

PLANNING DEPARTMENT
DEVELOPMENT SERVICES DIVISION
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OFFICIAL NOTIFICATION OF DECISION

Bella Tesoro
12809 Donnette Ct. NE
Albuquerque, NM 87112

Project# PR-2019-002496
Application#
SI-2019-00180 SITE PLAN – DRB

LEGAL DESCRIPTION:

For all or a portion of: **LOTS 1--4 BLOCK 4 TRACT 3 UNIT 3 NORTH ALBUQUERQUE ACRES**, zoned **MX-L**, located at the **SEC of BARSTOW ST NE AND ALAMEDA BLVD NE**, containing approximately 3.38 acre(s). (C-19 & 20)

On December 3, 2021, the Development Review Board (DRB) held a public meeting concerning the above referenced application and approved the request, with delegation to ABCWUA and Planning, based on the following Findings:

1. This request was originally approved by the DRB on September 11, 2019. The project was appealed to the City Council through the Land Use Hearing Office (LUHO). The LUHO decision of November 15, 2019 remanded the request back to the DRB to address procedural issues. On January 8, 2020, DRB heard this request again and it was approved again. The second approval was appealed to the LUHO. On April 25, 2020, the LUHO recommended the appeal is denied. On May 18, 2020, City Council accepted the LUHO's recommendations and findings with exceptions. The project was then appealed to the District Court, which remanded the request to the DRB to hold a quasi-judicial hearing and provide an analysis of the following per *Baehr v. City of Albuquerque*:
 - a. Identify how DRB is not constrained by R-2019-035.
 - b. Identify the date the application was deemed complete under IDO Section 1-10(B).

- c. Explain whether neighborhood edges apply.
 - d. Analyze Duran's legislative rezoning and Appellants' argument on the intersection of IDO Section 1-10(B), the neighborhood edge provisions, and the Official Zoning Map.
2. Under IDO 1-10(B), an application that is accepted as complete by the City Planning Department, shall be reviewed and a decision made based on the standards and criteria in effect when the application was accepted as complete. The site plan application was accepted, processed, and placed on a DRB agenda by staff on June 18, 2019, therefore the application is deemed complete on June 18, 2019 and the 2018 IDO (effective date May 17, 2018) applies. DRB reviewed the application based on the standards and criteria in the 2018 IDO.
3. DRB exercised its discretion and applied the standards in effect at the time the application was originally deemed complete pursuant to IDO Section 1-10(B), with the exception of R-2019-035. The DRB is complying with the District Court's decision and instructions and it believes the application of R-2019-035 would run contrary to that intent. Therefore, DRB held a quasi-judicial hearing with impartial DRB members who had not previously reviewed or decided on the site plan application. Alternate DRB members were approved by the Planning Director, with concurrence by the Chief Administrative Officer.
4. The Batch 1 rezonings for the properties south of the subject property became effective September 8, 2019 (Bill No. O-19-65; Enactment No. O-2019-021). The Batch 2 rezonings for the properties south of the subject property became effective December 18, 2019 (Bill No. O-19-79; Enactment No. O-2019-034). The site plan application was deemed complete (see Finding #2) prior to the effective dates of both Batch 1 and Batch 2 rezonings. The zoning of the properties south of the subject property were zoned MX-T prior to their Batch rezonings, and per 5-9(B)(1) of the 2018 IDO were not protected lots. Therefore the neighborhood edges do not apply.
5. Pursuant to IDO 14-16-1-10(B), the the zoning designation identified on the Official Zoning Map, and the IDO standards and regulations in effect at the time the application was deemed complete apply. The record shows that the application was deemed complete on June 18, 2019. The review and decision made by the DRB are based on the regulations, standards and decision-making contained in the 2018 IDO, which was the effective IDO version when the application was accepted and deemed complete.
6. This is a request to construct 93 multi-family residential dwellings in two 34,017 square foot buildings and a 19,537 square foot building on the subject property. Additionally, this request is to construct a 7,049 square foot community building on the subject property. The site will be developed in three phases as shown on sheets DRB 1.0 and DRB 1.1. The site plan is required to be reviewed by the Development Review Board (DRB) because per 6-5(G)(1)(c)1. of the 2018 IDO more than 50 new multi-family residential dwelling units are being proposed.

1. Pursuant to 6-6(G)(3) Review and Decision Criteria An application for a Site Plan – DRB shall be approved if it meets all of the following criteria:

- a. 6-6(G)(3)(a) *The Site Plan complies with all applicable provisions of this IDO, the DPM, other adopted City regulations, and any conditions specifically applied to development of the property in a prior permit or approval affecting the property.*

The structure heights, parking, and landscaping meet the IDO and site plan requirements: the building height of 35 feet complies with the maximum allowed 35-foot building height; 150 parking spaces are provided where 139 parking spaces are required; and 33,510 square feet of landscaping is proposed where 15,024 square feet is required. Usable open space is proposed to be 77,117 square feet, featuring a pool area, patios, and dog park; 21,450 square feet of usable open space is required.

- b. 6-6(G)(3)(b) *The City's existing infrastructure and public improvements, including but not limited to its street, trail, drainage, and sidewalk systems, have adequate capacity to serve the proposed development, and any burdens on those systems have been mitigated to the extent practicable.*

The site has access to a full range of urban services including utilities, roads and emergency services. A traffic impact study is not required for this project because it does not meet the threshold for such a study as stated by Transportation.

- c. 6-6(G)(3)(c) *The Site Plan mitigates any significant adverse impacts on the surrounding area to the maximum extent practicable.*

The applicant will provide screening through the planting of landscaping to shield the proposed development from adjacent residential development to the west and to the north across Barstow Street and Alameda Boulevard respectively, and from abutting residential development to the south.

7. This site requires an Infrastructure List. This was previously approved by the DRB at the meeting of September 11, 2019, was approved again by the DRB at the meeting of January 8, 2020, and was approved again by the DRB at the meeting of December 3, 2021.
8. Staff received letters of opposition to the project and there were members of the public who spoke at the hearing in opposition to the request. Major concerns included the height of the proposed buildings, the density of the proposed development, increased traffic, lack of privacy for the residential development to the south, safety, and the lack of neighborhood edge protections for the residences abutting along the southern boundary of the subject property.

9. The applicant provided the required notice as outlined in the IDO Table 6-1-1. Notices were mailed and emailed to the two contacts of each neighborhood association (both 2019 and current, as updated by the Office of Neighborhood Coordination), notices were mailed to the property owners within 100 feet of the subject property, and a sign was posted on the subject property 15 days prior to the remand hearing. The applicant provided documentation in their remand submittal which included proof of the mailings, copies of the sent emails with timestamps, the text and other content of each notice including a copy of the Site Plan and building elevations, and a list of names and addresses and email addresses for each notice.

10. The proposed use is allowed within the MX-L zone.

Conditions:

1. This Site Plan is valid 5 years from DRB approval (12/3/2021). An extension may be requested prior to the expiration date.
2. Final sign off is delegated to ABCWUA for the payment of the pro-rata balance.
3. Final sign off is delegated to Planning for the Solid Waste signature, the project and application numbers to be added to the Site Plan, for landscape sheets to be signed and sealed by a licensed Landscape Architect, for the recorded Infrastructure Improvements Agreement, for clarification of size/re-designing of the monument sign, and clarification of signage and the wall as discussed.
4. The applicant will obtain final sign off from ABCWUA and Planning by March 2, 2022 or the case may be scheduled for the next DRB hearing and could be denied per the DRB Rules of Procedure.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the DRB's decision or by **DECEMBER 20, 2021**. The date of the DRB's decision is not included in the 15-day period for filing an appeal, and if the 15th 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 Integrated Development Ordinance (IDO). Appeals should be submitted via email to PLNDRS@CABQ.GOV (if files are less than 9MB in size). For files larger than 9 MB in size, please send an email to PLNDRS@CABQ.GOV and request that staff send you a link via Smartfile to upload the files to. A Non-Refundable filing fee will be calculated and you will receive instructions about paying the fee online.

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Applicants submitting for building permit prior to the completion of the appeal period do so at their own risk. Successful applicants are reminded that there may be other City regulations of the IDO that must be complied with, even after approval of the referenced application(s).

Sincerely,

A handwritten signature in black ink that reads "Jay Rodenbeck". The signature is written in a cursive, flowing style.

Jay Rodenbeck
DRB Chair

JR

Consensus Planning 302 8th Street NW Albuquerque, NM 87102