



**Environmental  
Planning  
Commission**

**Staff Report**

**Agenda Number: 5  
Project Number: 1004763  
Case Number: 11EPC-40035/40042  
July 14, 2011**

<b>Agent</b>	Don Dudley
<b>Applicant</b>	L&J and R&M, LLC
<b>Request</b>	<b>Zone Map Amendment; Site Plan for Building Permit</b>
<b>Legal Description</b>	Lot A4-1A, Block 15, Stardust Skies, Unit 4 Addition
<b>Location</b>	South Side of Montgomery Boulevard, between Louisiana NE and Pennsylvania NE
<b>Size</b>	Approximately 1.453-acres
<b>Existing Zoning</b>	SU-1/comm dev for off & res devs
<b>Proposed Zoning</b>	SU-1/comm dev for off & res devs & for banquet hall to include full service alcohol sales for on-premise consumption

**Staff Recommendation**

**APPROVAL of 11EPC-40035, based on the Findings beginning on Page 16.**

**APPROVAL of 11EPC-40042, based on the Findings beginning on Page 18, and subject to the Conditions beginning on page 19.**

**Staff Planner**

**Christopher Hyer, Senior Planner**

**Summary of Analysis**

This is a two-part request to allow the sales/service of alcohol for on-premise consumption at a banquet hall. The site is zoned SU-1 and will require a zone change in order to add this use. Also, since it is SU-1, it will require an amendment to the site development plan for building permit. The amendment to the site plan will only be to the zoning description and to add a pedestrian linkage to the building.

The subject site is in the Established Urban Area of the Comprehensive Plan and is not governed by any sector plan. The applicant provided an adequate justification for the zone change per R-270-1980 and has provided the site plan for building permit.

There is no known opposition to this request and staff recommends approval.

Location Map (3" x 3")

**I. AREA CHARACTERISTICS AND ZONING HISTORY**

*Surrounding zoning, plan designations, and land uses:*

	<b>Zoning</b>	<b>Comprehensive Plan Area; Applicable Rank II &amp; III Plans</b>	<b>Land Use</b>
<b>Site</b>	SU-1/Commercial Development for Office and Residential Developments	Established Urban Area;	Banquet hall
<b>North</b>	R-3, SU-1/R-3, SU-1/C-1, C-1, SU-1/Church and Daycare/Preschool	Established Urban Area	Montgomery Boulevard, then multi-family and commercial, church w/daycare/preschool
<b>South</b>	SU-1/Comm. Dev for Office and Res. Devs., and R-1	Established Urban Area	Office/commercial, then vacant and single family
<b>East</b>	SU-1/ Comm. Dev for Office and Res. Devs., and R-3 and R-1	Established Urban Area	Office/commercial, then multi-family and single family
<b>West</b>	C-2, R-3, R-1	Established Urban Area	Commercial/office, then multi family, single family

**II. INTRODUCTION**

**Proposal**

This is a two part request: a Zone Map Amendment and a Site Plan for Building Permit Amendment for Lot A4-1A, Block 15, Stardust Skies, Unit 4 Addition, a 1.453-acre site, located on the south side of Montgomery Boulevard, between Louisiana Boulevard NE and Pennsylvania Boulevard NE, the “subject site”. The requested change of zoning is from SU-1/ Commercial Development for Office and Residential Developments to SU-1/ Commercial Development for Office and Residential Developments & for Banquet Hall to include Full-Service Alcohol Sales for On-Premise Consumption.

The subject site is part of a site development plan for subdivision that consists of office and commercial buildings – 9.5-acres. The building was built as a State Farm adjustment/call center and inspection service center in 1985. It has since been modified to the existing banquet hall. The applicant currently serves beer and wine at events that rent the space for special occasions. The applicant is requesting the change of zoning to allow full service liquor to patrons who request it during events. Since the special use zoning is established through the site development plan, the applicant is also requesting an amendment to the site development plan for building permit to reflect the addition of a banquet hall that includes the sales/service of all liquor for on-premise consumption.

### ***Context***

The office uses act as a buffer to the single-family neighborhood of Stardust Skies Park, which is to the southwest, behind other buildings that also buffer the internal neighborhoods from the harmful impacts of Montgomery Boulevard. Many of these buildings are apartment complexes and have an inter-woven variety of commercial, office and residential and institutional uses. Montgomery Boulevard is an Enhanced Transit Corridor that runs through the middle of this horizontally mixed area – the same type of horizontal mixture of land uses resides on the north side of Montgomery as well.

Public facilities and roadways surround the larger subdivided site. On the north side is Montgomery Boulevard – an Enhanced Transit Corridor. To the east is Pennsylvania Boulevard and the Hahn Arroyo abuts the west side. On the southern side is the Stardust Skies Park with a drainage canal running east to west. The drainage canal and the Hahn Arroyo converge further to the southwest into the surrounding single-family neighborhoods to the south - their northern boundary is in line with the lower half of the larger subdivided site.

### ***History***

The subject site is a lot with one building and was constructed in 1985. This lot is one of five and is in the northwest corner of a larger subdivided site – the subdivided site is approximately 9.5 acres. At the time of annexation and the establishment of zoning in 1974 (S-74-58), this larger site was zoned SU-1/PRD (Planned Residential Development) as the entire site was to be multi-family. In 1975, the zoning was changed to SU-1/Commercial Development for Office and Residential Developments (Z-74-23 Amended). This special zoning is later defined in the Notice of Decision as being “Commercial uses limited to those permissive in the C-1 zone” in June of 1978. As Office is a permissive use in the C-1 zone, the entire site was ultimately built out with five separate office buildings.

The larger site was then subdivided (Z-74-23-1) with no design standards and State Farm Insurance Company constructed the original building in 1985 with an approved site plan for building permit (Z-74-23). The building has had two administrative amendments since then: first was an addition of 1,600-square feet to the rear of the building (06AA-00355) in March 2006. The original use of the rear of the building was for making estimates on damaged vehicles. This area was converted (and added onto) to make offices. The second administrative amendment was for a monument sign located at the northeast corner of this lot (06AA-01369).

The applicant purchased the subject site in 2005.

### ***Transportation System***

The Long Range Roadway System (LRRS) map, produced by the Mid-Region Council of Governments (MRCOG), identifies the functional classifications of roadways.

The LRRS designates Montgomery Boulevard as a Principal Arterial, with a right-of-way of 124' (Established & Developing Urban).

Pennsylvania Avenue is a Collector with a right-of-way of 64'.

### ***Transit***

ABQ Ride Route #5, Montgomery-Carlisle regular route and Route #157, Montano-Uptown route, pass the site on Montgomery. The transit stop is 30' west of the site on Montgomery.

***Public Facilities/Community Services***

See map at front of staff report. Staff does not consider that these are of particular significance to the request.

***Zoning Information***

Existing zoning for the subject site is SU-1/ Commercial Development for Office and Residential Developments and is not a “recognized” special use in the Zoning Code, §14-16-2-22.

Commercial development for office and residential developments is defined by the notice of Decision from June 1978 as being limited to those [uses] permissive in the C-1 zone. Service and Sales of beer and wine is permissive in the C-1 zone. Although the subject site is part of a larger site plan for subdivision, the request for zone change will only affect Tract A4-1A. The rest of the subdivision will remain with the current zoning descriptor and will not be affected by this request.

Thus, the requested **zone change is for Lot A4-1A only**, to include full service liquor sales for on-premise consumption. As this is still an SU-1 zoned site and the zoning is held by a publicly reviewed site plan, the site development plan for building permit will be amended as well, in order to reflect the change in the requested zoning. However, there will be no physical improvements made to the site

**Section 14-16-2-22 SU-1 Special Use Zone.** This zone provides suitable sites for uses which are special because of infrequent occurrence, effect on surrounding property, safety, hazard, or other reasons, and in which the appropriateness of the use to a specific location is partly or entirely dependent on the character of the site design.

It should also be noted that there are no sector development plans or overlays that have control over the types of uses or development of the subject site. Therefore, the Comprehensive Plan and the Zoning Code will be the key documents in determining compliance with the City policies and regulations.

***III. REQUEST FOR ZONE MAP AMENDMENT***

**Resolution 270-1980 (Policies for Zone Map Change Applications)**

This Resolution outlines policies and requirements for deciding zone map change applications pursuant to the Comprehensive City Zoning Code. There are several tests that must be met and the applicant must provide sound justification for the change. The burden is on the applicant to show why a change should be made, not on the City to show why the change should not be made.

The applicant must demonstrate that the existing zoning is inappropriate because of one of three findings: there was an error when the existing zone map pattern was created; or changed neighborhood or community conditions justify the change; or a different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City master plan.

**Analysis of Applicant's Justification**

*Note: R-270-1980 and references to city policies are stated in plain type; the applicant's justification is quoted or summarized in italicized text; staff's analysis is in bold italics*

- A. A proposed zone change must be found to be consistent with the health, safety, morals, and general welfare of the city.

*The proposed zone map amendment from SU-1 to include Banquet Hall use with alcohol sales for on-premise consumption is compliant with the health, safety, morals and general welfare of the City. The site of the proposed zone change is currently used as a banquet hall with catering and the proposed zone change would not require changes to the existing building. The property is located at a relatively busy section of Montgomery between Louisiana and Wyoming. The adjacent businesses and residents can easily access the site, without driving, and is supportive of the proposed zone map amendment. The site is easily accessed by pedestrians in the area and will promote the local community to take advantage of the new use. The proposed zone change will attract more business thus benefiting local companies which can benefit from more business in the area i.e. flower shops, catering businesses, etc.*

***Staff agrees with the applicant. The banquet hall is already in operation, yet can only serve beer and wine under its current zoning (C-1 uses). This request is to allow the banquet hall to expand its services to patrons by offering full service liquor for on-premise consumption. This action will benefit the City in having an established business expand its operations in offering a greater array of alcoholic beverages. Thus, the requested zone change will not impact the health, safety, morals and the general welfare of the City.***

- B. Stability of land use and zoning is desirable; therefore the applicant must provide a sound justification for the change. The burden is on the applicant to show why the change should be made, not on the city to show why the change should not be made.

*The properties immediately adjacent are zoned SU-1 Commercial Development, Office and Residential Development while nearby properties are zoned C-1, C-2, and SU-1 for permissive uses. The existing adjacent offices can potentially benefit from using the banquet space, therefore, keeping the business local. The proposed zone change would also be beneficial to the adjacent Stardust Skies Neighborhood Association for events and would add a level of convenience for businesses and residents in the area. The proposed zone change will not destabilize the area; rather it will become a logical transition from heavier to lighter zoning in the area. As indicated in the attached maps, this new zoning would mediate between R-1 and C-2 zones. The zone change will strengthen the sense of the neighborhood in that it provides an amenity that is within walking distance to residents. The permissive uses sought by this zone map amendment will only be in conjunction with events that typically occur after business hours. Permissive uses of the requested zone will establish a new use that will provide additional character to the community while not compromising the goal of zoning stability in the area.*

***Staff agrees. The rezoning of the subject site is only to allow the additional service of mixed drinks and does not impact the stability of the land use, zoning and the general area that surrounds the site.***

- C. A proposed change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other city master plans and amendments thereto, including privately developed area plans, which have been adopted by the city.

### Albuquerque / Bernalillo County Comprehensive Plan

The subject site is located in the area designated *Established Urban* by the Comprehensive Plan with a Goal to “create a quality urban environment, which perpetuates the tradition of identifiable, individual but integrated communities within the metropolitan area and which offers variety and maximum choice in housing, transportation, work areas, and life styles, while creating a visually pleasing built environment.”

Policy II.B.5.d: The location, intensity, and design of new development shall respect existing neighborhood values, natural environmental conditions and carrying capacities, scenic resources, and resources of other **social**, cultural, **recreational** concern.

*The owners of this property have been respectful of the existing neighborhood by introducing themselves and providing tours of the facility to help make neighbors aware of the proposed zone change and to seek their perspective and opinion on this matter. Full support for the change was granted by the Stardust Skies Neighborhood Association. The building occupancy has been previously determined and will not change upon approval of the zone map amendment. The appropriate access and parking has already been approved by the city and implemented by the applicants and will not change. As a precaution, the facility will employ and implement necessary security measures to ensure the continued safety of patrons, the community and the neighborhood.*

***Staff agrees. Since this request is to allow an expansion of liquor service at an established business in its current location, the requested zone map amendment for the subject site will not have an adverse effect on the surrounding area and will respect existing neighborhood values. The result from this request will create enhanced opportunities for patrons of the banquet hall, a place where people can socialize and recreate.***

Policy II.B.5.e: New growth shall be accommodated through development in areas where vacant land is contiguous to existing or programmed urban facilities and services and where the integrity of existing neighborhoods can be ensured.

*This infill development is contiguous to all urban facilities including transit and respects the integrity of the neighborhood by maintaining an existing fully operating building and a desirable new use. In an effort to ensure the integrity of the neighborhood, three months ago, the owners inquired as to the adjacent neighborhood associations' opinion. Questions & concerns were addressed at this meeting and their approval was granted. The neighborhood association has been assured that if a matter ever arises, the owners will address it immediately. It is the owners' intent to encourage the use of this facility by the neighborhood association, the residents and businesses at large.*

***The business is already operating and the subject site will not be required to make improvements as a result of this request. This request is only for an addition to the allowed uses to include full service liquor. Since there will be no development or modifications to the subject site and there will be a continuation of the existing use, the integrity of the surrounding neighborhood will be ensured.***

Policy II.B.5.i: Employment and service uses shall be located to complement residential areas and shall be sited to minimize adverse effects of noise, lighting, pollution, and traffic on residential environments.

*In accordance with the City Neighborhood Recognition Ordinance 92, the Stardust Skies Neighborhood Association was notified of the proposed zone map amendment and has been provided the opportunity to review and comment on the plans for the property located at 7500 Montgomery Blvd. NE. There will be no change to vehicular or pedestrian access to the site. Nor will there be any change to site lighting or illumination. This ensures that the undesirable effects of noise, lighting, pollution, and traffic on adjacent residential environments will be unchanged. The neighborhood association has been assured that there will be security at all functions and added security for evening functions with bar service.*

***As the subject site is located adjacent to residential areas, it already provides opportunities for employment to nearby residents. The requested expansion of the zoning will only allow the specific use of sales/service of alcoholic drinks to intensify from its current state. Because the banquet hall is an existing business, it will continue to provide buffering to the residential neighborhood, minimizing the adverse effects of noise, lighting, pollution and traffic from Montgomery Boulevard to the residential areas.***

Policy II.B.5.j: Where new commercial development occurs, it should generally be located in existing commercially zoned areas as follows:

- In small neighborhood-oriented centers provided with pedestrian and bicycle access within reasonable distance of residential areas for walking or bicycling.

*The proposed zone map amendment, currently within a commercial area, will simply allow permissive uses on site and the existing building will remain intact. The setting along Montgomery Blvd. is comprised of smaller use buildings, which are also accessible, by pedestrians and bicyclists. Permissive uses on site will encourage the local businesses, community, and neighborhood to rent the space for events and will provide an easily accessible site.*

***This policy refers to new commercial development and does not really pertain to existing sites. The applicant is basically referring to existing circumstances. The expanded use of full service liquor will likely have little additional impact on the surrounding area.***

## C. ENVIRONMENTAL PROTECTION AND HERITAGE CONSERVATION POLICIES

### **Section I.C.4.Noise**

*The applicant is fully aware that the absence of unwanted sound (noise) is a measure of the City's livability and it is desirable to have minimal noise adjacent to residential areas. The additional permissive use provided by the zone map amendment will not create additional noise. Several methods have been employed to protect the public from the impact of noise. Noise concerns have been ameliorated by construction and design measures. There is a spatial separation from residential areas and a non-sensitive use between the two that alleviates and buffers the potential noise in the area. The entry to the building is at the north east corner, opposite the residential area. There are no outside areas, which could generate unwanted noise. Most of the parking is away from adjacent residential areas. The floor plan layout and building construction are conducive to dampening noise levels.*

***As mentioned in the Comprehensive Plan policy II.B.5.i above, the existing building already provides a buffer to the residential neighborhoods to the south from Montgomery Boulevard. The applicant is emphasizing this fact.***

### Other Applicable Comprehensive Plan Goals and Policies

*There are other Goals and Policies from the Comprehensive Plan that are applicable to the request. The following list will present these policies as "Presented By Staff."*

#### D. COMMUNITY RESOURCE MANAGEMENT

##### 4. TRANSPORTATION AND TRANSIT

Goal: To develop corridors, both streets and adjacent land uses, that provide a balanced circulation system through efficient placement of employment and services, and encouragement of bicycling, walking, and use of transit/paratransit as alternatives to automobile travel, while providing sufficient roadway capacity to meet mobility and access needs.

Policy II.D.4.a: The following Table presents ideal policy objectives for street design, transit service, and development form consistent with Transportation Corridors and Activity Centers as shown on the Comprehensive Plan's Activity Centers and Transportation Corridors map in the Activity Centers section. Each corridor will undergo further analysis that will identify design elements, appropriate uses, transportation service, and other details of implementation.

*The subject site is located on an Enhanced Transit Corridor with a bus stop (ABQ Ride route #5 and #157) 30-feet away. This type of corridor is designed "to improve transit and pedestrian opportunities for residents, businesses and other users nearby." This availability of close by transit service helps to balance the circulation system as employees and patrons have easy access to the transit system, which encourages bicycling and walking.*

#### ECONOMIC DEVELOPMENT

Goal: To achieve steady and diversified economic development balanced with other important social, cultural and environmental goals.

Policy II D.6.b: Development of local business enterprises as well as the recruitment of outside firms shall be emphasized.

*The increased allowance of the service of liquor will encourage the continued use of the facility located at the subject site. The increased demand for this service furthers this policy by encouraging local caterers and other business enterprises to expand.*

D. The applicant must demonstrate that the existing zoning is inappropriate because:

1. There was an error when the existing zone map pattern was created; or
2. Changed neighborhood or community conditions justify the change; or
3. A different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other city master plan, even though (D)(1) or (D)(2) above do not apply.

*This request complies with Item 3 in that it furthers specific goals and policies as listed in Section C of this resolution. As stated previously, the applicant believes that a different use category can be demonstrated as being more advantageous to the community. The adjacent neighborhood association, businesses and the area residents would benefit from the use of the site with the new zoning. This zone change would allow for a more robust use of the existing*

space. The neighborhood association is fully aware of the proposed zone map amendment and is supportive on the matter.

**Staff agrees with the applicant's response and points out that the policies analyzed above in Policy C. justify the requested zone change as being more advantageous to the Community D(3). That is, the proposed change in zoning will encourage increased use of the subject site's existing facility, furthering a preponderance of Comprehensive Plan policies, and thus, demonstrating how this request is more advantageous to the community.**

- E. A change of zone shall not be approved where some of the permissive uses in the zone would be harmful to adjacent property, the neighborhood, or the community.

*This proposed zone map amendment agrees with Paragraph E; and feels that the impact would not change significantly due to the nature of the business and the continued presence of security. It is important to note that the zone map amendment will allow for a dispensers license to serve alcohol by the drink and there will be no sale of package liquor on site. There will be no consumption of alcohol outside the building. Permissive uses sought by this zone map amendment will only be in conjunction with a planned event and security measures will be in place to ensure the safety of patrons and the community. There is neighborhood support for the proposed permissive use and there is no indication that this new use would cause any problems to the community, the neighborhood, or the adjacent properties. The site is in compliance with the minimum distances to other locals as zoning and liquor license requirements deem appropriate.*

*There are several existing parcels within the surrounding area that have the same or similar zoning as the applicant is requesting.*

*Examples: (Zone Atlas page F-21)*

<i>Business</i>	<i>Address</i>	<i>Zoning</i>
<i>Savoy</i>	<i>10601 Montgomery</i>	<i>SU-1 PDA</i>
<i>Barley Room</i>	<i>5200 Eubank</i>	<i>SU-1 for C-1</i>
<i>Pacific Rim</i>	<i>10721 Montgomery</i>	<i>SU-1 PDA</i>
<i>Garduños</i>	<i>10551 Montgomery</i>	<i>SU-1 PDA</i>

*(See attached map of these sites relative to applicant site.)*

**Staff concurs with the applicant's justification. The expansion of the zoning to allow full service liquor from only beer and wine would not be harmful to adjacent property, the neighborhood or the community.**

- F. A proposed zone change which, to be utilized through land development, requires major and unprogrammed capital expenditures by the city may be:
1. Denied due to lack of capital funds; or
  2. Granted with the implicit understanding that the city is not bound to provide the capital improvements on any special schedule.

*This proposed zone map amendment requires no capital expenditures on behalf of the City in order to be developed; roads, intersection signal lights, etc., already exist. Site development is already in place to accommodate the existing use as a banquet hall.*

*Staff agrees. No capital expenditures are requested or anticipated to serve this use at this location.*

- G. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a change of zone.

*The cost of land or other economic considerations are not a factor in this zone change request.*

***Staff agrees. The applicant has provided arguments, other than economic reasons, to justify the zone change.***

- H. Location on a collector or major street is not in itself sufficient justification for apartment, office, or commercial zoning.

*The location of the site being on a major street does not influence the applicants' desire for this zone change. The existing facility use as a banquet hall is already developed and in use. This zone change will simply provided an added service to the site.*

***Staff agrees.***

- I. A zone change request, which would give a zone different from surrounding zoning to one small area, especially when only one premise is involved, is generally called a "spot zone." Such a change of zone may be approved only when:

1. The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

*There is justified proof that the change will clearly facilitate realization of the Comprehensive Plan as indicated in B5 policies in section C of this resolution. The zone map amendment would create a transitional "spot zone" which can serve as an intermediate use for the local business community and adjacent residents. This "spot zone" will generate more revenue in the area because it is an attractive amenity. The banquet hall can benefit the local economy in that it will host more events and local businesses can provide their services to those renting the space. There is currently a mix of zoning uses along Montgomery Blvd. and amending the zoning map for this site will allow for both a logical transition from the diverse zoning regions and a more extensive use of the site.*

***This requested zoning of SU-1/Commercial Development for Office and Residential Developments & for Banquet Hall to include Full Service Alcohol Sales for On-Premise Consumption is specific to the subject site only. The subject site is part of a larger site plan for subdivision and all the properties within this site plan have the current zoning of SU-1/ Commercial Development for Office and Residential Developments, which is already a tailored use. The expansion of allowing full-service alcohol sales (from the permissive beer and wine sales) is the only change to the zoning and is specific to the subject site, i.e., it is not available to the other properties of the site plan. This fine-tuning of the subject site's use is unique and does not have a standard zoning category that it fits in. In this case, a spot zone is appropriate.***

- J. A zone change request, which would give a zone different from surrounding zoning to a strip of land along a street is generally called “strip zoning.” Strip commercial zoning will be approved only where:
1. The change will clearly facilitate realization of the Comprehensive Plan and any adopted sector development plan or area development plan; and
  2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones or because the site is not suitable for the uses allowed in any adjacent zone due to traffic or special adverse land uses nearby.

*This section is not applicable because this is a request for a single lot and not a strip of land.*

***The requested zone change will not create a strip zone.***

***In conclusion, staff considers that the applicant has provided an adequate justification for the requested zone change. The applicant has demonstrated that the proposed SU-1/ Commercial Development for Office and Residential Developments & for Banquet Hall to include Full Service Alcohol Sales for On-Premise Consumption zone should be allowed for the subject site only. Further, the subject site is compatible with surrounding zoning and land uses within it's own larger site and the surrounding non-residential uses that line the Montgomery Boulevard corridor and it helps to provide a buffer to the residential areas that are adjacent.***

#### **IV. ANALYSIS – SITE PLAN FOR BUILDING PERMIT**

##### ***Submittal***

This is a request to change the zoning of an “as-built” site that is zoned SU-1/Commercial Development for Office and Residential Developments to SU-1/Commercial Development for Office and Residential Developments & for Banquet Hall to include Full Service Alcohol Sales for On-Premise Consumption and amend the site plan to reflect this change. The applicant is not requesting to improve the subject site or add to the building’s footprint with this request. Thus, the site plan will be amended only to modify the zoning description of the special use to allow full service liquor for the subject site. The lot size is 1.453-acres and is in the northwest corner of the overall 9.52-acres subdivision.

The applicant submitted a packet for the “as built” site consisting of 3 full-size sheets: a proposed site development plan showing existing landscaping and site details; a drainage and utility plan; and elevations. Additionally, there are 4 sheets of 8.5” X 11” color photos showing an aerial photo of the site, the existing site/building, the monument sign and the lighting fixture used in the parking lot. The building’s architecture and colors, the parking lot layout, ingress and egress points and landscaping are all well presented from the combination of the site plan and the photographs.

The banquet hall does not fit well into uses listed in the Zoning Code in §14-16-2-22 (B). Since this request is for allowance of full service liquor, it may be considered a restaurant. However, the similarities do not go beyond the service of single alcoholic drink service, as the banquet hall does not sell food or drink service on a regular basis to the general public. Rather, patrons will come to this site as a destination for special functions and typically will not drive there on their own. In

other words, functions like graduations, wedding receptions, or other causes for celebration will have invited guests that usually include family members and friends, which will reduce the amount of vehicle trips required.

### ***Site Plan Layout / Configuration***

The building is at the northwest corner of the subdivision, positioned in a north-south orientation. The northern boundary is Montgomery Boulevard and it is an Enhanced Transit Corridor. The subject site does not have access to a public street and therefore, a private access easement has been established with the property abutting its eastern boundary. On its western boundary is the Hahn Arroyo. The southern boundary is fronted by additional lots of the Stardust Skies Park, Unit #4 Addition.

The subject site consists of one building and it is in the middle of the lot with parking at 90-degrees (to the property line) on all edges of the site - there is also a row of parking along the building's front, which faces east. The building is divided into two separate uses. The banquet hall uses more than ¾ of the building with law offices at the rear of the building.

The Stardust Skies Park, Unit #4 addition proposed development plan from 1974 establishes the C-1 zone's permissive uses for this property; however, it is still an SU-1 zoned property. Thus, even though there are specific uses that are allowed, the C-1 zone regulations apply. One of the allowed uses is office and the subdivision was built out with five separate office single-story office buildings. Surrounding properties are non-residential/commercial and office uses, and apartment buildings, which all provide buffering from Montgomery Boulevard to the single-family neighborhoods south of the subject site.

### ***Public Outdoor Space***

There is not a designated outdoor public space on this site, however, there is the Stardust Skies Park immediately abutting the subdivision on the south side.

### ***Vehicular Access, Circulation and Parking***

The subject site does not have direct access to any public streets. Instead, there is a private access easement across the abutting tract to the east, Tract A4-2A, that was entered into with final platting action in June 1985. This access easement covers both access points of the subject site – the northerly and southerly point of ingress/egress along the eastern boundary. This agreement is attached at the end of the staff report along with a copy of the plat.

The vehicular circulation is from the points of access, around the building in a rectangular flow, allowing traffic to flow both ways. Parking is 90-degrees all along the perimeter of the subject site, with an additional row in front of the building on the eastern side. There are four van-accessible handicap spaces provided along with four motorcycle spaces and 4 bicycle spaces. Ten of the parking spaces are for compact cars. In total, there are 102-spaces provided.

The building is divided between two uses, approximately 3,000 square-feet for the law offices and approximately 11,000square-feet for the banquet hall. These two uses operate at different times of the day – regular working hours for the office use and typically after hours for the banquet hall use. Thus, shared parking can be achieved between visitors of these two different uses.

As mentioned, there are 102-parking spaces provided. The occupancy load of the building for the banquet hall portion is 456-persons. Using the restaurant/bar (without full-service liquor) requirement from the General Parking Regulations of the Zoning Code, §14-16-3-1 (A) (26), the metric used to determine the required number of parking spaces is 1-space provided for each 4-persons. However, there is an allowed 10% reduction for being within 300' of a transit stop (§14-16-3-1 (E) (6) (a)). This equates to the required 114-spaces minus 12-spaces (due to being close to public transit), which gives 102-spaces required – if it were a restaurant. The number of spaces provided at the subject site is 102-space.

Continuing with the restaurant analogy: for a restaurant with full service liquor, the parking requirement is 1-space to every 3-persons, or 152-spaces. Subtract the 10% (a reduction) for being served by transit (16-spaces), and 136-parking spaces would be required. However, there are several reasons that will be presented for a continued, positive consideration of this request.

### **Exceptions to Parking**

These reasons that have been mentioned before are worthy of consideration for the required parking. The first is that this is not a restaurant and cannot be held to the required standards of parking – patrons are going to this destination for different reasons. The second is that this is an “as-built” site that fully utilizes all available space of the lot for the building, landscaping and the parking and drive isles. There is not an opportunity to create additional parking on the subject site as there is not unused area that is available.

However, this site is part of a subdivision of office buildings and overflow parking can be accommodated at these adjacent sites, as the hours of operation for office buildings would not typically interfere with the hours of operation for the banquet hall. Section 14-16-3-1 (E) (b) of the Zoning Code allows for this type of mixed-use, shared parking reductions. This sort of shared parking must be a legal agreement between the two property owners. The applicant has not entered into such an agreement with any other property owners of this subdivision.

Further, the site has been operating as a banquet hall serving beer and wine already. The request is to allow full service liquor; to include mixed drinks. The parking regulations for restaurants make a distinction between beer and wine versus full service liquor, yet it is not clear as to why – the logical conclusion is that patronage would increase with the serving of full service liquor. Staff is not qualified to make that determination. However, as this is not a restaurant, patrons are more likely to arrive with other known parties in order to celebrate for a common reason and the similarities of a restaurant/bar would not be valid in this case.

The last reason is that the EPC has discretion over parking due to it being an SU-1 site.

### ***Pedestrian and Bicycle Access and Circulation, Transit Access***

The site was built (1985) before requirements for bicycle parking (§14-16-3-1 (B)), motorcycle parking (§14-16-3-1 (C)), and pedestrian connections to the public sidewalk (§14-16-3-1 (H)) were part of the Zoning Code. Racks for bicycle parking are provided at the site; motorcycle parking and a pedestrian connection are not. Section 14-16-3-1 explains that only applicants requesting modifications of more than 200-square feet to the building must comply with the off-street parking regulations. Since this applicant is not modifying the building in any way, compliance to these provisions of the General Parking Regulations is not required.

Further, there are no on-site designated paths for pedestrian circulation - only a sidewalk at the front of the building. There also is not linkage/ connectivity from the public sidewalk along Montgomery Boulevard to the front of the building. This should be required as the applicant is using the allowable transit reduction in the parking calculations.

***Walls/Fences***

There are no fences or walls on the subject site. There is no screening of parking from Montgomery Boulevard, either.

***Lighting and Security***

There is not a perimeter fence providing a security on the subject site.

Site lighting is provided by a combination of a light pole in the middle of each of the four sides of the site and building mounted lights. The light poles are 28' feet high and have a cut-off fixture attached. Current regulations in the Zoning Code, §14-16-3-9 (D), only allow light poles of 20' in height. The building mounted lights (3 on the east and west sides, 2 on the north and south sides) project onto the drive isle that surrounds the building. Again, the building was built prior to requirements set forth in the Zoning Code, and therefore, do not entirely comply with the current Area Lighting Regulations.

However, as the site is along Montgomery Boulevard and is surrounded by non-residential, compatible uses, the current site lighting layout does not cause harm to adjacent properties.

***Landscaping***

The site is 1.453-acres, which equates to 63,293-square feet. The total of the landscaped areas is 14,184-square feet, which is 29% of the net lot area. This landscaping is a combination of turf and gravel with trees. Also, the landscaped area is not always within the sites property line – much of this area that is on the perimeter of the site is either in the public right-of-way (ROW) or on an adjacent site. The landscaped area within the subject site's property lines is 7,366-square feet or 11.6% of the net lot area. However, the landscaped area within the site mostly uses gravel to cover the beds instead of 75% living vegetation.

Section 14-16-3-10 (C) (1) explains that applicants requesting modifications of more than 200-square feet to the building must comply with the landscaping regulations, however, requests that do not modify the building by at least 200-square feet do not have to be in compliance with the current regulations. Since the applicant is not modifying the building in any way, compliance to these provisions of the Landscaping Regulations is not required.

As the subject site is an "as built" site, the landscaping is already in place. The site's landscaping on the north side of the site covers both land that is on the subject site and land in the Montgomery Boulevard ROW. As this has been the case since the site was built, staff has to assume that the City has accepted it, and therefore, is not an issue. The same holds true for the western side of the site, the landscaping encroaches into the ROW for the Hahn Arroyo. The southern side has the same type of issue, but is encroaching onto the adjacent property.

***Grading, Drainage, Utility Plans***

The subject site currently exists and the applicant is not requesting any physical changes to the site. Therefore, there will not be any modifications to the grading, drainage or utility plans for the site.

### ***Architecture***

The architecture of the building is basic. Essentially it is a rectangular, flat-roofed building with gray stucco sides and a brown painted band approximately 5-feet in width going around the building at the height of brick veneer around the windows as to create a continuous band. Three of the sides of the building have a covered walkway, with open pillars on the side and a faux metal awning covering. The rear, or south side of the building only has the metal awning over three large windows. The color of all awnings is orange. (see color pictures)

There is articulation over the three public entrances to the building – one on the west and east sides of the entrance of the law offices and one on the north side at the main entrance facing Montgomery Boulevard. This articulation is constructed of faux-stacked stone and starts from the ground, even with the line of the pillars and goes up at an angle to where the top is out beyond the edge of the metal awnings. The height of these architectural elements is 16' and the overall height of the building is 17'4".

### ***Signage***

There is 1 monument sign located at the northeastern corner of the subject site. It is a total of 15' high by 10' wide and was approved through the administrative amendment process in 2006.

## **VI. AGENCY & NEIGHBORHOOD CONCERNS**

### ***Reviewing Agencies/Pre-Hearing Discussion***

Reviewing agency comments begin on page 21 and are based on the original request of a change in zoning to allow full service liquor. Since then, Zoning Code Enforcement informed the applicant that an additional request was required; the amendment to the site development plan for building permit. This additional request is required because the site is an SU-1 zoned site and the special zoning is held by the site plan being in place. Thus, the site plan needs to show the allowed uses of the special use zoning, in this case, the additional allowance of full service liquor. This additional request has no impact on commenting agencies; it is only necessary administratively.

### ***Neighborhood/Public***

Property-owners within 100' were notified and the affected neighborhood is the Stardust Skies Park Neighborhood and the District 7 Coalition. Staff has received a letter from the president of the Stardust Skies Park Neighborhood Association and states that the neighborhood association is not opposed to the requested change of zoning. Staff has not received any other correspondence, and therefore, is unaware of any opposition to this request.

## **VII. CONCLUSION**

This is a two-part request: a zone map amendment from SU-1/Commercial Development for Office and Residential Developments to SU-1/ Commercial Development for Office and Residential Developments & for Full Service Liquor for On-Premise Consumption for Lot A4-1A, Block 15, Stardust Skies, Unit 4 Addition; and amendment to the site plan for building

permit for the subject site. The applicant's business, a banquet hall, is already in operation and is serving beer and wine to its patrons. The applicant requests this change of zoning to allow the addition of full service liquor at events.

The applicant has provided an adequate justification for the zone change per R-270-1980, by demonstrating that the request is consistent with a preponderance of applicable goals and policies in the Comprehensive Plan. The subject site is an "as built" site and is not required to meet all provisions presented in the current Zoning Code as there is less than 200-feet of modifications that will be made to the building.

There is no known opposition to these requests.

Staff recommends approval.

***FINDINGS – 11EPC-40035 (July 14, 2011) – Zone Map Amendment***

1. The request is to rezone Lot A4-1A, Block 15, Stardust Skies, Unit 4 Addition, a 1.453-acre site, located on the south side of Montgomery Boulevard, between Louisiana Boulevard NE and Pennsylvania Boulevard NE, from SU-1/Commercial Development for Office and Residential Developments to SU-1/Commercial Development for Office and Residential Developments & for Full Service Liquor for On-Premise Consumption.
2. The subject site is in the Established Urban Area of the Comprehensive Plan.
3. The requested zone change is accompanied by a site development plan for building permit request – Project #1004763, 11EPC-40042. This request is contingent on the approval of that request as the site plan controls the zoning on all SU-1 zoned sites. Also, this zone change request will allow full service liquor at this site only – no other sites in the subdivision will be affected.
4. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.
5. The subject site is adjacent to an Enhanced Transit Corridor, Montgomery Boulevard.
6. The request is justified per R-270-1980:
  - A. The proposed zone change is consistent with the health, safety, morals and general welfare of the City as the zone change request allows the expansion of uses for an established business. This increase in allowed uses offers variety of choice to the patrons of the banquet hall.
  - B. This change will not destabilize the land use and zoning in the area; the requested zone change is compatible with the zoning including the non-residential portion of Montgomery Boulevard.
  - C. The zone change is not in significant conflict with adopted elements of the Comprehensive Plan:

**ESTABLISHED URBAN AREA POLICIES**

This zone change will allow the sales and service of full service liquor for on-premise consumption only, which expands available alcoholic beverages to patrons. This change will not have an adverse effect on the surrounding area and will respect existing neighborhood values as the site already serves beer and wine. This change also will create enhanced opportunities for people to gather, socialize and recreate. Since the business will remain at this location, the surrounding area will not be greatly impacted by its expanded operations, thus maintaining existing neighborhood values. As the banquet hall is surrounded by non-residential, compatible uses, adverse effects of noise, lighting, pollution, and traffic on residential environments is minimized. (Comprehensive Plan Policies II.B.5.a, d, e and i)

TRANSPORTATION AND TRANSIT POLICIES

The subject site is located adjacent to multiple transportation modes including an Enhanced Transit Corridor along Montgomery Boulevard. The availability of close by transit service helps to balance the circulation system as employees and patrons have easy access to the transit system, which encourages bicycling and walking. (Policy II.D.4.a)

ECONOMIC DEVELOPMENT

The requested zone change allows a greater variety of employment opportunities because of the need for personnel skilled to create alcoholic combinations desired by patrons. The increase in demand for the banquet hall furthers this policy by encouraging local caterers and other business enterprises to expand. (Policy II.D.6.a and b)

- D. (3) The requested zone change to allow full service liquor would be more advantageous to the community as articulated by the Comprehensive Plan policies sited above (see Section C).
  - E. The additional use of full service liquor requested by the zone change is restricted to the subject site only, not other sites within the subdivision. Beer and wine service has been allowed at this site since 2005 and has not been found to be harmful to the adjacent property, the neighborhood or the community.
  - F. The request would not require unprogrammed capital expenditures by the City.
  - G. The cost of land or other economic considerations pertaining to the applicant are not the determining factor for the zone change.
  - H. The site's location is not a reason for the requested zone change.
  - I. The zone change request does create a spot zone. However, the spot zone created is justified as the requested zoning to allow full service liquor only pertains to the subject site and none of the other properties within the subdivision.
  - J. The proposed change would not create strip zoning.
7. Property-owners within 100' and the Stardust Skies Park Neighborhood Association (SSPNA) and the District 7 Coalition were notified. Staff has received a letter from the president of the SSPNA and the neighborhood association has no objection to this request.

**RECOMMENDATION - 11EPC-40035 (July 14, 2011)**

**APPROVAL of 11EPC-40035, a Zone Map Amendment from SU-1/Commercial Development for Office and Residential Developments to SU-1/Commercial Development for Office and Residential Developments & for Full Service Liquor for On-Premise Consumption, for Lot A4-1A, Block 15, Stardust Skies, Unit 4 Addition, based on the preceding Findings.**

***FINDINGS – 11EPC-40042 (July 14, 2011) – Site Development Plan for Building Permit***

1. The request is for an amendment to the site development plan for building permit for Lot A4-1A, Block 15, Stardust Skies, Unit 4 Addition, a 1.453-acre site. The subject site is approximately 1.453-acres and is located on the south side of Montgomery Boulevard, between Louisiana Boulevard NE and Pennsylvania Boulevard NE.
2. The requested amendment to the site development plan for building permit is accompanied by a zone map amendment request – Project #1004763, 11EPC-40035. Approval of that request is contingent on the approval of this request as the subject site is an SU-1 zoned site and the zoning refers to an approved site plan.
3. The subject site is developed; therefore, the applicant has provided a set of “as-built” drawings that will serve as the site plan for building permit.
4. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.
5. The subject site is in the Established Urban Area of the Comprehensive Plan.
6. The subject site abuts an Enhanced Transit Corridor, Montgomery Boulevard, on the north and patrons visiting this site have the option to use transit service.
7. The applicant has sufficiently provided all required information on the site plan as expressed in the Zoning Code for a Site Development Plan for Building Permit.
8. Property-owners within 100' and the Stardust Skies Park Neighborhood Association (SSPNA) and the District 7 Coalition were notified. Staff has received a letter from the president of the SSPNA and the neighborhood association has no objection to this request.

***RECOMMENDATION - 11EPC-40042 (July 14, 2011) –Site Development Plan for Building Permit***  
**APPROVAL of 11EPC-40042, a Site Development Plan for Building Permit, for Lot A4-1A, Block 15, Stardust Skies, Unit 4 Addition, based on the preceding Findings and subject to the following Conditions.**

**CONDITIONS OF APPROVAL – 11EPC-40034 (June 9, 2011) –Site Development Plan for Building Permit**

1. The EPC delegates final sign-off authority of this site development plan to the Development Review Board (DRB). The DRB is responsible for ensuring that all EPC Conditions have been satisfied and that other applicable City requirements have been met. A letter shall accompany the submittal, specifying all modifications that have been made to the site plan since the EPC hearing, including how the site plan has been modified to meet each of the EPC conditions. Unauthorized changes to this site plan, including before or after DRB final sign-off, may result in forfeiture of approvals.
  
  2. Pursuant to Zoning Code Section 14-16-4-1(11)(C), a zone map amendment does not become official until all Conditions/Requirements of Approval are met. If such requirements are not met within six months after the date of final City approval, the zone map amendment is void. The Planning Director may extend this time limit up to an additional six months upon request by the applicant.
  
  3. Prior to application submittal to the DRB, the applicant shall meet with the staff planner to ensure that all conditions of approval are met.
  
  4. There shall be a pedestrian connection made designated with different textured paving from the public sidewalk along Montgomery Boulevard to the sidewalk that leads to the entrance at the front of the building.
- 

***Christopher Hyer***  
***Senior Planner***

cc: Don Dudley, 400 Gold Avenue SW, Albuquerque, NM 87102  
L&J and R&M, LLC, 7500 Montgomery Boulevard NE, Albuquerque, NM, 87109  
Mathew Bowles, 7125 Lisa Court NE, Albuquerque, NM, 87110  
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Bill Hoch, 813 Calle Del Corte NE, Albuquerque, NM, 87110  
Lynne Martin, 1531 Espejo NE, Albuquerque, NM, 87112

***Attachments***

1. SU-1 zone (§14-16-2-22)

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## ***CITY OF ALBUQUERQUE AGENCY COMMENTS***

### ***PLANNING DEPARTMENT***

#### **Zoning Enforcement**

- ❖ The zone category needs to reflect a zone category that allows for a banquet hall/ event center.
- ❖ The site development plan will need to be revised to reflect the updated information from the change of zoning.

#### **Office of Neighborhood Coordination**

**Stardust Skies Park NA (R)**

**District 7 Coalition of NA's**

#### **Long Range Planning**

The proposed zoning would allow uses similar to the adjacent C-2 zoned property and the SU-1 for C-1 uses zoning across the street. The SU-1 designation will offer the community a chance to comment on this and future proposals.

#### **Metropolitan Redevelopment Agency**

Metropolitan Redevelopment Agency staff has no comments on this application.

### ***CITY ENGINEER***

#### **Transportation Development (City Engineer/Planning Department):**

- Reviewed, no comment

#### **Hydrology Development (City Engineer/Planning Department):**

- Hydrology has no objection to the Zone Map Amendment.

#### **Transportation Planning (Department of Municipal Development):**

- Reviewed, and no comments regarding on-street bikeways or roadway system facilities.

#### **Traffic Engineering Operations (Department of Municipal Development):**

- *No comments received.*

#### **Street Maintenance (Department of Municipal Development):**

- No comments received.

#### **New Mexico Department of Transportation (NMDOT):**

- No comments received.

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**RECOMMENDED CONDITIONS FROM CITY ENGINEER, MUNICIPAL DEVELOPMENT and NMDOT:**

Conditions of approval for the proposed Amendment to Zone Map shall include:

1. None.

***WATER UTILITY AUTHORITY***

***Utility Services***

No comments received.

***ENVIRONMENTAL HEALTH DEPARTMENT***

***Air Quality Division***

No comments received.

***Environmental Services Division***

No comments received.

***PARKS AND RECREATION***

***Planning and Design***

No comments received.

***Open Space Division***

No comments received.

***City Forester***

No comments received.

***POLICE DEPARTMENT/Planning***

No comments received.

***SOLID WASTE MANAGEMENT DEPARTMENT***

***Refuse Division***

Approved as long as they comply with SWMD ordinance.

***FIRE DEPARTMENT/Planning***

No comments received.

***TRANSIT DEPARTMENT***

<b>Project # 1004763</b> 11EPC-40035	Adjacent and nearby routes	Route #5, Montgomery Carlisle route, and Route #157, Montano-Uptown route, pass the site on Montgomery
	Adjacent bus stops	Bus stop located 30ft west from the northwest corner of the property serving the above-mentioned routes.
	Site plan requirements	None
	Large site TDM suggestions	N/A
	Other information	None.

## ***COMMENTS FROM OTHER AGENCIES***

### ***BERNALILLO COUNTY***

No comments received.

### ***ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY***

Reviewed, no comment.

### ***ALBUQUERQUE PUBLIC SCHOOLS***

**Stardust Skies Unit 4**, Lot A4-1A, Block 15, is located on Montgomery Blvd NE between Louisiana Ne and Pennsylvania NE. The owner of the above property requests a zone change from SU-1 Commercial Development, Office, and Residential Development to SU-1 for C-1 permissive uses with full service restaurant. The current owners, request this zone change to allow alcohol to be served only by the drink during events at the facility. This will have no adverse impacts to the APS district.

### ***MID-REGION COUNCIL OF GOVERNMENTS***

No comments received.

### ***MIDDLE RIO GRANDE CONSERVANCY DISTRICT***

No comments received.

### ***PUBLIC SERVICE COMPANY OF NEW MEXICO***

PNM has no comments based on information provided to date.