 zones), approximately 450 Special Use zones established by the adoption of Sector Development Plans (i.e. SU-2 and SU-3 zones), and approximately 20 base zones from the Comprehensive Zoning Code to convert pre-existing zone districts to base zone districts established by the IDO in the Official Zoning Map (§14-16-1-6) that matched as closely as possible the permissive uses in each zone; and

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

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

WHEREAS, the Official Zoning Map is used to apply land use regulations in the IDO to

development throughout the city and in decision-making for zoning map amendments and long-range planning; and

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

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

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

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

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

WHEREAS, there are many undeveloped properties with former Special Use or R-D zoning, which often required further review and decision processes to define allowable uses, that converted in Phase 1 to zones that may not accurately allow uses matching those that were previously anticipated and that are otherwise consistent with surrounding land use and zoning patterns; and

WHEREAS, pursuant to the Phase 1 conversion rules, many properties were converted to PD (which properties may or may not have an approved Site Plan) or NR-BP (which properties may or may not have an approved Master Development Plan) even though they do not all meet the size thresholds for those zone districts established by the IDO, and

although this may not impact the ultimately usability of those properties, it does present a nonconformity that can otherwise be cured; and

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

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

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

WHEREAS, for properties to be eligible through the voluntary downzone criterion, Planning Department staff determined that the property had to have been zoned R-T, R-ML, R-MH, or MX-T and included an existing low-density residential use (e.g. single-family detached house, duplex, or townhouse) and that the property owner requested a less intense or less dense zone district that still allowed the existing use; and

WHEREAS, for properties to be eligible through the floating zone line category, Planning Department staff determined that the property had to have 2 zone districts on one parcel - either a platted parcel (as mapped by AGIS) or deeded parcel (as mapped by the Bernalillo County Assessor) - and that the zoning conversion would be completed along lot lines documented in the AGIS layer called "City Parcel"; and

WHEREAS, for properties to be eligible through the prior Special Use or R-D zoning criterion, Planning Department staff determined that the property had to be undeveloped (i.e. contained no structure up to the time the Phase 2, Batch 1 properties were submitted to the Environmental Planning Commission for review and recommendation) and had

previously been zoned SU-1, SU-2, SU-3, or R-D; and

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

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

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

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

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

WHEREAS, in some cases a platting action may be needed to create a platted parcel to be mapped in the AGIS layer "City Parcel" that corresponds spatially with the piece of land on which the property owner desires the zoning conversion; and

WHEREAS, the Planning Department conducted public outreach efforts that included advertisements in print media, online media, and radio; inserts mailed with the Property Tax Bill to all property owners in Albuquerque; tabling at community events; attendance at Neighborhood Association meetings; and office hour appointments; and

WHEREAS, owners of 122 eligible properties signed a Property Owner Request and Agreement Form to opt in to the Phase 2 zoning conversion process by the submittal date of the first batch of properties for review and recommendation by the Environmental Planning Commission; and

WHEREAS, owners of 4 eligible properties (all of which were in Areas of Consistency, with Form ID number 14 under Criterion 1 Nonconforming Use and Form ID numbers 128-130 under Criterion 5 PD < 2 acres) opted out of the Phase 2 zoning conversion process since the Environmental Planning Commission review and recommendation and have been removed from the Batch 1 properties for which City Council will consider adopting zoning conversion rules; and

WHEREAS, Form ID #4 was removed from the Batch 1 properties for which City Council will consider adopting zoning conversion rules. This property was deemed ineligible for the Zone Conversion Process as it is not a non-conforming use and does not meet any of the other criteria; and

WHEREAS, Planning staff confirmed the eligibility of these Batch 1 properties and recommended appropriate zoning conversions to address the 5 issues in R-18-29, meet the goals of IDO implementation, and further the goals and policies in the Comp Plan; and

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

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

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

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

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

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

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

WHEREAS, on January 10, 2019, the Environmental Planning Commission (EPC), in its advisory role on land use and planning matters, recommended approval of this request (Project 2018-001843, Case RZ-2018-00057).

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

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

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

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

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

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