



**Environmental  
Planning  
Commission**

*Agenda Number: 7  
Project Number: 1009543  
Case #: 12EPC 40082/40032/40084  
March 14, 2013*

**Staff Report**

<b>Agent</b>	Wes Prop NM, LLC
<b>Applicant</b>	West Seventy, LLC
<b>Requests</b>	<b>Zone Map Amendment Site Development Plan for Subdivision Site Development Plan for Building Permit</b>
<b>Legal Description</b>	See attachment "A"
<b>Location</b>	Northeast corner of the intersection of Paseo del Norte and Unser Boulevard
<b>Size</b>	Approximately 2.7055 acres
<b>Existing Zoning</b>	R-D
<b>Proposed Zoning</b>	SU-1/C-2

**Staff Recommendation**

*DENIAL of 12EPC 40084, a zone map amendment, based on the Findings beginning on page 29.*

*DENIAL of 12EPC 40082, a site development plan for subdivision, based on the Findings beginning on page 31.*

*DENIAL of 12EPC 40083, a site development plan for building permit, based on the Findings beginning on page 35.*

**Staff Planner**

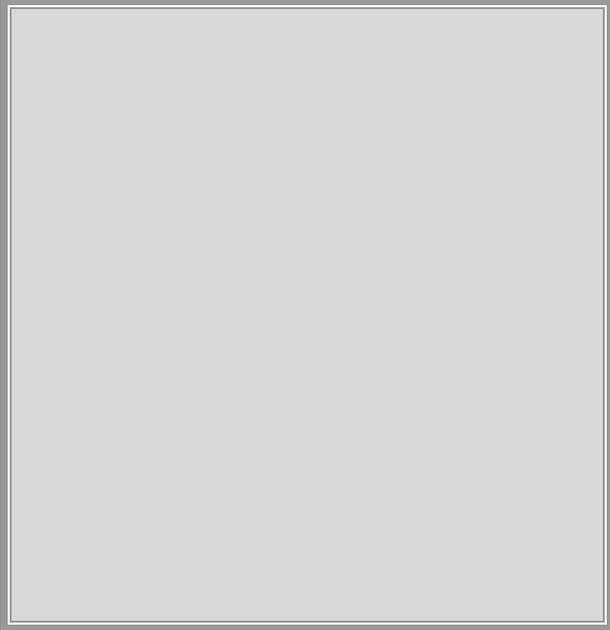
*Christopher Hyer, Senior Planner*

**Summary of Analysis**

This three-part proposal is for a fueling station, with an associated convenience store and liquor sales, and an automated car wash, at the intersection of Paseo del Norte and Unser Boulevards. The subject site is located in an unplatted portion of the Volcano Mesa Area.

The subject site is in the Developing Urban area of the Comprehensive Plan. The Westside Strategic Plan, Northwest Mesa Escarpment Plan and the Unser Blvd. Design Overlay Zone apply. Though located in the area of the Volcano Heights Sector Development Plan (VHSDP), as of this writing the VHSDP has not been adopted by the City.

Staff finds that the zone change request has not been adequately justified. The request does not meet the tests pursuant to R-270-1980 and therefore is recommended for denial.



City Departments and other interested agencies reviewed this application from 12/31/2012 to 1/11/2013. Agency comments used in the preparation of this report begin on Page 41.

## Recommendation for Denial

*Staff has met with the applicant, City legal, City Hydrology, the Albuquerque/Bernalillo County Water Utility Authority and the City Transportation Engineer. Each meeting resulted in an agreement that this request is pre-mature in that all the necessary pieces that are required for development are either just being realized or on a schedule to be implemented sometime in the future. Staff recommends DENIAL based on the information alone as there are several fundamental issues that have yet to be addressed regarding the area in general. However, the most important request in this case is the zone change. There are several reasons this request should not be allowed. First, the zone change request:*

- *The applicant has not adequately addressed R-270-1980. The analysis will show that none of the tests has been adequately met. One important test is section D - is this request more advantageous to the community. This request does not prove that this test has been met.*
- *The policy analysis shows that fundamental pieces of the Comprehensive Plan and the West Side Strategic Plan conflict with the proposal; primarily regarding lack of infrastructure. Further, the applicant has not mentioned whether the proposal complies with the Northwest Mesa Escarpment Plan or the Unser Boulevard Design Overlay Zone.*
- *The City Planning Department is currently seeking approval of the Volcano Heights Sector Development Plan (VHSDP). This Plan provides zoning for the properties within the VHSDP area and recommends that the area east of the intersection of Paseo del Norte and Unser Boulevard be designed a Major Activity Center. It also provides several strategies of providing the necessary infrastructure for development.*
- *The Volcano Heights Sector Development Plan provides an agreed orderly strategy for development and a zone change of this site to SU-1 would stand in the middle of the area and will create an island. All the surrounding property owners support the sector plan, the standards for development and the strategies presented for working together in developing a quality community. An SU-1 zoned property in the middle of this SU-2 zoned area will be anomaly that will have to be worked around in the middle of this effort.*
- *The applicant states that this request “complies with the proposed Volcano Heights Sector Development Plan.” However, there is no mention how it would comply when this sector plan is adopted by the City - just saying it does is not good enough.*

*The applicant also has not adequately addressed the request for a site development plan for subdivision or the site development plan for building permit. Regardless of the completeness of the site plans, the proposed development requires a zone change and that request is recommended to be denied. However, staff will present them below, but special attention of how to make them comply will not be presented.*

*Moreover, it should be noted that there is also a lack of infrastructure for proper development in the first place. The infrastructure required involves different agencies and a list of deficiencies is listed below. This lack of infrastructure is because the site is premature and not in the current path of development, which will be discussed further in the analysis of the West Side Strategic Plan.*

- 
- A. **Planning.** As mentioned above, the City will be adopting the Volcano Heights Sector Development Plan (VHSDP), which will provide strategies for development and an organization of zoning for the area. This request has not been a consideration for this Plan because of the fact that it has not been adopted yet.
- B. **Access.** Both Paseo del Norte and Unser Boulevard are Limited Access Principal Arterials. These roads have designated intersections at ½ mile intervals with other roads. Direct access to the site cannot be obtained from either facility and thus, access to the site is projected to be from a series of frontage roads. However, the entire area has remained undeveloped and these roads do not yet exist. The VHSDP will recommend a mechanism for the property owners in the area to work together to develop the roadway network.
- C. **Water/Waste Water.** The applicant did submit a Water and Sanitary Sewer Serviceability Statement (#121003) from the ABCWUA. The subject site is currently outside of the current water and sanitary sewer service boundary. There are no water or sewer lines extended across Volcano Heights along portions of Paseo del Norte or Unser Boulevard in reasonable proximity to the site. The applicant intends to drill a well for water supply and run a septic system for sanitary sewer service. Approval of these actions must be granted by the State; ABCWUA will be asked to provide a recommendation. The Water Authority has stated that they will not provide a favorable response as they do not want new commercial water wells or septic systems in their service area.
- D. **Hydrology.** The City Hydrologist has stated that there is currently not an approved Drainage Plan for the Volcano Mesa area. A Drainage Plan is required for the area before any development is permitted. AMAFCA is currently addressing this issue and is working to have such a study completed. If the subject site is approved before the AMAFCA study is completed, the applicant will be responsible for providing a Drainage Plan for the surrounding area. Further, since the applicant is ahead of the AMAFCA and City construction of drainage facilities, the applicant will be required to provide these as well.
- E. **Electricity.** Currently there is an operational traffic signal at the intersection of Paseo del Norte and Unser Boulevard. The Public Service Company of New Mexico (PNM) has stated that adequate electrical service is not available from this signal and that new electrical service will need to be provided. This new service is not yet available.
- F. **Submittal.** The site plan for subdivision is confusing and does not show the proper information. The applicant has been made aware of these problems, but has not submitted a revised plan. Also, the Landscaping Plan has not been thoroughly reviewed by staff as it arrived the week that the staff report was due for distribution—inside of the required 10 days. However, since the first and second iteration of the original site plan had a Landscaping Plan that was severely deficient, staff is not convinced that this version of the Landscaping Plan will be an improvement.
- G. **Applicant's Summary.** The summary of the applicant's project letter was done hastily and carelessly submitted. It concludes: "The proposed project furthers numerous policies of applicable plans and also provides an increase in quality housing opportunities for students." Staff believes this to show that the applicant is only motivated by monetary reasons and does not adequately support thoughtful development of the community.

**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>	R-D	Developing Urban Area; West Side Strategic Plan; Northwest Mesa Escarpment Plan; Unser Boulevard Design Overlay Zone	vacant
<b>North</b>	R-D	"	Unser Blvd., then vacant
<b>South</b>	R-D	"	Paseo del Norte, then vacant
<b>East</b>	R-D	"	vacant
<b>West</b>	R-D	"	Unser Blvd and Paseo del Norte intersection, then vacant

**II. INTRODUCTION**

**Proposal**

This is a three-part proposal for a vacant, unplatted area at the intersection of Unser and Paseo del Norte Boulevards consisting of: 1) a zone map amendment (zone change) to change zoning from R-D to SU-1/C-2; 2) a site development plan for subdivision; and 3) a site development plan for building permit (the “subject site”). A legal description, Attachment “A”, is attached to this report.

The applicant proposes to develop an automobile gasoline station with an approximately 4,000 square foot canopy with 6 multi-fuel dispensers (12 fueling locations for automobiles), an approximately 3,100 square foot convenience store with liquor sales, and an approximately 1,200 square foot automated car wash with 4 wash bays.

**EPC Role**

The proposed zone change, the site development plan for subdivision and the site development plan for building permit are required to be heard by the EPC, due to the zone change request and the fact that the requested zoning is SU-1. The EPC is the final approval body for this proposal, unless the EPC decision is appealed. If the EPC decision is appealed, it will then go to the City Council and not to the Land Use Hearing Officer (LUHO); the LUHO does not hear appeals of zone changes. This proposal is a quasi-judicial matter; it pertains to one property.

**Context**

Volcano Mesa covers approximately 3,532 acres. The area is surrounded on three sides by more than 7,000 acres of open space under City, State and Federal jurisdictions, including the Petroglyph National Monument, set aside by the U.S. Congress in 1990. Volcano Mesa’s cultural,

natural, and built conditions have been used to inform the planning process and guide the development of policies that are sensitive and responsive to the area's unique needs, challenges, and opportunities.

The City has been studying this area and proposes to adopt the new Volcano Heights Sector Development Plan, which covers approximately 570 acres surrounding the intersection of Paseo del Norte and Unser Boulevard. This sector plan is currently at City Council with adoption likely to be sometime this summer.

The VHSDP area is bordered on the north by Paseo del Norte Boulevard, on the west by Universe Boulevard and the boundary of the Volcano Trails Sector Development Plan, on the south by the boundary of the Volcano Cliffs SDP, and on the east by the Petroglyph National Monument. Single-family residential development areas exist to the north. Some commercial activity exists to the northwest of the Plan area, and some multifamily and single-family development exists to the west. There is a map of this area in the discussion of the West Side Strategic Plan portion of this staff report—page 12.

The topography varies throughout the Plan area, and there are significant views to Sandia Peak to the east. There are approximately 10 acres of basalt rock outcroppings scattered throughout the Plan area. These rock outcroppings are related to nearby volcanic activity that formed the Escarpment. The outcroppings have cultural, historical, and geological significance, as they are part of a unique landscape and a rich heritage of spiritual use by Pueblo peoples.

### ***History***

In 2004, the Albuquerque City Council initiated a planning process for the Volcano Mesa, an area annexed by the City in 1981. Located along the volcanic escarpment of the city's Northwest Mesa, Volcano Mesa includes unique features and special characteristics and conditions worthy of preservation and protection.

In 2006 City Council adopted an earlier version of a Volcano Heights Sector Development Plan (VHSDP), which encompassed the entire Volcano Mesa area; however, the Plan was challenged in District Court and ultimately remanded to the City in 2008-2009.

In 2010, City Council staff revisited the plan and the planning team examining this area separated the Volcano Mesa into three separate sector development plans and an amendment to the West Side Strategic Plan (WSSP). Taken together, the Rank II Volcano Mesa Amendment to the WSSP and the three Rank III sector development plans create recommendations, goals, policies, and new land-use regulations to guide the development of the unique Volcano Mesa community.

Early in 2011, the City Council hired a new consultant that formulated a new draft plan with (1) a revised zoning strategy that included transition zones to protect existing single-family residential areas to the north and south of the Plan area; (2) a new mandatory road grid that could help coordinate predictable development along corridors and across property lines, and (3) a new height bonus system to balance development density/intensity benefits to the natural and built environments.

As mentioned, the new and revised Volcano Heights Sector Development Plan is at City Council with expected adoption in early summer. However, this request will not be reviewed and analyzed using that Plan as it is not an adopted City document.

### ***Transportation System***

The Long Range Roadway System (LRRS) map, produced by the Mid-Region Council of Governments, designates Paseo del Norte and Unser Boulevards as Limited Access Arterials with a right-of-way of 156-feet (Established & Developing Urban). Currently, Paseo del Norte Boulevard is a 4-lane facility with the potential to develop into a 6-lane facility, and Unser Boulevard is a 2-lane facility with the potential to develop into a 4-lane facility.

### ***Comprehensive Plan Corridor Designation***

Both Paseo del Norte and Unser Boulevards, in the area surrounding the site, are proposed to be designated as Express Corridors. Express Corridors are designated in the Comprehensive Plan as: "... dedicated to developing higher speeds with fewer interruptions to travel for the car and public transit vehicles. These corridors are typically Limited Access, higher speed ..." This request is proposing direct access to both the Express Corridors in the area.

### ***Trails/Bikeways***

There are no designated bicycle facilities shown on the Long Range Bicycle Plan that pass close by to the site. There is agreement by DMD to have a bicycle corridor in close proximity to the site, but implementation has yet to be programmed.

### ***Transit***

There are no public transit routes or facilities within the immediate area of the site. All ABQ Ride transit routes are outside the ¼-mile distance the City considers for the purpose of transit service to the subject site.

### ***Public Facilities/Community Services***

See map at front of staff report. Staff does not consider these particularly significant to the proposal.

## **III. ZONING**

### ***Albuquerque Comprehensive Zoning Code***

The subject site is currently zoned R-D (Residential and Related Uses Zone, Developing Area-§14-16-2-14), a typical City "holding" zone for areas that are not yet developed and are recognized as needing a sector plan to be established for the area in order to guide development. This area is such an area; the Volcano Heights Sector Development Plan (VHSDP) is currently in the City approval process - presently at City Council. This Plan provides a strategy for providing necessary infrastructure improvements for the area in order to encourage coordinated development. The surrounding area currently does not have any infrastructure besides the two Limited Access Arterial roadways. A roadway network, water, waste-water, sufficient electricity, etc., has not yet been extended to this area.

Development can occur in the R-D zone and is intended to be residential with limited service commercial uses that are permissive in the C-1 zone. The commercial uses are allowed only if there is an adopted sector plan in place. As mentioned, the Volcano Heights Sector Development Plan is in the process of being approved, but it is not an adopted City document

yet. The sector plan would allow a gasoline station use at this site as part of an activity center, but requires that it be an integral part of the developed area—the Plan does not allow for individual, stand-alone development. Also, the activity center is proposed to have controlled access points along the regional facilities only – that is, intersections which feed into the activity center from Unser and Paseo would be at ½ mile full access intervals and ¼ mile right-in, right-out intervals.

### ***Proposed Zoning***

The proposed zoning is “SU-1/C-2 uses”. The SU-1 Zone (Section 14-16-2-22 )

*“provides suitable sites for uses which are special because of infrequent occurrence, effect on surrounding property, safety, hazard, or other reasons, and which the appropriateness of the use to a specific location is partly or entirely dependent on the character of the site design.”*

The SU-1 zone requires that “a Site Development Plan accompany the establishment of zoning and include, at a minimum, all the elements of a Site Development Plan for Subdivision.” Further, “no building permit shall be approved unless it is consistent with a complete site development plan for building permit and landscaping plan for the lot in question, approved by the Planning Commission or its designee.” (Section 14-16-2-22 (A) (1))

This is because the SU-1 zone is “site plan dependent”; the zoning and the associated site development plan cannot be separated. The application requirement for a zone change to SU-1 zone has been met because a site development plan has been provided.

The C-2 Community Commercial Zone (Section 14-16-2-17) “provides suitable sites for offices, for most service and commercial activities, and for certain specified institutional uses.” Permissive uses in the C-2 zone include a mixture of community/regional commercial activities and some institutional uses. A gasoline station with a retail convenience store with liquor sales and a car wash would be permissive uses in this zone. However, these uses are not compatible with the residential uses as for which the surrounding area is still zoned. Specifically, liquor sales are required to be separated from residential uses by 500 feet. Another example of a typical use in the C-2 zone is a shopping center, which would also be incompatible with a residential use.

### ***Definitions (§14-16-1-5)***

**PETROLEUM PRODUCTS RETAIL FACILITY (FUELING PLAZA).** A facility for outdoor sales of gasoline, petroleum or liquefied gas.

**SITE DEVELOPMENT PLAN FOR SUBDIVISION.** The site, proposed use, pedestrian and vehicular ingress and egress, any internal circulation requirements and, for each lot, maximum building height, minimum building setback, and maximum total dwelling units and/or nonresidential uses’ maximum floor area ratio.

**SITE DEVELOPMENT PLAN FOR BUILDING PERMIT.** In addition to information required for Subdivision, exact structure locations, structure (including sign) elevations and dimensions, parking facilities, loading facilities, any energy conservation features of the plan (e.g., appropriate landscaping, building heights and siting for solar access, provision for non-auto transportation, or energy conservational building construction), and proposed schedule for development.

#### IV. APPLICABLE ORDINANCES, PLANS AND POLICIES

##### A) Albuquerque / Bernalillo County Comprehensive Plan – Rank I

**Note:** Policy is in regular text; *Applicant's justification is in italics; Staff's analysis is in bold italics.*

The subject site is located in the area designated Developing Urban by the Comprehensive Plan with a Goal “to create a quality urban environment which perpetuates the tradition of identifiable, individual but integrated communities with 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.”

The applicant has cited the following policies to justify the request:

Policy II.B.5.a: The Developing Urban and Established Urban Areas as shown by the Plan map shall allow a full range of urban land uses, resulting in an overall gross density up to 5 dwelling units per acre.

*The subject site furthers this policy by contributing to the creation of work areas within future commercial and residential areas that in turn promote the goal of residential development at a gross density up to 5 dwelling units per acre.*

***The zone change request to SU-1/C-2 will allow commercial uses within a residential area. The requested change to a non-residential zoning does not help the City to achieve a gross density of 5 dwelling units/acre.***

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 proposed project, its location, intensity and design, further this policy by respecting existing neighborhood values, natural environmental conditions and carrying capacities, scenic resources and resources of other social, cultural, or recreational concerns. This development (a commercial type development) will be aesthetically appropriate for the adjacent future commercial and residential uses proposed in the Volcano Heights Sector Development Plan. Its location and access to the existing road network including immediate access to both Unser Boulevard and Paseo Del Norte fit within the carrying capacities of the local transportation network.*

*The proposed layout and design will not impact the scenic resources of the Sandia Mountains.*

***Currently, the land in the Volcano Heights area is vacant. There are not any developments or neighborhoods close by that have values the subject site can respect. The carrying capacities of infrastructure are not relevant as there is only the intersection of the two Limited Access roadways. The location of the subject site is not inhibited by any other development, nor has the intensity of surrounding buildings been established as this would be the first site developed in the 570 acre area.***

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

*The proposed project furthers this policy because the land is currently undeveloped and is located contiguous to existing urban facilities and services, including public transit routes and stops. The*

*integrity of existing neighborhoods will be assured by not increasing local street traffic on adjacent neighborhoods.*

*The subject site is surrounded by vacant land and will be the first development in this area. The site lacks services and is not currently accessible from Paseo del Norte or Unser Boulevard. Any access points along these roadways will need to be approved by MRCOG. A local street network is envisioned by the yet to be adopted VHSDP, but no alignments have been designed, nor any interconnectivity from the proposed site to other properties been suggested. The applicant's site plan does show proposed access when the internal street network is developed, but the applicant has not suggested working with adjacent property owners to provide this roadway network - the applicant assumes access will be directly from the Limited Access Principal Arterial.*

*Water and sanitary sewer infrastructure does not exist and the connections to the system are over 3,000 feet away. The applicant has proposed drilling a commercial well for water and constructing a septic system for their sanitary sewer use. Both of these utility projects will have to be reviewed by the state and agreed to by the Water Utility Authority. ABCWUA will not support a new commercial well or a septic system in their service area.*

*Drainage is another infrastructure that does not yet exist for the area. AMAFCA is initiating a study that should result in a Master Drainage Plan for the Volcano Heights area, but completion of this study is at least 4-6 months away. If the developer proceeds with this project, they would be liable for providing this study for the area as the hydrology department requires that surface runoff be destined to known drainage facilities; these facilities will need to be constructed as well.*

*As provided in the Agency Comments Section at the end of this staff report, PNM does not have adequate power available for the site yet and will require new infrastructure to be extended for this service.*

*There are no existing transit routes or facilities in the area.*

*A corridor has been identified for a bicycle path, but it is still in the planning stages; DMD has identified approximate location, but it is a 50-foot wide corridor. Engineering and implementation of this facility is still in future planning stages.*

*Other infrastructure will also have to go through the channels relative for their approval.*

*There are not any existing neighborhoods in this area where their integrity requires attention.*

*For these reasons, this request is found to be in conflict with Goals and Policies of the Comprehensive Plan—the site is not contiguous to existing infrastructure. The VHSDP will soon be in place and will give a framework for developing the area.*

Policy II.B.5.g: Development shall be carefully designed to conform to topographical features and include trail corridors in the development where appropriate.

*The proposed project furthers this policy by taking the topographical features into account in the site design. It also incorporates a private pedestrian connection to future plan public walkways along Paseo Del Norte.*

*There is not a trail network established for this area yet. Sidewalks are still proposed for the Limited Access Arterials that have been built, but their precise location and development is still being studied.*

---

C. ENVIRONMENTAL PROTECTION AND HERITAGE CONSERVATION

**1. Air Quality**

Goal: to improve air quality to safeguard public health and enhance the quality of life.

Policy II.C.1.b: Automobile travel's adverse effects on air quality shall be reduced through a balanced land use/transportation system that promotes the efficient placement of housing, employment and services.

*The proposed project furthers this policy by placing a neighborhood commercial use within proposed higher density housing areas in an efficient location, close to future planned development such as educational institutions, recreational facilities and employment. In addition, it is allowing more service and reducing the VMT for those residents that are further west of the site and will reduce the overall length of trips to other service stations east of this site. This commercial development will offer a needed community service while reducing the traffic needs on the surrounding network.*

***Staff does not agree that a request for an automobile gasoline station will result in the improvement of air quality. Further, the site is in a vacant area – no development is nearby. Patrons of this gasoline station will have to commute to and from this location, which does not reduce automobile travel.***

Policy II.C.1.c: Traffic engineering techniques shall be improved to permit achievement and maintenance of smooth traffic flow at steady, moderate speeds.

*The proposed project furthers this policy with site design incorporating two access points into the development and by providing onsite parking and adequate internal traffic circulation to avoid any adverse impacts on the adjacent major arterial roadways. The site is located on the hard corner of two major roadways, where future public transportation facilities are anticipated.*

***Staff does not agree that access to the subject site from Limited Access Principle Arterials will improve air quality. Moreover, access to the site from a Limited Access facility, separately from the existing intersections, does not improve the transportation system, either.***

Policy II.C.1.d: Air quality shall be protected by providing a balanced circulation system that encourages mass transit use and alternative means of transportation while providing sufficient roadway capacity to meet mobility and access needs.

*The proposed project furthers this policy because the site is located and designed to take advantage of the immediately accessible major roadway facilities and future mass transit. The development also proposes an onsite pedestrian connection to pedestrian facilities in the Paseo Del Norte right-of-way.*

***Again, staff does not agree that an automobile gasoline station will protect or improve air quality. The transportation system has not been developed as the surrounding area is vacant. Access to the site will have to be from future roads as the adjacent roadways are Limited Access Principal Arterials. Once the network of local and collector roadways have been determined and developed, access to site may contribute to a balanced circulation system.***

***It is also difficult to understand how this request, for an automobile gasoline station with an automated car wash and convenience store with alcohol sales, will encourage mass transit use and/or alternative means of transportation use.***

## D. COMMUNITY RESOURCE MANAGEMENT

### 4. Transportation and Transit

Goal: to develop corridors, both streets and adjacent land uses that provide a balanced circulation system, 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.

*The proposed project furthers this goal because the site is located on the hard corner of Paseo Del Norte and Unser Boulevard. The subject site has immediate access to both roadways and to the City's future bike trail/lane system. Planned pedestrian paths within the proposed development will also increase the ease in which pedestrians can access and utilize elements of the proposed arterial roadway development. These methods of access, including automobile access, provide the desired balance of circulation alternatives to automobile travel while meeting roadway capacity and access needs.*

*The subject site is on the eastern quadrant of the intersection of Paseo del Norte and Unser Boulevard – both are Limited Access Principal Arterials. Any access from these roadways will have to go through a MRCOG process before it can be utilized. This process begins with the City sponsoring the access request to the TCC. It is then referred to the RAC subcommittee for further study and their recommendation is brought back to the TCC to hear the request. This process has not begun, yet.*

*Thus, access to the site will likely be from a local and collector street network that is to be developed in concert with the development of the proposed adjacent activity center recommended by the not yet adopted VHSDP. The sector plan also proposes that a trail network that links with sidewalks lining the roadways should be implemented. Staff does not believe that walkways across this site, a dedicated automobile use, will ease or add to the proposed pedestrian network or those pedestrians would “access or utilize elements of the proposed arterial development”. It is difficult to understand how this dedicated automobile use at the intersection of two Limited Access facilities would encourage bicycling, walking or transit use, either.*

*Staff does not believe this request supports this Goal as far as the current conditions of the site and surrounding area. Once the VHSDP is in place and other roadways are developed around the Limited Access facilities, Changed Conditions, staff will re-examine such a request and reevaluate how this request fits into the transportation network.*

Policy II.D.4.g: Pedestrian opportunities shall be promoted and integrated into development to create safe and pleasant non-motorized travel conditions.

*The proposed project furthers this policy by providing a pedestrian connection to the adjacent and future Paseo Del Norte roadway facilities. Inclusion of pedestrian paths allow for circulation to and from adjacent developments (existing and future) for residents.*

*There are no pedestrian facilities as of yet; staff cannot agree that this site provides pedestrian connections.*

### Activity Centers

The applicant has not addressed the Activity Centers Goal or Policies from the Comprehensive Plan. This is relevant as there is a proposed Major Activity Center just east of this site. Further,

the applicant addresses policies regarding Community and Neighborhood Centers in the West Side Strategic Plan. As this Center is proposed, staff believes it is appropriate to address the Comprehensive Plan policies regarding centers as well.

Goal: “to expand and strengthen concentrations of moderate and high-density mixed land use and social/economic activities which reduce urban sprawl, auto travel needs, and service costs and which enhance the identity of Albuquerque and its communities.”

*The request does not directly support this Goal as it is for an automobile gasoline station. The Goal for Activity Centers is to create a node of density where mixed use activities help to reduce urban sprawl and reliance on the automobile. A gasoline station is a specific use, but is not a contributor to densifying uses and certainly does not help to reduce use of the automobile and/or auto travel needs. This proposal conflicts with Activity Center policies because the use has a very low FAR (0.03) as well and would promote auto travel; it would not result in a site that is “very accommodating to the pedestrian”.*

*It also does not enhance the identity of Albuquerque and its communities.*

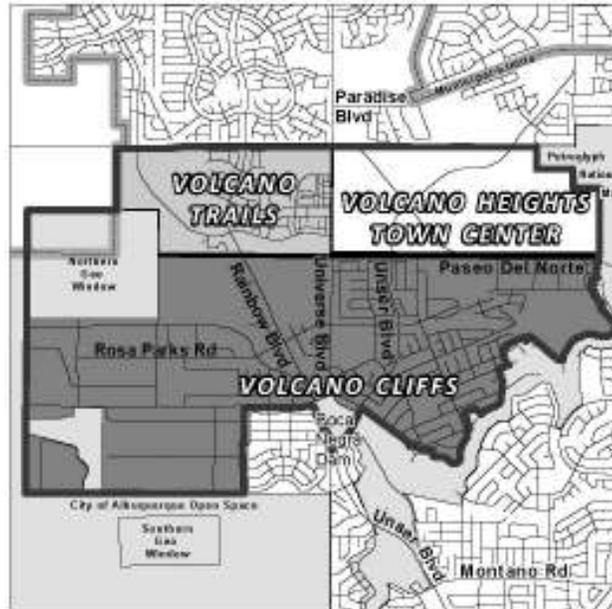
Policy II.B.7.a: Existing and proposed Activity Centers are designated by a Comprehensive Plan map where appropriate to help shape the built environment in a sustainable development pattern, create mixed use concentrations of interrelated activities that promote transit and pedestrian access both to and within the Activity Center, and maximize cost-effectiveness of City services. Each Activity Center will undergo further analysis that will identify design elements, appropriate uses, transportation service, and other details of implementation. Table 10 (page II-37) specifies policy objectives for each type of Activity Center.

*The Activity Center proposed for the Volcano Heights area is appropriate as “a node of highly concentrated commercial, service and employment uses in conjunction with area-wide needs” and is needed in the Volcano Mesa area. The Comprehensive Plan’s example of uses within such an activity center includes mid and high rise office buildings, hotels, major cultural and entertainment uses, etc. It is pre-mature to understand how a gasoline station will support such uses.*

#### **B) West Side Strategic Plan - Rank II**

The West Side Strategic Plan (WSSP) was first adopted in 1997 and amended in 2002, 2007, 2009 and 2011 to help promote development of Neighborhood and Community Activity Centers. The WSSP identifies 14 communities, each with a unique identity and comprised of smaller neighborhood clusters. The subject site is located in the Volcano Mesa community (WSSP, pages 154-179), which consists of the area that covers approximately 3,532 acres. The area is surrounded on three sides by more than 7,000 acres of open space under City, State and Federal jurisdictions, including the Petroglyph National Monument, set aside by the U.S. Congress in 1990.

Staff has provided the map of the area that shows the three sector plan areas that also cover this community. This request is within the Volcano Heights area, but since VHSDP has not yet been adopted, staff will not address it.



### Development Process Issues of the WSSP

Chapter 4 of the West Side Strategic Plan offers a strategy for development phasing. The Plan offers this language to provide a framework for this strategy:

*“Because there is a need to provide public facilities in a timely and efficient manner without unnecessary expenditure of limited resources, and to provide a more orderly pattern of development most beneficial to citizens of the Albuquerque area, the West Side must develop through phasing. This means, generally, that those areas closest to the existing infrastructure and facilities and services should develop first, and those areas farthest away from existing development should develop later. Phasing will be controlled by the funding of infrastructure and by vacant land already served by infrastructure. Vacant land already served by infrastructure is defined as vacant land provided with water and sewer services, transportation access and hydrology improvements, all of which meet ‘level of service’ standards.” (WSSP, Chapter 4)*

The applicant has explained that all necessary infrastructures will be provided by the applicant, but on a temporary basis. The ABCWUA states that “there are no plans to extend either water or sewer to the site. All line extensions are development funded. No one has yet stepped up to plan on extending approx. 3,000’ of water or sewer into this area.” The applicant has stated that they will drill a well for water and create a septic system for their sewer. As mentioned above, both these infrastructure improvements will require review and approval by the appropriate parties at the State level and the local level before their implementation can happen. As of this writing, staff has not been informed that this process has begun.

Transportation access has not been determined for this site yet. The City worked with the applicant in acquiring the right-of-way (ROW) required for the extension of Paseo del Norte and

Unser Boulevard. Through the agreed condemnation of this ROW, remnant pieces of land were created - this is the land of the subject site. As the two roadways are Limited Access facilities, driveways are not permitted between the designated access points. The intersection adjacent to the site is such an access point—each roadway accesses the other. The next designated full access point is ½ mile from this intersection.

The VHSDP recommends to MRCOG to create additional access points, right-in, right-out points at ¼ mile intervals, which are between the already designated points, but does not suggest direct access from either of these Limited Access roadways be permitted to each site. Instead, the VHSDP offers a network of “internal streets” that are within these Limited Access facilities and will use designated access points as interconnection points for the internal collectors. However, this roadway network has not been developed yet.

The comments provided by PNM also state that there is not sufficient electrical service to the site. The applicant is aware and purports that there is electrical service to run the traffic signal at the adjacent intersection. However, staff will look to PNM regarding this issue.

The West Side Strategic Plan discusses in greater detail why development “out-of-phase” is considered “leap-frog” development. Staff agrees with the Plan; the development of this site is premature.

#### **Analysis of Applicant’s Response to WSSP Policies**

The applicant has cited the following policies in their request letter. There is no mention of policies specific to the Volcano Mesa Community.

Policy 1.13: The Community Activity Center shall provide the primary focus for the entire community with a higher concentration and greater variety of commercial and entertainment uses in conjunction with community-wide services, civic land uses, employment, and the most intense land uses within the community. Its service area may be approximately three miles (radius) and a population of up to 30,000.

*Based on the proposed Volcano Heights Sector Development Plan (VHSDP), this area of Albuquerque’s west side is planned to be a new Town Center. The requested change to commercial zoning and proposed use for commercial retail fills a need for the area and also fits the West Side Strategic Plan as it locates a much needed commercial use that would be within three miles and centrally located from and service several existing and developing subdivisions including Taylor Ranch, Paradise Hills, Ventana Ranch, The Trails, Volcano Cliffs, Ancient Mesa, and La Cuentista.*

*Staff is aware of what the applicant is intending to say, but this policy asks for “the primary focus for the entire community with a higher concentration and greater variety of commercial and entertainment uses in conjunction with community-wide services, civic land uses, employment, and the most intense land uses within the community”. This request is ancillary to these types of uses and thus, it should come after the activity center is starting to be developed. Since the development of this activity center has not started, staff believes that this request is ahead of the necessary primary development for it to be supportive to the activity center uses.*

Policy 1.16: Neighborhood Centers shall be located on local collector and sometimes arterial streets. While their primary access may be by auto, pedestrian and bicycle connections shall be provided to all adjacent neighborhoods, parks and to the larger open space system. Convenient transit services shall be connected with community-wide and regional transit development.

*The site is bordered on the west by Unser Boulevard and on the South by Paseo del Norte, both of which are arterial roadways. The current ultimate typical sections for both roadways include pedestrian and bicycle facilities that will connect the site with area destinations as well as planned future transit services.*

*The two roadways mentioned by the applicant, Paseo del Norte and Unser Boulevard are Limited Access Principal Arterials. The activity center is proposed to be located to the east of this intersection with a network of roadways creating the interconnectivity of the center. There are no neighborhoods, parks or other locations that can be identified that access would be connected to. In other words, since the request is the first development to be located in the Volcano Heights area, it is pre-mature to mention connections via roadways, pedestrian and bicycle facilities to other destinations as they do not exist.*

*As a side note, this proposal conflicts with Activity Center policies in the Comprehensive Plan because the use has a very low FAR (0.03), which would promote auto travel and would not result in a site that is “very accommodating to the pedestrian”.*

### **Paradise Community**

Policy 3.8: The largest mix of land uses and the highest density shall develop in the Community and Neighborhood Centers. Multifamily housing, public facilities, educational and employment facilities, and other non-single family residential uses are appropriate along with commercial services in these areas.

*The rezoning of this site fits within the area plans (existing and proposed) for development of the intersection as a Town Center. It will provide the multiple area communities located to the north, south, west and east with community commercial property to be developed with needed community services.*

*It is true that this site shall be located near a proposed activity center, but the VHSDP has not been adopted by the City yet – the VHSDP is a Rank III sector plan and is not proposed to be a Rank II area plan. The VHSDP specifies zoning for the area and provides strategies for the development of this community. Any zone changes ahead of the adoption of this sector plan, especially to the requested SU-1, will create an isolated spot zone that is not necessarily part of the sector plan or its goals. This action could inhibit the development of the Volcano Heights area and the Major Activity Center as envisioned by the Plan and surrounding property owners.*

### **Congestion Management/ Demand Management**

Policy 6.14: A Congestion Management Study is mandated by federal law, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), and is currently under the guidance of the MRGCOG. This Congestion Management Study shall look at travel demand reduction techniques as well as supply issues.

*The proposed project furthers this policy by placing a neighborhood commercial use within proposed higher density housing areas in an efficient location, close to future planned development such as educational institutions, recreational facilities and employment. In addition, it is allowing more service and reducing the VMT for those residents that are further west of the site and will reduce the overall length of trips to other service stations east of this site. This commercial development will offer a needed community service while reducing the traffic needs on the surrounding network.*

*The applicant mentions why there would be a need for another automobile gasoline station, but does not offer techniques that would reduce the demand for traveling in automobiles in the first place. As mentioned, the proposed activity center will be a location of more intense mixed uses with a Goal of reducing the amount of automobile dependent travel. The VHSDP has yet to be adopted; once adopted, it provides strategies for development of this area. Any development of this area will be much better served with such strategies in place.*

#### **Air Quality**

Policy 6.21: New development standards prepared for the West Side shall include dust control measures.

*The rezoning and development of the proposed site as a commercial development will be under the current landscape guidelines that will ensure the site is less susceptible to wind erosion.*

*Staff is not sure what is implied, but believes the applicant is stating that any development helps reduce the amount of wind erosion that could take place. If this is truly what the applicant is stating, then their statement, or the request, does not address dust control measures.*

#### **Bikeways & Trails**

Policy 6.25: All new developments shall include internal bicycle/pedestrian trails and bikeways which link to the adopted Trails and Bikeways Facility Plan primary trails network when feasible and subject to development impact fee requirements. All subdivisions, sector plans, planned communities, and other development plans must demonstrate connectivity of trails and bikeways to adjacent developments and destinations.

*The site is bordered on the west by Unser Boulevard and on the South by Paseo del Norte, both of which are arterial roadways. The current ultimate typical sections for both roadways include pedestrian and bicycle facilities that will connect the site with area destinations as well as planned future transit services.*

*As the applicant has pointed out, there are plans to include pedestrian and bicycle facilities in this area in the future. This development is requested ahead of such implementation of those plans.*

#### **C) Northwest Mesa Escarpment Plan - Rank III**

The Northwest Mesa Escarpment Plan (NWMEP) was adopted by City Council on November 30, 1987. The Northwest Mesa Escarpment is a seventeen-mile long face of exposed volcanic basalt and associated soils approximately 50 to 200 feet high, which runs north-south along the northwest mesa. The NWMEP was created to maintain the volcanic escarpment as open space for public health, welfare and safety reasons, as well as to define urban form and satisfy other open space needs. The NWMEP contains a design overlay zone and is utilized as a tool to help preserve the Escarpment area. There are four distinct areas in the design overlay zone: the Escarpment Face, the Impact Area, the Conservation Area and the View Area. The subject site is within the view area of the Plan area.

The applicant did not address this Plan. There are two policies that are relevant to this site.

Policy 20-1: The predominant colors used on structures within the view area shall blend with the natural colors of the mesa.

*Staff has reviewed the color palette submitted by the applicant and agrees that all the colors will blend in with the natural colors of the mesa.*

Policy 21-1: Structures above and below the escarpment shall not dominate the views of the escarpment from the east side.

*The height of the development is a maximum 22'. This is within the 40' height limitation.*

#### **D) Volcano Heights Sector Development Plan - Rank III**

The Volcano Heights Sector Development Plan (VHSDP) has not been adopted by the City yet. It was heard at the EPC on October 4, 2012 and was given a unanimous recommendation of approval to the City Council. It was heard by the Land, Use, Planning and Zoning (LUPZ) committee on February 13, 2013 for a first hearing. It is scheduled to be heard by the LUPZ committee again on April 10, 2013. So far, there are not any issues with the Plan and it should be passed back to the full Council after the April LUPZ hearing.

The VHSDP is one of three sector plans that cover the Volcano Mesa area. (See map above presented in the West Side Strategic Plan discussion). The VHSDP covers approximately 570 acres surrounding the intersection of Paseo del Norte and Unser Boulevard and is bordered on the north by Paseo del Norte, on the west by Universe Boulevard and the Volcano Trails SDP, on the south by the Volcano Cliffs SDP, and on the east by the Petroglyph National Monument. The area within the Plan boundary is undeveloped, with over 30 different property owners and properties ranging in size from 2.5 acres to 68 acres. One property owner owns approximately 259 total acres of the 570 covered by the Plan.

Current zoning in the Plan area is predominantly R-D (Residential Developing area). This zone is primarily a holding zone for undeveloped areas. Only single-family and townhouse uses are allowed without a Sector Plan adopted by the Planning Commission. While the Northwest Mesa Escarpment Plan is considered a Rank III plan and may count as a sector plan, it was adopted by City Council, not the EPC; therefore those properties with R-D zoning in Volcano Heights could only develop as single-family residential or townhouses.

As part of a larger strategy to reduce congestion on West Side roads and the region's limited river crossings, the Rank II West Side Strategic Plan (WSSP) recommended designating an area within Volcano Heights as a Major Activity Center. In order to implement a Major Activity Center, the VHSDP proposes changing all zoning within the Plan area to allow a mix of residential and non-residential uses at various densities and intensities most appropriate to their context, considering the existing land uses nearby.

The most dense and intense zoning is proposed within a **Town Center Zone** (i.e. VHTC: Volcano Heights Town Center Zone) surrounding a proposed Transit Corridor east of the Paseo del Norte / Unser Boulevard intersection. This Town Center zone is envisioned to develop over time with transit-oriented development that is pedestrian and bicycle friendly.

A predominantly auto-oriented zone is proposed lining the Paseo del Norte and Unser Boulevard corridors, as these roads are expected to continue to function primarily as limited-access arterials vital to moving regional traffic. This **Regional Center Zone** (i.e. VHRC: Volcano Heights Regional Center) would allow larger blocks that could accommodate larger retailers, with site development regulations to help ensure that the area remain a high-quality built environment still accessible by and attractive to pedestrian and cyclists.

The Plan includes a mandatory street network that connects to existing roads bordering the Plan area and aligns as much as possible with the existing 20-foot access easements along existing property lines. Because infrastructure, including roads, sewer, water, and utilities, will all be provided at the expense of property owners and developers, the Plan recommends financial tools in order to pool resources across property owners to fund infrastructure improvements that benefit the Plan area.

**E) Unser Boulevard Design Overlay Zone – Rank III**

The Unser Boulevard Design Overlay Zone (UBDOZ) was adopted in 1992. The UBDOZ provides sign controls along Unser Boulevard between Interstate 40 and the Sandoval County Line. Its regulations apply to all non-residential zones and residential zones allowing off-premise signs. In the case where the underlying zone's sign regulations differ from those of the overlay zone, the more restrictive shall apply.

***The applicant did not address the UBDOZ in their justification. However, they have changed their signs to comply with the UBDOZ after staff mentioned it would apply. The original sign rendering is in the packet of color building renderings. Staff has photocopied the new sign rendering and included that as well. Please use this rendering for reviewing the signage. The UBDOZ gives specific regulations for on-premise signs. Item #2.d. of the UBDOZ states that the height of freestanding signs shall not exceed 12 feet. The new rendering shows the sign is exactly 12 feet high.***

**V. ANALYSIS – Zone Change**

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

Requirements

Resolution 270-1980 outlines policies and requirements for deciding zone map change applications pursuant to the City Zoning Code. The applicant must provide sound justification for the proposed change and demonstrate that several tests have been met. The burden is on the applicant to show why a change should be made, not on the City to show why a change should not be made. The subject site is currently zoned R-D. The proposed zoning is SU-1/C-2 uses.

The applicant must demonstrate that the existing zoning is inappropriate because of one of three findings: 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 land use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City master plan.

Justification & Analysis

The zone change justification letter analyzed here, dated January 22, 2013, is a response to Staff's request for a revised justification (see attachment). The applicant provided a first response to R-270-1980, dated December 26, 2012, as part of the project letter (see attachment). The subject site is currently zoned R-D (Residential and Related Uses Zone, Developing Area). The requested zoning is "SU-1/C-2 uses". The reason for the zone change request is the development of a gasoline fueling station, an associated convenience store with package liquor sales, and an automated car wash.

Pursuant to Section 1.B of R-270-1980, the burden is on the applicant to show why a change should be made, not on the City to show why a change should not be made. The applicant believes that the zone map amendment conforms to R-270-1980 as elaborated below.

***Analysis of Applicant's Justification (Response to Section 1, A-J)***

**Note:** Policy is in regular text; *Applicant's justification is in italics; 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 change from R-D to SU-1 for C-2 is consistent with the health, safety, morals and general welfare of the City. The proposed zoning will allow for the development of residential friendly commercial uses in an area that is proposed to contain a "live, work & play" atmosphere. It is in line with the uses proposed as part of the draft Volcano Heights Sector Development Plan. It provides needed development opportunities to support the sector plan's west side town center, which at its core is the Paseo Del Norte and Unser Boulevard intersection.*

*The proposed location is also ideal, considering its proximity to educational institutions and residential developments as well as future bus and bike lanes, which promotes health, safety and morals.*

***The applicant states that the proposed zone change will "allow for the development of residential friendly commercial uses" in an area intended to be a town center, and that allowing development of commercial uses near educational and residential uses will translate to consistency with the City's health, safety, morals and general welfare. How would this happen? The applicant does not make a case as to how these reasons are linked to the City's health, safety, morals and general welfare. The lack of reference to policy-based explanations and reliance on the unadopted VHSDP do not help substantiate the claim of consistency.***

***The most common and effective way to show consistency with the City's health, safety, morals and general welfare is to clearly demonstrate that the request furthers applicable Goals and policies in adopted Plans. The applicant does not make this reference here as needed. Furthermore, the policy demonstration in Section C is insufficient (see Section C).***

- 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 proposed zone change from R-D to SU-1 for C-2 would allow for the construction of quality commercial facilities, for which there is a strong need in the northwest Albuquerque area. The site's proximity to both Paseo Del Norte and Unser Boulevard would be an asset to area residents with limited commercial services including the proposed convenience store, gas station and car wash use.*

*The existing R-D zoning designation has been in place on the subject property for a long time with no development. The recent completion and connection of Paseo Del Norte and Unser Boulevard has created the need for local commercial development in this area and has changed the character of the original zoning. The SU-1 for C-2 zoning would allow for the development of the property with uses that fit the proposed West Side Town Center guidelines as outlined in the proposed Volcano Heights Sector Development Plan. The existing zoning and its allowable uses does not support the intended Town Center ideals.*

***The applicant states that the proposed zone change would allow for construction of quality commercial facilities, for which there is a strong need, and that connecting Paseo del Norte and***

*Unser Blyds. has created a need for commercial development that has changed the character of the original zoning. The applicant does not explain how these ideas relate to stability of land use and zoning; stability of land use and zoning is not addressed at all. Furthermore, the applicant does not present persuasive evidence overall to demonstrate that the zone change should be made (see also responses to other subsections). The response to Section 1.B is insufficient.*

- 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.

*The proposed change is not in conflict, significant or otherwise, with adopted elements of the Comprehensive Plan, any City Master Plans or any privately developed area plans. The proposed change along with the proposed project furthers numerous policies within the Comprehensive Plan and also complies with the proposed Volcano Heights Sector Development Plan.*

*Regarding the Comprehensive Plan policy citations, staff finds that Goals and Policies that should have been cited were not, and Goals and Policies that should not have been cited, were. One example is the Air Quality Goal and Policies. Staff would not have used these because the “positive effect on air quality” of the proposed use (or other similar use) would be negligible, especially with respect to carbon monoxide (CO) which is the only criteria pollutant that is linked to land use in a direct, measurable way. Furthermore, CO studies (called Air Quality Impact Analysis, AQIAs), are no longer required. CO levels have declined greatly both nationally and locally. Many relevant land use Goals and Policies (and some other Goals and Policies) were not mentioned or addressed.*

*Regarding the discussion, the applicant makes the general statement that the proposed change and project further numerous Comprehensive Plan policies, but does not prove it. For instance, the discussion of Policies II.B.5.d and 5.e does not demonstrate a connection between the proposed zone change and realization of these Policies. Rather, broad statements that the proposed project will fit the carrying capacity of the transportation network and that the land is contiguous to existing urban facilities and services, are not elaborated upon or tailored to the proposed use and may not be wholly accurate in some instances.*

*The West Side Strategic Plan (WSSP) and the Northwest Mesa Escarpment Plan (NWMEP), both adopted, applicable Plans, originally were not addressed. However, the applicant mentions the WSSP at the end of the revised justification letter (although this discussion belongs in C). The three WSSP policies cited pertain to activity centers; the subject site is not located in a designated activity center pursuant to the WSSP. The activity center for the Paradise Community is at Paseo del Norte and Coors Boulevard. Other policies, which pertain to bikes, trails, dust control, are site development plan issues. Regarding the WSSP, the Policies cited are not directly relevant to the proposal and the reasoning given does not support the zone change request. The NWMEP remains unaddressed.*

*The test under Section C is whether or not there is “significant conflict” with an adopted element of the Comprehensive Plan or other City master plan such as a sector development plan. In sum, staff finds significant conflict with adopted elements of the WSSP, particularly with Chapter 4-Development Process Issues. The Westside must develop through phasing of infrastructure improvements to avoid unnecessary expenditures of limited public resources and to provide for more orderly development. The zone change request would precipitate a single, isolated development where infrastructure services such as water and sewer, and transportation access points, have not yet been extended and determined.*

*In addition to this overarching significant conflict, the applicant's Policy analysis fails to demonstrate that the zone change request would further a preponderance of applicable Goals and Policies. The main arguments, that commercial development is needed in the area and that the use would fit well within an activity center, are neither sufficient nor persuasive. Regarding the former, the applicant has not demonstrated that the "development is needed" argument furthers applicable Goals and Policies. Regarding the latter, the reliance on a location in a future activity center cannot be used. The VHSDP has not been adopted yet. Furthermore, the appropriateness of the proposed use to activity centers doesn't come into play because the subject site is not located in a designated activity center. The test in Section C is not met.*

- 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.

*It is our opinion that the use category sought by this application for this site would be more advantageous to the community. The proposed use is less restrictive and more compatible with the proposed future development of the area as a West Side Town Center as proposed in the Volcano Heights Sector Development Plan than the existing R-D zoning and specifically residential uses. We also believe that residential uses need to be set back further from both Unser and Paseo Del Norte due to the impacts that those facilities create.*

*The proposed development will bring this land into beneficial use and increase the commercial supply of goods and services in a historically underserved area of Albuquerque. The proposed use is considered more in line with the goals that will be established in the proposed Volcano Heights Sector Development Plan. The R-D zoning would only allow low density residential development which would be contrary to the goals of the proposed VHSDP and its goals to create a West Side Town Center at this intersection of Unser Boulevard and Paseo Del Norte Boulevard.*

*The applicant cites reason D3) above, that the existing zoning is inappropriate because a different use category is more advantageous to the community. Staff is not entirely convinced that a different zoning category would be more advantageous to the community as a whole than the current zoning (R-D) at this time. The argument that the use is less restrictive is incorrect; an SU-1 zone would restrict the property to what's shown on the associated site development plan.*

*The applicant claims that the use would fit into a "Westside Town Center", but offers no explanation of how - though proving the argument is irrelevant because the WSSP contains no activity center in that location and the VHSDP has not been adopted as of this writing. It's a similar situation with the argument that the proposed use is "considered more in line" with the VHSDP. More in line with what? Even so, again the VHSDP is not yet adopted and, if it was, the desirability of a low floor area ratio (FAR), auto supporting use at the very center of what's envisioned as an urban, higher-density center is questionable and would be of less benefit to the community as a whole than larger, office and employment generating uses. The "more advantageous to the community" has not been proven, so the test in Section D is not met.*

- 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.

*The proposed zone change would have the effect of adding a single, specific, commercial use for an area that remains for the most part undeveloped. This change would not be harmful to the adjacent property since the properties are undeveloped and the proposed use is compatible with most allowed uses outlined in the proposed sector development plan. Site design was developed with careful consideration to respecting the integrity of the existing neighborhood and the overall community by minimizing potential visual, traffic, and noise and air quality impacts. Although this change would introduce a commercial element into R-D zoned land, this area of the city contains an immediate need for like services.*

*The applicant states that the proposed zone change would not be harmful because the surrounding property is undeveloped and because commercial services are needed in the area. Since the VHSDP is not yet adopted, the proposed use's compatibility (or lack of) with uses envisioned in the Plan cannot be considered here. The question is whether or not any permissive uses would be harmful. The applicant did not address permissive uses or answer this question. The test in E is not met.*

- 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.

*The proposed zone change will require no capital expenditures by the City of Albuquerque.*

*The applicant has stated that infrastructure will be provided by them, but only on a temporary basis. This is because the permanent infrastructure needed to serve the development would be expensive, and the applicant does not want to be responsible for providing it. The proposed zone change would facilitate a development that is ahead of the City's programming to extend infrastructure to the area. The party responsible for creating the need to extend infrastructure must be responsible for providing it - and not just on a temporary basis.*

*There are two criteria by which a proposed zone change that would result in unprogrammed capital expenditures for the City can be denied. The first states that the request can be denied due to a lack of capital funds. The second states that the City is not bound to provide the capital improvements on any special schedule. However, quality infrastructure is necessary to ensure the health, safety and welfare of the City's residents. There is no guarantee that the applicant can ensure and maintain a high quality level of service when all infrastructures are only temporary.*

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

*Economic considerations or land costs are not a factor in this request.*

*Staff disagrees. Economic considerations pertaining to the applicant are a factor in this zone change request. The question is whether they are a determining factor. Staff finds that, especially when combined with other case specifics, economic considerations pertaining to the applicant are a determining factor in this zone change request. Though the response references the VHSDP numerous times, the applicant is unwilling to wait until the Plan is adopted (it's at Council now) and clearly is in a hurry to make the associated development happen - even in the absence of planned infrastructure (see F above) that is needed to ensure public health, safety and welfare. These particular economic considerations pertaining to the applicant are a determining factor for the proposed change of zone.*

- 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 on a collector or major street is not a factor in this request.*

***Staff disagrees. It is clear that the subject site's location on two major streets (Paseo del Norte and Unser Boulevards) is a primary factor behind the zone change request. Though the applicant doesn't state it here, the project letter contains evidence that the location on the "hard corner" of Paseo del Norte and Unser Boulevards and the site's orientation "diagonal to each roadway to allow for visibility from each" is the reason the subject site, and the associated zone change, is desired.***

- 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.

*The proposed change technically creates a spot zone, with the inclusion of a C-2 commercial zoning in an area predominantly zoned R-D.*

*The proposed change will facilitate the proposed Volcano Heights Sector Development plan goals for a West Side Town Center and its intended uses. It will also function as a neighborhood friendly service to the existing area subdivisions that currently have limited access to area commercial services.*

***Staff finds that the zone change would result in a "spot zone" because it would give different zoning to one, small area. A spot zone shall only be approved when the applicant can show that one of the criterion (1 or 2) specified above justifies the spot zone. The applicant did not claim reason 1 or 2, and did not provide the required explanation. The response to I is insufficient.***

- 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.

*The proposed change will not create a strip commercial zone because it will be the first of other commercial developments that will fit into the City Center template as proposed by the Volcano Heights Sector Development plan.*

***Though the zone change request would not result in "strip zoning", staff finds the applicant's reasoning insufficient. Being the first development and fitting into a "City Center template" proposed in an unadopted Plan is not an acceptable explanation.***

***Staff Discussion & Conclusions:***

*The applicant stated that “The proposed change [the requested zone change] along with the proposed project furthers numerous policies within the Comprehensive Plan and also complies with the proposed Volcano Heights Sector Development Plan.” As demonstrated in the above policy analysis, staff does not agree that Comprehensive Plan Policies cited are furthered. Rather, the request fails to meet essential policies regarding neighborhood values and contiguity to existing infrastructure; the subject site is not in line with the current path of development. The West Side Strategic Plan also mentions that new development needs to be part of the “served infrastructure area” to be considered to comply with a fundamental component of that Plan.*

*Lastly, the applicant fails to explain how this request complies with the VHSDP. A justification of the VHSDP’s policies is not required, but a discussion of how this project’s attributes fit the intent and vision of this Plan and its Goals should be included. Since this essential analysis of this Plan was not provided, after the applicant states that the request complies with this Plan, staff believes this project should be denied.*

*The requested SU-1/C-2 zoning is not a zone proposed by the soon to be adopted VHSDP. If this zone change were to occur before the sector plan, the Volcano Heights area would have an island of SU-1 in the middle of the area that would not have to conform to the Plan or have the Plan’s design standards applied to this site. Thus, this request is premature and is not consistent with the health, safety and general welfare of the City.*

*Further, the location of this site is not in the path of current development and would be a stand alone project surrounded by vacant land. This would require patrons to commute out to this site with no other services/developments in close proximity and thus, they would be making a “destination trip” to a vehicle gasoline station. When the sector plan providing strategies for development of this area is adopted, development will occur in a well thought out manner rather than individual, standalone sites.*

*Finally, pursuant to Section B of R-270-1980, the burden is on the applicant to show why a change should be made, not on the City to show why a change should not be made. The justification must show that all tests have been met; if one is not, R-270-1980 is not fulfilled. Overall, the applicant has not demonstrated that any of the tests of R-270-1980 have been met. The responses for key tests, such as Sections C and D, are inadequate and fail to provide solid reasoning. In this case, key tests also include Sections F and H, since the applicant’s main justification is location on Paseo del Norte and Unser Boulevards and the statement that they would provide temporary infrastructure to get the project started. Finally, other responses are incomplete and did not provide an answer to the question (ex. Sections E, I and J). Therefore, in sum, the applicant has not justified the proposed zone change pursuant to R270-1980. Staff recommends denial.*

## **VI. SITE DEVELOPMENT PLAN FOR SUBDIVISION AMENDMENT and SITE DEVELOPMENT PLAN FOR BUILDING PERMIT**

### ***Request***

This request for a site development plan for subdivision (SPS) and a site development plan for building permit for a triangular shaped piece of land abutting the southern right a way of Unser Boulevard and abutting the northern right of way of Paseo del Norte, containing 2.7055-acres, the “subject site”. The proposed use is a Giant Gasoline Station with a convenience store with liquor sales and an automated car wash.

It is the understanding of staff from conversations with the applicant that this land was part of a much larger area owned by the applicant and was orphaned when Paseo del Norte and Unser Boulevard alignments were created. When the City created the roadway alignments, compensation for that land was made to the property owner and this land was not included in the roadway alignments - public right-of-way (ROW). However, the applicant is still showing property lines that extend into the ROW confusing where the property lines of the subject site are relative to the two roadway alignments.

The SPS is not in satisfactory condition to be approved. Since the zone map amendment is not being recommended for approval either, further analysis of this site plan is not warranted. However, staff will present the elements that are on the SPS below.

- Proposed Use: Automobile Gasoline Station, Convenience Store with liquor sales and automated car wash.
- Pedestrian and vehicular ingress and egress: Vehicular and pedestrian access need to be shown on the SPS. Instead, the applicant shows a "temporary access" Unser Boulevard, which has not been granted and "Future Access" on each of the two lots to be subdivided. There are not permanent vehicular or pedestrian access points shown.
- Internal Circulation: None shown. The site development plan for building permit shows pedestrian connections to the convenience store from the property line at Unser Boulevard and Paseo del Norte. There is no bicycle access shown and no pedestrian facilities proposed in the public right-of-way
- Maximum Building Height: The proposed maximum height is described as "Unless modified by EPC, 26 feet at any legal location. Proposed maximum roof height 22'-0."
- Minimum Building Setback: The proposed minimum setback is described as, "No requirement, 20' min. proposed".
- Maximum FAR: The proposed maximum FAR is described as, "No requirement, 0.052 FAR proposed." The site is described as 2.7055-acres, and the building square footage totals 4,268, which gives an actual FAR of .0362.

### ***Design Guidelines***

No design guidelines are proposed. However, because the request is accompanied by the Site Development Plan for Building Permit, none are needed. There is no transit in the vicinity, so no transit facilities are proposed.

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

The subject site is a triangular shaped piece of land abutting the southern right of way of Unser Boulevard and abutting the northern right of way of Paseo del Norte. It consists of parts of two separate lots- total acreage of the request is 2.7055 acres. As stated above in the SPS portion, a detailed analysis is not warranted as the request for the zone change is not recommended for approval. However, staff will present what is submitted on the site development plan for building permit.

The site is triangular shaped and sits at the eastern quadrant of the intersection of Paseo del Norte and Unser Boulevard. The convenience store is the closest element to the intersection and sits diagonally in

relation to the roadways. The front of the convenience store faces away from the intersection and towards the rest of the site.

Directly in front of the convenience store is site parking and across a 40' drive-aisle is the bank of fuel pumps – again situated diagonally relative to the roadways. To the south of the fuel pumps (along the Paseo del Norte ROW) is the automated carwash with four wash bays. North of the carwash and east of the fueling stations are the fuel tanks; the fuel tanks are against the eastern property line in the relative middle of the site.

Future access points are shown on the eastern property line: one at the northern corner and one in the middle of the site. Also shown of the site plan is a “Temporary Access” right-in, right-out to Unser Boulevard.

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

The site plan shows a “civic open space” area that is 1,650 square feet abutting the intersection of the roadways. There is no connection shown between the proposed buildings and the public outdoor space.

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

Vehicular access is shown from Unser Boulevard; from the intersection, the driveway is located 300' northeast along Unser. This is problematic because this is a limited access road and permission has not been granted and is likely too close to the intersection to be granted in the future. Any access point that is “temporary will not be supported, either.

Staff has included an email from Tony Abbo, Transportation Engineer at the District 3 Office of the State’s Department of Transportation:

Mr. Sheehan:

Regretfully, we cannot sponsor a request that is not on our roadway system.

Furthermore, I personally do not like supporting any temporary access points as those, over time, seem to be thought of as permanent and never end up going away (especially if the property is sold) .

My recommendation is that you work with the City and gain your access from the Permanent location that is identified in the proposed sector plan

Best Regards

*Tony S. Abbo, PE, PTOE*

District 3 ADE – Engineering Support  
NMDOT

There are also two “future access” points shown, but there are any roadways that these two points connect with. There appears to be adequate space for vehicular circulation, fuel loading, and dispensing.

Sixteen parking spaces are required and fifteen have been provided. However, the EPC has discretion over off-street parking. One designated disabled parking space is required, and one is provided. The parking calculations incorrectly indicate two disabled spaces are required and provided, neither of which applies. One motorcycle space is required and two are provided. Two bicycle parking spaces are required and two are provided.

The curb-cut curve radii to Unser Boulevard, albeit a “temporary access point”, is shown with 90-degree angles intersecting with the road. Staff believes this design would not accommodate fuel delivery vehicles.

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

Pedestrian and bicycle access are provided along a sidewalk that connects the convenience store to the ROWs of Unser Boulevard and Paseo del Norte. No direct route is provided to the Civic Open Area, §14-16-3-1(H) (2).

Paseo del Norte and Unser indicate future bicycle lands and paths. No bicycle path is shown. There is no transit service in the vicinity.

### ***Walls/Fences***

A retaining wall is shown at the eastern boundary of the subject site. Additionally, since this is a proposed commercial zone that abuts a residential zone (R-D), a 6-foot opaque wall and the 10-foot buffer landscaping is required along the eastern property line.

### ***Lighting and Security***

The fuel canopy provides recessed canopy lights. Locations of light poles are indicated on the site plan, but no dimensions or details of the fixtures are present. Also, there is no mounted security lighting indicated in the site plan or building mounted lights.

### ***Landscaping***

Staff received the Landscaping Plan late and has not had an opportunity to analyze it.

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

The site generally slopes downward from the southwest to the northeast. The proposed grading maintains this drainage pattern. The four landscape areas are to be retention and retention is also proposed along the ROWs of Unser and Paseo Boulevards. The City Hydrologist has made it clear that a Drainage Study and drainage facilities for off-site runoff needs to be in place before this site can be developed. As there are no facilities in this vacant area, the applicant will be responsible for providing the Drainage Study and the required facilities.

The utility plans show on-site provision of all utilities. There is a note for a "Proposed Domestic Well," which should be modified to indicate the location of a "Commercial Well." Waterlines serve storage tank reservoir and yard hydrant as well as the convenience store an additional line should be provided to serve the Car Wash building and washing bays. It is unclear if a yard hydrant is adequate fire protection for the proposed use.

### ***Architecture***

There are three architectural elevations sheets provided. The building elevations all lack required dimensions of the overall façade and principle elements of the façade, including doors, windows, architectural features, etc.

The front of the convenience store is well articulated with a portico, doors, and windows. The side elevations are partially articulated with a portico, with horizontal and vertical bands of color that provide articulation for the rear 2/3 of the building. The car wash has the same colors and stucco finish as the convenience store. There are two doors shown, but no windows are proposed. There are horizontal and vertical bands of color that provide articulation. The fueling canopy is typical gas station in design.

### ***Signage***

There is 58 square feet of building mounted signage proposed. This is substantially less than the allowable 12% of the total building façade that is allowed in the UBDOZ. There are also two freestanding monument signs that are 60 square feet on each face. This is acceptable under the UBDOZ. These freestanding signs are limited to 12 feet in height—these signs are shown to be exactly 12 feet high.

## **VII. AGENCY & NEIGHBORHOOD CONCERNS**

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

The applicant did not attend the pre-hearing discussion meeting. This is unfortunate because several agencies were represented and they have numerous comments. Many of these comments are presented at the beginning of this staff report in the discussion of the recommendation for denial of this proposal. Rather than repeating several of the comments, staff will point out some of the more important issues raised by commenting agencies.

- **VHSDP.** It is not an adopted City document; it provides mechanisms for adjacent property owners to work together to resolve infrastructure issues.
- **Access.** A process of granting access from a limited access principal arterial has not been initiated by the applicant and therefore cannot be assumed that this access will be granted. Also, there currently is not a roadway network to access the site from internal streets.
- **Water and Sewer.** Lines are over ½ mile away with no current plans to bring them to the site. A new water well and septic system is proposed, but the applicant has not initiated any review and approval processes with the State or the ABCWUA.
- **Drainage.** There needs to be a Drainage Plan in place with identified facilities for the site to use. Nothing exists currently.
- **Electricity.** PNM has stated that adequate electrical service does not exist for the site.
- **Buffer Landscaping.** Adequate landscape buffering with a 6' opaque wall is not provided.
- **Security.** Police has several comments regarding the creation of "blind" spots from improper landscaping placement, over-design of building features and lack of security systems, especially cameras.
- **The MRCOGs comments** identify the need to study the existing and proposed intersections along the limited access principal arterials.

### **Neighborhood/Public**

The affected neighborhood organization, as cited by the Office of Neighborhood Coordination (ONC) is only the West Side Coalition of Neighborhood Association. Property owners within 100' of the subject site were also notified. An email was received by the president of the West Side Coalition stating that this project is not regionally significant to the Coalition (see attachment).

A facilitated meeting was held Tuesday, February 5, 2013 (see attachment). Five members of the Paradise Hills Community Association were present. No opposition to the request was expressed. The applicant acknowledged that there are big issues that must be confronted: road access, infrastructure and adherence to the soon to be adopted VHSDP. The public that were present at this meeting did not view these issues negatively.

### **VIII. CONCLUSION**

This is a three-part request for a vacant, unplatted area at the intersection of Unser Boulevard and Paseo del Norte consisting of: 1) a zone change to from R-D to SU-1/C-2; 2) a site development plan for subdivision; and 3) a site development plan for building permit for a triangular shaped piece of land abutting that consists of remnant land from the development of the roadways Unser Boulevard and Paseo del Norte Boulevard in the Volcano Mesa area containing approximately 2.7055 acres. A legal description is attached to this report.

The applicant proposes to develop an automobile gasoline station with an approximately 4,000 square foot canopy with 6 multi-fuel dispensers (12 fueling locations for automobiles), approximately 3,100 square foot convenience store with liquor sales, and an approximately 1,200 square foot automated car wash with 4 wash bays.

The subject site is in the Developing Urban Area of the Comprehensive Plan, the Volcano Mesa Community of the West Side Strategic Plan, the View Area of the Northwest mesa Escarpment Plan and the Unser Boulevard Design Overlay Zone. The subject site is also within the Volcano Heights Sector Development Plan Area, but this Plan is still in the adoption process by the City.

The comprehensive Plan requires that new development be well served with infrastructure that is contiguous to already existing facilities. The only facilities that serve this site are the recent creation of the two Limited Access Principal Arterials. All other infrastructure is still in the planning phase or has not yet been programmed for extension to this vacant area.

The development of this site would create “leapfrog” development and is not currently served with water and sanitary sewer as required by the West side Strategic Plan. As the Volcano mesa area is new community to this Plan, development will need to follow the strategies that are presented in the Development process Chapter (Chapter 4 of the WSSP).

The area is zoned R-D, which is a “holding” zone and implies that the area is waiting for a sector plan to be adopted by the city that will guide development. The VHSDP is currently in the process of being adopted and presents several strategies for providing necessary infrastructure improvements for the area in order to encourage coordinated development. It also designates this area for a regional employment center and establishes the zoning to be utilized in a Major Activity Center at this location. The proposal conflicts with Activity Center policies because the use has a very low FAR (0.03), which promote auto travel and would not result in a site that is “very accommodating to the pedestrian”.

The applicant has not adequately justified the zone change request and particularly has not stated why or how this request would be more advantageous to the community. The applicant has also not shown how this request will not create harm to the surrounding Major Activity Center or the roadway system. Further, the applicant has not adequately addressed how this zone change adds to the stability of the area when there is a pending sector plan that is supported by surrounding property owners that will establish zoning that achieves the community envisioned by all affected Plans in the area and the surrounding community. And lastly, the requested zoning (SU-1) will create an island that does not comport to the sector plan-this is an unjustified spot zone.

The only neighborhood involved is the West side coalition of Neighborhoods. A facilitated meeting was held. There was concern expressed about the lack of infrastructure by the applicant, but the five members of the public that were at the meeting did not express opposition.

Staff recommends denial.

***FINDINGS - 12EPC-40084, March 14, 2013- Zone Map Amendment (Zone Change)***

1. This request is for a zone map amendment (zone change) from R-D to SU-1/C-2 for an unplatted triangular shaped piece of land abutting the southern right of way of Unser Boulevard and abutting the northern right of way of Paseo del Norte Boulevard in the Volcano Mesa area, containing approximately 2.7055 acres. This site is comprised of remnant land from the creation of these two roadways and is described as:

A tract of land lying and situate within the town of Alameda Grant, projected Section 15, Township 11 North, Range 2 East, New Mexico principal Meridian, Bernalillo County, New Mexico, comprising the remaining portion of Tracts Wes Prop NM, LLC agent for West Seventy, LLC requests the above actions for all or a portion of, a tract of land lying and situated within the Town of Alameda Grant, projected Section 15, Township 11 North, Range 2 East, New Mexico Principal Meridian, Bernalillo County, New Mexico, comprising the remaining portion of Tracts 15-13A2, 15-13A1, 15-13B2, 15-38A, 15-38B and 15-2B, as the same are described in that Special Warranty Deed filed in the office of the County Clerk of Bernalillo County, New Mexico on January 06, 2003, in Book A-48, Page 2173, Document Number 2003002177, less than and excepting that portion of the land acquired by Stipulated Judgment for Condemnation, Second Judicial District Court Case No. CV 2006 6154, filed in the office of the Clerk of the Second Judicial District on June 23, 2009 and filed in the office of the County Clerk of Bernalillo County, New Mexico on August 10, 2009 as Document Number 2009090671, said remaining portion tract being more particularly described as follows:

Beginning at the southernmost corner of described tract lying on the northeasterly right of way line of Paseo Del Norte Boulevard, from whence a tie to Albuquerque Geographic Reference Survey Monument "8\_C10" bears S 70°41'28" E, a distance of 1,871.65 feet;  
Thence from said point of beginning, N 39°16'31" W along said right of way line, a distance of 486.27 feet to a point of curvature;  
Thence along a curve to the right having a radius of 50.00 feet, an arc length of 78.54 feet, a delta angle of 89°59'56", and a chord of N 05°43'32" E, a distance of 70.71 feet to a point of tangency lying on the southeasterly right of way line of Unser Boulevard;  
Thence N 50°43'30" E along said right of way line, a distance of 391.53 feet to the northernmost corner of described tract;  
Thence leaving said right of way line, S 00°11'27" W, a distance of 694.65 feet to the point of beginning, containing 2.7055 acres (117,853 square feet) more or less.

2. The requested zone change is accompanied by a site development plan for subdivision request (Project #1009543/12EPC-40082) and a site development plan for building permit request (Project #1009543/12EPC-40083). If the EPC were to approve this zone change request, an additional condition for approval would be that the zone map amendment would be contingent on the approval of the request for site development plan for subdivision and the approval of the site development plan for building permit as the site plan controls the zoning on all SU-1 zoned sites.
3. The Albuquerque/Bernalillo County Comprehensive Plan, the West Side Strategic Plan, the Northwest Mesa Escarpment Plan and the City of Albuquerque Comprehensive Zoning Code are incorporated herein by reference and made part of the record for all purposes.

4. The subject site is in the Developing Urban Area of the Comprehensive Plan and is governed by the Unser Boulevard Design Overlay Zone.
  
5. The request is not justified pursuant to R270-1980 as follows:
  - A. The applicant does not adequately explain how the development of “residential friendly commercial uses” is consistent with the City’s health, safety, morals and general welfare. The reliance on the unadopted VHSDP and lack of linkage to policy-based explanations do not substantiate the claim of consistency. Also, the policy demonstration in Section C is insufficient.
  
  - B. The applicant does not relate the argument based on alleged need for quality commercial to stability of land use and zoning; stability of land use and zoning is not addressed at all. Furthermore, the applicant does not present persuasive evidence overall to demonstrate that the zone change should be made (see also responses to other subsections). The response to Section 1B is insufficient.
  
  - C. The applicant’s response does not demonstrate that the proposed zone change furthers a preponderance of applicable Goals and policies. The main arguments, that commercial development is needed in the area and that the use would fit well in an activity center of a not-yet-adopted Plan, are insufficient and non-substantive. Furthermore, Staff finds a significant conflict with WSSP Chapter 4- Development Process Issues, which states that the Westside must develop through infrastructure phasing to avoid unnecessary expenditures of limited public resources.
  
  - D. The claim that a different zoning category would be “more advantageous to the community” has not been demonstrated by the applicant. Statements that the use would fit into a “Westside Town Center” (that doesn’t exist) and be “considered more in line” with the VHSDP (which is not adopted) cannot be used to substantiate the request and do not support the “more advantageous” argument.
  
  - E. The applicant states that the proposed zone change would not be harmful because the surrounding property is undeveloped and because commercial services are needed in the area. Since the VHSDP is not yet adopted, the proposed use’s compatibility (or lack of) with uses envisioned in the Plan cannot be considered here. The question is whether or not any permissive uses would be harmful. The applicant did not address permissive uses or answer this question.
  
  - F. The proposed zone change would facilitate a development ahead of the City’s programming to extend infrastructure. The applicant is willing to provide temporary infrastructure; the needed, permanent infrastructure would be more expensive. A proposed zone change that would result in unprogrammed capital expenditures for the City can be denied due to lack of capital funds. Also, the City is not bound to provide capital improvements on any special schedule. However, quality infrastructure is necessary to ensure the health, safety and welfare of the City’s residents. There is no guarantee that the applicant can provide, ensure and maintain a quality level of service when all infrastructures would be only temporary.
  
  - G. Economic considerations pertaining to the applicant are a determining factor in this zone change request. Though the response references the VHSDP numerous times, the applicant is unwilling to wait until the Plan is adopted (it’s at Council now) and clearly is in a hurry to make the associated

development happen- even in the absence of planned infrastructure (see F above) needed to ensure public health, safety and welfare. These particular economic considerations pertaining to the applicant are a determining factor in this case.

- H. It is evident that the subject site's location on two major streets (Paseo del Norte and Unser Blvds.) is a primary factor behind the zone change request. The project letter contains evidence that the location on the "hard corner" of Paseo del Norte and Unser Blvds. and the site's orientation "diagonal to each roadway to allow for visibility from each" is the reason the subject site, and the associated zone change, are being pursued.
- I. The proposed zone change would result in a "spot zone" because it would give different zoning to one, small area. A spot zone shall only be approved when the applicant can show that either reason I.1 or reason I.2 justifies the spot zone. The applicant did not claim either and did not provide the required explanation.
- J. Though the zone change request would not result in "strip zoning", the applicant's reasoning is insufficient and doesn't use reason J.1 or J.2. Being the first development and fitting into a "City Center template" proposed in an unadopted Plan is not an acceptable explanation.
6. The affected neighborhood organization is only the West Side Coalition of Neighborhood Associations. The Coalition and property owners within 100 feet of the subject site were notified. An email was received by the president of the West Side Coalition, Jerry Worrall, stating that this project is not regionally significant to the Coalition:
- "The West Side Coalition of Neighborhood Associations' position on this is that it is not regionally significant; therefore, we would only take a position of support to a resolution brought to us by the N/A involved."
7. A facilitated meeting was held February 5, 2013, between the applicant and five members of the Paradise Hills Community Association. No opposition to the request was expressed. The applicant acknowledged that there are big issues that must be confronted: road access, infrastructure and adherence to the soon to be adopted VHSDP. The public that were present at this meeting did not view these issues negatively.

***RECOMMENDATION – 12EPC 40082, March 14, 2013 -Site Development Plan for Subdivision***

***DENIAL of 12EPC 40082, a zone map amendment for an unplatted triangular shaped piece of land abutting the southern right of way of Unser Boulevard and abutting the northern right of way of Paseo del Norte Boulevard in the Volcano Mesa area, containing approximately 2.7055 acres. This site is comprised of remnant land from the creation of these two roadways and is described as in the above in Finding 1.***

***FINDINGS - 12EPC-40082, March 14, 2013- Site Development Plan for Subdivision***

1. This request is for a site development plan for subdivision for an unplatted triangular shaped piece of land abutting the southern right of way of Unser Boulevard and abutting the northern right of way of Paseo del Norte Boulevard in the Volcano Mesa area, containing approximately 2.7055 acres. This site is comprised of remnant land from the creation of these two roadways and is described as:

A tract of land lying and situate within the town of Alameda Grant, projected Section 15, Township 11 North, Range 2 East, New Mexico principal Meridian, Bernalillo County, New Mexico, comprising the remaining portion of Tracts Wes Prop NM, LLC agent for West Seventy, LLC requests the above actions for all or a portion of, a tract of land lying and situated within the Town of Alameda Grant, projected Section 15, Township 11 North, Range 2 East, New Mexico Principal Meridian, Bernalillo County, New Mexico, comprising the remaining portion of Tracts 15-13A2, 15-13A1, 15-13B2, 15-38A, 15-38B and 15-2B, as the same are described in that Special Warranty Deed filed in the office of the County Clerk of Bernalillo County, New Mexico on January 06, 2003, in Book A-48, Page 2173, Document Number 2003002177, less than and excepting that portion of the land acquired by Stipulated Judgment for Condemnation, Second Judicial District Court Case No. CV 2006 6154, filed in the office of the Clerk of the Second Judicial District on June 23, 2009 and filed in the office of the County Clerk of Bernalillo County, New Mexico on August 10, 2009 as Document Number 2009090671, said remaining portion tract being more particularly described as follows:

Beginning at the southernmost corner of described tract lying on the northeasterly right of way line of Paseo Del Norte Boulevard, from whence a tie to Albuquerque Geographic Reference Survey Monument "8\_C10" bears S 70°41'28" E, a distance of 1,871.65 feet;  
Thence from said point of beginning, N 39°16'31" W along said right of way line, a distance of 486.27 feet to a point of curvature;  
Thence along a curve to the right having a radius of 50.00 feet, an arc length of 78.54 feet, a delta angle of 89°59'56", and a chord of N 05°43'32" E, a distance of 70.71 feet to a point of tangency lying on the southeasterly right of way line of Unser Boulevard;  
Thence N 50°43'30" E along said right of way line, a distance of 391.53 feet to the northernmost corner of described tract;  
Thence leaving said right of way line, S 00°11'27" W, a distance of 694.65 feet to the point of beginning, containing 2.7055 acres (117,853 square feet) more or less.

2. The requested site development plan for subdivision is accompanied by a site development plan for building permit request – Project #1009543, 12EPC-40083 and a zone map amendment – Project #1009543, 12EPC-40084. If the EPC were to approve the zone change request, an additional condition of approval would be that the zone map amendment would be contingent on the approval of this request and the approval of the site development plan for building permit as the site plan controls the zoning on all SU-1 zoned sites.
3. The Albuquerque/Bernalillo County Comprehensive Plan, the West Side Strategic Plan, the Northwest Mesa Escarpment Plan and the City of Albuquerque Comprehensive Zoning Code are incorporated herein by reference and made part of the record for all purposes.

4. The subject site is in the Developing Urban Area of the Comprehensive Plan and is governed by the Unser Boulevard Design Overlay Zone.
5. The submitted site plan for subdivision is confusing to read as property liens are shown in the ROW and vehicular access points are shown to be “temporary” from the limited Access Principal Arterial (not approved) and “further access” points are shown connecting to nothing. Pedestrian circulation is not shown, either.
6. The request is in significant conflict with adopted elements of the Comprehensive Plan or other city master plans including the following:

A) COMPREHENSIVE PLAN:

B. Developing Urban Policies

The request is to allow the development of an automobile gasoline station at the intersection of two Limited Access Principal Arterials. The site will be the first in an undeveloped area. No infrastructure exists, other than the roadways. Development that is not contiguous to existing infrastructure should not be allowed to proceed as it is premature. Since the area is zoned R-D, a sector plan shall be created and implemented. The Volcano Heights Sector development Plan is not yet adopted and will provide strategies for development of this area. (Comprehensive Plan Policies II.B.5.a,d,e and g)

Activities Centers

The Goal is to create a node of mid and high density mixed land use activities which reduce urban sprawl and auto travel needs and will enhance the identity of Albuquerque and its communities – a gasoline station does not fulfill this Goal. This request further conflicts with Activity Center policies because the use has a very low FAR (0.03) as well and would promote auto travel; it would not result in a site that is “very accommodating to the pedestrian”. (Comprehensive Plan Activity Center Goal and Policy II.B.7.a)

C. Environmental Protection and Heritage Conservation

1. Air Quality

Staff does not agree as the applicant has stated: an automobile gasoline station would result in an improvement of air quality and that this request would contribute to a balanced land use/transportation system that promotes the efficient placement of housing and services. (Comprehensive Plan Policies II.C.1.b,c and d)

D. Community resource Management

4. Transportation and Transit Policies

This request does not support the Transportation and Transit Goal and adding to a balanced circulating system because the site is to have access directly from a Limited Access Principal Arterial and the access point is less than 400’ from the intersection. (Comprehensive Plan Policy II.D.4.g)

B) West Side Strategic Plan

- i. This request conflict with one of the fundamental objectives of this Plan – to prevent “leap frog” development. The Development Process in Chapter 4 provides a phasing

plan with areas served by water and sanitary sewer to be desirable areas for development. Water and sanitary sewer lines are over ½ mile away from this site with no immediate plans programmed to extend these services up to the surrounding area. (West Side Strategic Plan, Development process, Chapter 4, pages 154-179)

- ii. This request is ancillary to uses in an activity center. A gasoline station does not promote pedestrianism or bicycling or connections to facilities that support this type of activity. Currently, the subject site is not in the path of current development and would be a stand-alone project surrounded by vacant land and would require patrons to commute to this gasoline station making a destination trip. (West Side Strategic Plan, Policies, 1.13 & 1.16)
- iii. This request could inhibit the development of the Volcano Mesa and the Major Activity Center as envisioned by the Comprehensive Plan, the West Side Strategic Plan and the yet to be adopted Volcano Heights Sector Development Plan and the surrounding property owners. (West Side Strategic Plan, Policies, 3.8 & 6.14)

C) Northwest Mesa Escarpment Plan

The applicant did not address this Plan. However, the color palette and the height of the structures are in conformance with policies of the Plan. (Northwest Mesa Escarpment Plan, Policies 20-1 & 21-1)

D) Volcano Heights Sector Development Plan

The Plan is not yet adopted by the City. It does offer strategies for property owners to work together for providing necessary infrastructure improvements for the area in order to encourage coordinated development. (Volcano Heights Sector Development Plan, Intent)

E) Unser Boulevard Design Overlay Zone

The applicant did not address this Plan. However, a revised drawing of the proposed signs shows that there are one monument sign for each street frontage (two in total) and they comply with this overlay zone. (Unser Boulevard Design Overlay Zone, Regulations 2.c.1, 2d.2 & 6)

7. The affected neighborhood organization is only the West Side Coalition of Neighborhood Associations. The Coalition and property owners within 100 feet of the subject site were notified. An email was received by the president of the West Side Coalition, Jerry Worrall, stating that this project is not regionally significant to the Coalition:

"The West Side Coalition of Neighborhood Associations' position on this is that it is not regionally significant; therefore, we would only take a position of support to a resolution brought to us by the N/A involved."

8. A facilitated meeting was held February 5, 2013, between the applicant and five members of the Paradise Hills Community Association. No opposition to the request was expressed. The applicant acknowledged that there are big issues that must be confronted: road access, infrastructure and adherence to the soon to be adopted VHSDP. The public that were present at this meeting did not view these issues negatively.

---

**RECOMMENDATION -12EPC 40082, March 14, 2013 -Site Development Plan for Subdivision**

**DENIAL of 12EPC 40082, a site development plan for subdivision for an unplatted triangular shaped piece of land abutting the southern right of way of Unser Boulevard and abutting the northern right of way of Paseo del Norte Boulevard in the Volcano Mesa area, containing approximately 2.7055 acres. This site is comprised of remnant land from the creation of these two roadways and is described as in the above in Finding 1.**

---

**FINDINGS -12EPC 40083, March 14, 2013-Site Development Plan for Building Permit**

1. This request is for a site development plan for building permit for an unplatted triangular shaped piece of land abutting the southern right of way of Unser Boulevard and abutting the northern right of way of Paseo del Norte Boulevard in the Volcano Mesa area, containing approximately 2.7055 acres. This site is comprised of remnant land from the creation of these two roadways and is described as:

A tract of land lying and situate within the Town of Alameda Grant, projected Section 15, Township 11 North, Range 2 East, New Mexico Principal Meridian, Bernalillo County, New Mexico, comprising the remaining portion of Tracts 15-13A2, 15-13A1, 15-13B2, 15-38A, 15-38B and 15-2B, as the same are described in that Special Warranty Deed filed in the office of the County Clerk of Bernalillo County, New Mexico on January 06, 2003, in Book A-48, Page 2173, Document Number 2003002177, less than and excepting that portion of the land acquired by Stipulated Judgment for Condemnation, Second Judicial District Court Case No. CV 2006 6154, filed in the office of the Clerk of the Second Judicial District on June 23, 2009 and filed in the office of the County Clerk of Bernalillo County, New Mexico on August 10, 2009 as Document Number 2009090671, said remaining portion tract being more particularly described as follows:

Beginning at the southernmost corner of described tract lying on the northeasterly right of way line of Paseo Del Norte Boulevard, from whence a tie to Albuquerque Geographic Reference Survey Monument "8\_C 10" bears S 70°41'28" E, a distance of 1,871.65 feet; Thence from said point of beginning, N 39°16'31" W along said right of way line, a distance of 486.27 feet to a point of curvature; Thence along a curve to the right having a radius of 50.00 feet, an arc length of 78.54 feet, a delta angle of 89°59'56", and a chord of N 05°43'32" E, a distance of 70.71 feet to a point of tangency lying on the southeasterly right of way line of Unser Boulevard; Thence N 50°43'30" E along said right of way line, a distance of 391.53 feet to the northernmost corner of described tract; Thence leaving said right of way line, S 00°11'27" W, a distance of 694.65 feet to the point of beginning, containing 2.7055 acres (117,853 square feet) more or less.

2. The requested site development plan for building permit is accompanied by a site development plan for subdivision request-Project #1009543, 12EPC-40082 and a zone map amendment- Project #1009543, 12EPC-40084. If the EPC were to approve the zone change request, an additional condition for approval would be that the zone map amendment would be contingent on the

approval of this request and the approval of the site development plan for subdivision as the site plan controls the zoning on all SU-1 zoned sites.

3. The Albuquerque/Bernalillo County Comprehensive Plan, the West Side Strategic Plan, the Northwest Mesa Escarpment Plan and the City of Albuquerque Comprehensive Zoning Code are incorporated herein by reference and made part of the record for all purposes.
4. The subject site is in the Developing Urban Area of the Comprehensive Plan and is governed by the Unser Boulevard Design Overlay Zone.
5. The request is in significant conflict with adopted elements of the Comprehensive Plan or other city master plans including the following:

A) COMPREHENSIVE PLAN:

B. Developing Urban Policies

The request is to allow the development of an automobile gasoline station at the intersection of two Limited Access Principal Arterials. The site will be the first in an undeveloped area. No infrastructure exists, other than the roadways. Development that is not contiguous to existing infrastructure should not be allowed to proceed as it is premature. Since the area is zoned R-D, a sector plan shall be created and implemented. The Volcano Heights Sector development Plan is not yet adopted and will provide strategies for development of this area. (Comprehensive Plan Policies II.B.5.a,d,e and g)

Activities Centers

The Goal is to create a node of mid and high density mixed land use activities which reduce urban sprawl and auto travel needs and will enhance the identity of Albuquerque and its communities – a gasoline station does not fulfill this Goal. This request further conflicts with Activity Center policies because the use has a very low FAR (0.03) as well and would promote auto travel; it would not result in a site that is “very accommodating to the pedestrian”. (Comprehensive Plan Activity Center Goal and Policy II.B.7.a)

C. Environmental Protection and Heritage Conservation

1. Air Quality

Staff does not agree as the applicant has stated: an automobile gasoline station would result in an improvement of air quality and that this request would contribute to a balanced land use/transportation system that promotes the efficient placement of housing and services. (Comprehensive Plan Policies II.C.1.b,c and d)

D. Community resource Management

4. Transportation and Transit Policies

This request does not support the Transportation and Transit Goal and adding to a balanced circulating system because the site is to have access directly from a Limited Access Principal Arterial and the access point is less than 400’ from the intersection. (Comprehensive Plan Policy II.D.4.g)

B) West Side Strategic Plan

- i. This request conflict with one of the fundamental objectives of this Plan – to prevent “leap frog” development. The Development Process in Chapter 4 provides a phasing plan with areas served by water and sanitary sewer to be desirable areas for development. Water and sanitary sewer lines are over ½ mile away from this site with no immediate plans programmed to extend these services up to the surrounding area. (West Side Strategic Plan, Development process, Chapter 4, pages 154-179)
- ii. This request is ancillary to uses in an activity center. A gasoline station does not promote pedestrianism or bicycling or connections to facilities that support this type of activity. Currently, the subject site is not in the path of current development and would be a stand-alone project surrounded by vacant land and would require patrons to commute to this gasoline station making a destination trip. (West Side Strategic Plan, Policies, 1.13 & 1.16)
- iii. This request could inhibit the development of the Volcano Mesa and the Major Activity Center as envisioned by the Comprehensive Plan, the West Side Strategic Plan and the yet to be adopted Volcano Heights Sector Development Plan and the surrounding property owners. (West Side Strategic Plan, Policies, 3.8 & 6.14)

C) Northwest Mesa Escarpment Plan

The applicant did not address this Plan. However, the color palette and the height of the structures are in conformance with policies of the Plan. (Northwest Mesa Escarpment Plan, Policies 20-1 & 21-1)

D) Volcano Heights Sector Development Plan

The Plan is not yet adopted by the City. It does offer strategies for property owners to work together for providing necessary infrastructure improvements for the area in order to encourage coordinated development. (Volcano Heights Sector Development Plan, Intent)

E) Unser Boulevard Design Overlay Zone

The applicant did not address this Plan. However, a revised drawing of the proposed signs shows that there are one monument sign for each street frontage (two in total) and they comply with this overlay zone. (Unser Boulevard Design Overlay Zone, Regulations 2.c.1, 2d.2 & 6)

6. The affected neighborhood organization is only the West Side Coalition of Neighborhood Associations. The Coalition and property owners within 100 feet of the subject site were notified. An email was received by the president of the West Side Coalition, Jerry Worrall, stating that this project is not regionally significant to the Coalition:

"The West Side Coalition of Neighborhood Associations' position on this is that it is not regionally significant; therefore, we would only take a position of support to a resolution brought to us by the N/A involved."

7. A facilitated meeting was held February 5, 2013, between the applicant and five members of the Paradise Hills Community Association. No opposition to the request was expressed. The applicant acknowledged that there are big issues that must be confronted: road access, infrastructure and adherence to the soon to be adopted VHSDP. The public that were present at this meeting did not view these issues negatively.

***RECOMMENDATION- 12EPC 40083, March 14, 2013-Site Development Plan for Building Permit***

***DENIAL of 12EPC 40083, a site development plan for building permit for an unplatted triangular shaped piece of land abutting the southern right of way of Unser Boulevard and abutting the northern right of way of Paseo del Norte Boulevard in the Volcano Mesa area, containing approximately 2.7055 acres. This site is comprised of remnant land from the creation of these two roadways and is described as in the above in Finding 1.***

---

---

***Christopher Hyer  
Senior Planner***

**Notice of Decision cc list:**

Wes Prop NM, LLC, 1016 Saddlehorn Road, Sedona, AZ, 86351  
West Seventy, LLC, 2424 Louisiana Boulevard NE, Albuquerque, NM, 87110  
Gerald C. Worrall, 1039 Pinatubo Place NW, Albuquerque, NM, 87120  
Candelaria Patterson, 7608 Elderwood NW, Albuquerque, NM, 87120

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

### ***PLANNING DEPARTMENT***

#### **Zoning Enforcement**

If approved, a zone change from R-D to SU-1 for C-2 uses would create a non-residential zone boundary abutting a residential zone along the rear of the lot. This would require a special buffer landscaping/screening along its entire length per section 14-16-3-10(E)(4) as follows:

- (4) Special Buffer Landscaping/Screening Requirements. Where a nonresidential zone is developed after April 2, 1990 for a nonresidential purpose and the site abuts a residential zone, special buffer landscaping is required to minimize noise and sight impact of the non-residential activities in the residential area:
- (a) The standard buffer landscaping shall be a landscaping strip at least ten feet wide where located along the residential/nonresidential boundary. The required landscaped setbacks specified in division (3) above may be utilized for this purpose;
  - (b) The buffer landscaping shall consist primarily of trees, which trees shall be at least eight feet high at time of planting and capable of reaching a height at maturity of at least 25 feet. Spacing of the trees shall be equal to 75% of the mature canopy diameter of the trees;
  - (c) Where parking or vehicle circulation areas are adjacent to the landscaping strip, a minimum six foot high opaque wall or fence shall also be required to visually screen the parking or circulation area from the adjacent residential zone; chain link fence with slats shall not constitute acceptable screening;

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

No NA/HOAs, Westside Coalition of NAs

12/31/12 – Recommended for Facilitation – sdb

12/31/12 – Assigned to David Gold – sdb

1/15/13 – Facilitated Meeting scheduled for Tuesday

February 5, 2013 from 7-8:45 pm at the Paradise Hills Community Center, 5901 Paradise Blvd. NW

#### **Long Range Planning**

- The notification sent the neighborhoods shows the subject site on the north side of Unser. The subject is on the south side of Unser in all other maps. Which is correct?
- Based on the November 2, 2012 letter from the Albuquerque Bernalillo County Water Utility Authority, the site does have water or sewer available, how will these services be provided if the project is approved?
- The site plan shows access from Paseo del Norte and from Unser. These are both limited access roads. Has the applicant gone to the Regional Access Committee of the MRCOG to obtain this access?
- Will subject site be re-platted or will the proposed zoning apply to the entire parcel? The parcel seems to span Unser and Paseo del Norte.

- The SU-1 for C-2 zone will require a public hearing for future projects on the site and for changes of over 10% to the site plan.
- The site is within the View area of the Northwest Mesa Escarpment Plan. This plan provides design standards for height and color of materials.

**4. VIEW AREA REGULATIONS**

<u>POLICY #20</u>	p. 73	Structures within View Area shall blend in with color of area:
20-1	p. 73	Color of exterior surfaces (including roofs) of commercial and multi-family structures shall be from Approved Color List (Appendix E) trim (up to 25% of surface area) excluded.
20-2	p. 73	Single family residential structures - roof color shall be from Approved Color List.
<u>POLICY #21</u>	p. 73	Structures shall not dominate views of the escarpment:
21-1	p. 73	Structure height maximum 40'-0".

- The Volcano Heights Plan is proposed for the area. It is the third part of a set of Plans that were done for the area. The Volcano Cliffs and Volcano Trails plans were adopted in 2011. The subject site is in the proposed SU-2-VHRC, Regional Center zone. This would allow a mix of higher density residential, large format commercial and office use. The gas station use would be allowed under the proposed zone if the plan is adopted.
- The plan also proposes a loop road that may give the site access from the east.
- The proposed plan was heard by the EPC on December 6<sup>th</sup>, 2012 and sent to City Council with a recommendation of approval.

**Metropolitan Redevelopment Section**

The subject property is not within a Redevelopment Area, and therefore Metropolitan Redevelopment Section staff has no comments on this application.

**CITY ENGINEER**

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

**Site Development Plan for Subdivision:**

- The proposed Subdivision replat requires Metropolitan Transportation Board (MTB) approval. Following MTB approval, concurrent Platting Action required at Development Review Board (DRB).

- Proposed access onto Limited Access roadways, Paseo Del Norte and Unser Blvd., must be granted by a board of reviewers. Please contact Debbie Bauman with Department of Municipal Development for guidance at 768-3649.
- The Developer is responsible for permanent improvements to the transportation facilities adjacent to the proposed site development plan, as may be required by the Development Review Board (DRB).
- The legend's boundary line type is used in multiple locations creating a difficult layout to interpret. The boundary lines shown cross-over the COA public roadways and are also inconsistent with the information provided by AGIS. Please clarify.
- According to the Long Range Roadway Plan, principal arterials shall be 156 feet. Therefore, width of 156 feet must be dedicated to the COA for public right-of-way along both arterial roadways fronting proposed subdivision, Unser Blvd and Paseo Del Norte.
- A separate Site Development Plan for Subdivision shall be provided that clearly distinguishes:
  - existing lot lines from proposed lot lines for subdivision,
  - all easements with their associated numbers of record,
  - any proposed easement dedications, including public right-of-way dedication along both principal arterial roadways, and
  - conceptual circulation layout of vehicle/pedestrian ingress/egress between the public ROW and proposed site.
  - Please remove all extraneous details or label illustrative.
  - Please re-label sheet SP-2 to read "Site Development Plan for Subdivision" and remove "Preliminary Grading Plan."

**Site Development Plan for Building Permit:**

- Proposed access onto Limited Access roadways, Paseo Del Norte and Unser Blvd., must be granted by a board of reviewers. Please contact Debbie Bauman with Department of Municipal Development for guidance at 768-3649.
- The Developer is responsible for permanent improvements to the transportation facilities adjacent to the proposed site development plan, as may be required by the Development Review Board (DRB).
- Clearly show the heavy vehicle pathway between the public roadway and proposed site to include ingress, egress and internal circulation. The pathway cannot cross into incoming traffic.
- The pedestrian pathway proposed from Paseo Del Norte to the building must be six-foot wide, made of a hard surface material and ADA accessible.
- A clearly delineated six-foot wide, ADA accessible, pedestrian pathway is required from the ADA parking access aisle to the building.
- Provide/label/detail all dimensions, classifications and proposed infrastructure within the site.
- All easements must be shown and labeled on Site Plan. Provide recording information.
- Site plan shall comply and be in accordance with DPM (*Development Process Manual*) and current ADA standards/ requirements.
- Demonstrate that the signs and landscaping do not interfere with the sight distance of the entrances/exits. Please add the following note to the Landscaping Plan: "Landscaping and signing will not interfere with clear sight requirements. Therefore, signs, walls, trees, and shrubbery between 3 and 8 feet tall (as measured from the gutter pan) will not be acceptable in this area."

- Sheets SP-1, DS-1, and LP-1 are miss labeled. Please correct.
- Plantings shown on landscaping sheet conflict with proposed six foot sidewalk connection between Paseo Del Norte COA ROW and proposed building shown on site plan for building permit sheet.
- Please ensure that landscaping does not interfere with the clear sight of vehicle exiting car wash.
- Please clarify line types located at queuing lane to car wash entrance.
- Please review Canopy sheet CA-1, it appears that keyed notes are missing and mislabeled on canopy plan.
- Signage is warranted at car wash entrance and canopy approach to indicate vehicle height restrictions, please provide detail on site plan.
- There is a discrepancy between submitted site plans: the “Preliminary Site Plan” dated 11/15/12 shows full access at entrance and exit points to the site from Unser Blvd and Paseo Del Norte, while other preliminary plans dated 10/02/12 show right-in, right-out only. Please resolve discrepancy. Currently, full access onto Limited Access roadways is not an option.
- Directional signage indicating right out only shall be posted at both proposed exit points from site to roadways.

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

**Site Development Plan for: Subdivision and Building Permit:**

- Site Plans should be labeled whether they are Site Plan for Subdivision or Site Plan for Building Permit.
- Sheets SP-1 and SP-2 can be removed if there purpose is to be a Grading Plan as no grades are presented.
- A Conceptual Grading and Drainage Plan shall be included. Sheet GR-1 would serve this purpose if a drainage narrative were included.
- It is not clear how retention/landscape areas will function as water harvesting areas when they are straight-graded to the property line.
- The entire tract, Ely Por of C10.17, shall be shown on the Site Plan for Subdivision.
- An approved drainage report is required for DRB approval. Storm drain infrastructure will most likely be required.

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

**Site Development Plan for: Subdivision and Building Permit:**

- The application is requesting changes to a parcel at the corner of Unser and Paseo del Norte. This area is included in the Volcano Heights Sector Development Plan currently moving through the City approval process. The request in this application is inconsistent with the planning goals and objectives included in the Volcano Heights Sector Development Plan. Furthermore, both Paseo del Norte, which is under the jurisdiction of the New Mexico Department of Transportation, and Unser Boulevard are both access-control facilities. The access request assumed as part of the application is inconsistent with the currently approved access control policy for both Paseo del Norte and Unser Boulevard.
- The Engineering Division has not seen any evidence that would be demonstrated in a Traffic Impact Study or Traffic Impact Assessment that shows that a change in access along either Unser or Paseo would be a benefit to the transportation system. The intent of Paseo and Unser is to

move traffic efficiently. Changes in access for limited access facilities are under the jurisdiction of the Technical Coordinating Committee of the Mid Region Council of Governments.

**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):**

- The NMDOT does not support the proposed development changes as described in the submittal. The Paseo Del Norte Corridor is a Principal Urban Arterial and is also a controlled access facility. Changes in roadways designated as limited access is under the jurisdiction of the Technical Coordinating Committee of the Mid Region Council of Governments. The NMDOT does not support this access request and encourages the Developer to work with the City staff to make sure that access to the site is made in conformance to the Volcano Heights Sector Plan. The NMDOT will not support any access point on Paseo Del Norte that is not in accordance with the plan that is adopted for the corridor through the Mid-region Council of Governments (MRCOG)

**Recommend deferral based the following:**

1. The access points as shown on the Site Plans for Subdivision and Building Permit do not meet the access requirements as defined in the Mid Region Council of Governments Roadway Access Policies for the Albuquerque Metropolitan Planning Area.
2. The changes in access for limited access facilities are under the jurisdiction of the Technical Coordinating Committee (TCC) of the Mid Region of Council of Governments. A Traffic Impact Study or Traffic Impact Assessment, which shows a change in access along either Unser Boulevard or Paseo Del Norte would benefit the Transportation system is a requirement. This requirement has not been met.
3. The access control issues related to the proposed site drives as shown on the Site Plans for Subdivision and Building Permit have not been resolved with Transportation Staff (City Transportation Planning, City Transportation Development and NMDOT).
4. The drainage report mentioned in Hydrology's comments in regard to the EPC plan is for a large area, the Upper Piedras Marcadas Basin. AMAFCA is paying for a drainage and water quality management plan. The proposal went before the AMAFCA board last Thursday. Hydrology recommends a deferral until the report has been accepted. This report will identify required drainage infrastructure.

Please advise if further discussion is needed on these matters.

**WATER UTILITY AUTHORITY**

**Utility Services**

Comments:

1. The WUA has no plans to extend either water or sanitary sewer service to the subject property. As per WUA policy, line extensions are development funded.
2. The WUA has no policy regarding an applicant requesting or constructing a private well or on-site wastewater system in areas that do not currently have service available. Well permitting is at the discretion of the Office of the State Engineer.

Conditions:

1. The WUA recognizes that the installation of a well and on-site wastewater system on this property are not a normal development request. As such, the WUA would recommend that a final decision on this proposed development should be postponed until the State Engineer issues a well permit of this site.
2. If the State Engineer decides that the site will require a commercial well permit, it is likely that the WUA will protest the permit.
3. The property owner will be required to participate in the installation of water and wastewater lines along their frontage when the utilities become available in this area.
4. The property owner will be required to hook up to the water and wastewater infrastructure when they are available to his property.

**ENVIRONMENTAL HEALTH DEPARTMENT**

**Air Quality Division**

No comments received.

**Environmental Services Division**

No comments received.

**PARKS AND RECREATION**

**Planning and Design**

Reviewed, no objection. Request does not affect our facilities.

**Open Space Division**

Open Space Division has reviewed the submittals for the above-named project and has the following comments:

1. Following approval of the VHSDP, this area will be zoned as the “Volcano Heights Regional Center SU-2.” Why doesn’t the applicant request SU-2 zoning in order to comply with the future zoning map?
2. The VHSDP, 6.0, Site Development Standards for SU-2 VHRC, states that “sites shall be planned in such a manner as to encourage buildings to be closer to the street at intersections.” Its building placement regulations stipulate that, along B Streets (as both PDN and Unser are

considered), the build-to zone be 0-15' and parking be behind the buildings. Can the site layout be flipped in order to:

- a) allow building frontage within 15' of the BTZ,
  - b) at least one store entrance to face (and be accessible from) the street, and
  - c) for car wash, parking and fueling bays to be behind the convenience store and away from the future sidewalk?
3. The text presumes that PDN and Unser will have pedestrian sidewalks, but the drawing does not show them. The sidewalk shown on the drawing does not appear to connect to any pedestrian walkway existing or future (cf comments #4 and 5).
  4. What is the material and character of the triangular patch of "civic open space?" This is not clear from the drawings. It appears to be inside the vegetated filter strip and not adjacent to a sidewalk (cf comments #3 and #5). Is it fully accessible to the public? If not, then it cannot be considered civic open space.
  5. Plantings appear to overshoot property boundary where, presumably, the sidewalk would be if the civic space were accessible to the public (cf comments #3 and #4).
  6. There is no description of the irrigation system on the planting sheet. Is there one?
  7. Per VHSDP section 9.1, signs along Unser shall comply with the design Overlay Zone adopted in 1992. This overlay states that freestanding signs cannot exceed 12' in height. Therefore, the 24.75' sign is too high.

**City Forester**

No comments received.

***POLICE DEPARTMENT/Planning***

EPC 1009543 is in the Northwest Area Command.

Amendment To Zone Map/Zone Change: As the current land use map indicates, a change in this particular location would not blend well with the zone categories immediately adjacent to the proposed project. A zone change to accommodate the proposed development could adversely affect the quality of life for the future residents of the areas surrounding the property due to their close proximity. Potential crime at the location could have a "spill" effect on the surrounding area

Site Development Plan For Subdivision: The lack of proposed area-wide development and/or subdivision plan will delay my Crime Prevention or CPTED comments at this time.

Site Development Plan For Building Permit:

- Proposed landscaping and lighting plans appear to be in conflict with each other in several locations. Suggest completely removing from the plans all large-variety trees that are in close proximity to each pole light. Specifically, the two trees at each end (north/south) of the parking spaces - the trees located at the car wash entry and exit points.
- Recommend adding to the plans lights to illuminate the east side of the building and along the car wash wait line. Also, the area near the rear building exit, adjacent to the trash dumpster could use additional wall illumination.

- Some of the proposed landscaping reduces visibility. Suggest removing from the plans landscaping near the property vehicle entry/exit point and along the car wash wait line. Removing these bushes will increase the ability to see and be seen.
- Recommend removing from the plans the pillars on each side of the walk-up to the main building entrance. The entrance/exit should be free of obstructions, which will provide better natural surveillance and eliminate possible hiding places.
- Strongly suggest the installation of a video surveillance system to cover the entire exterior and interior of the building. Camera coverage should include all parking areas, sidewalks, fuel pumps, maintenance areas, car wash entrance/exit points, building walk-up, inside the main doors, business office and other areas deemed critical to the operation. Each camera's image should be recorded and monitored for historical and real-time use.

#### ***SOLID WASTE MANAGEMENT DEPARTMENT***

##### ***Refuse Division***

Approved; must comply with SWMD Ordinance and must re-angle refuse enclosure – call for detail 681-2766.

#### ***FIRE DEPARTMENT/Planning***

No comments received.

#### ***TRANSIT DEPARTMENT***

No comments received.

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

#### ***BERNALILLO COUNTY***

No comments received.

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

No comments received.

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

This request will have no adverse impacts to the APS district.

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

The following staff comments relate to transportation systems planning within the Albuquerque Metropolitan Planning Area (AMPA). Principal guidance comes from the *2035 Metropolitan Transportation Plan* and the maps therein; *Transportation Improvement Program (TIP) for FFY 2012-2017*; the *Intelligent Transportation Systems (ITS) Regional Architecture*; and the *Roadway Access Policies* of the Transportation Coordinating Committee (TCC) of the Metropolitan Transportation Board (MTB).

### **Paseo del Norte**

For informational purposes, Paseo del Norte has been classified as a high capacity limited access Principal Arterial. Access to Paseo del Norte shall be permitted only as specified by resolution of the Metropolitan Transportation Board (MTB) and is limited to three types of intersections Type A - interchange configuration, Type B and Type C (defined below as noted in the *Roadway Access Policies* page 3).

**"Type B:** At – grade dedicated street intersection with median opening and traffic signalization, as warranted. At approximately one-half mile intervals, or as identified on the Long Range Roadway System, and specifically at the Unser Blvd intersection for this application. Additional Type B Intersections may be permitted if they subsequently are added to the Long Range Roadway system and meet the approximate one-half mile interval criteria.

**Type C:** At-grade dedicated street intersection without median opening."

This project proposal is requesting driveway access onto Paseo del Norte as opposed to a dedicated street intersection; therefore this proposal does not conform to the *Roadway Access Policies* for Paseo del Norte.

Paseo del Norte Blvd has also been identified as an ITS Corridor in the AMPA Regional ITS Architecture and ITS Corridor Map. Please contact City of Albuquerque-DMD at 505-768-3649 for ITS enhancement planning and programming information.

### **Unser Boulevard**

For informational purposes, Unser Blvd is a high capacity, limited access Principal Arterial from Gun Club Rd to US 550 with full access at-grade intersections at one-half mile intervals. Right-in, right-out access points may be located at approximately one-quarter mile intervals, provided the access location does not degrade traffic flow and upon review by the TCC and approval by the MTB.

Unser Blvd has also been identified as an ITS Corridor in the AMPA Regional ITS Architecture and ITS Corridor Map. Please contact NMDOT at 505-798-6673 for ITS enhancement planning and programming information.

The following project proposal and site plan do not comply with the access criteria specified in the *Roadway Access Policies* for both facilities; therefore MRMPO recommends deferral of this project until the proposed right-in right-out access points on Unser Blvd has been resolved through the Roadway Access Committee (RAC), TCC and MTB. Additionally, as noted earlier, access to Paseo del Norte is allowed only at dedicated street intersections.

## **MIDDLE RIO GRANDE CONSERVANCY DISTRICT**

No comments received.

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

1. It is the applicant's obligation to determine if existing utility easements cross the property and to abide by any conditions or terms of those easements.
2. Adequate electric utilities are not available at this location to serve the proposed project. It will be necessary for the applicant to contact PNM's New Service Delivery Department as soon as possible regarding electric service for this development.
3. Screening should be designed to allow for access to utility facilities. All screening and vegetation surrounding ground-mounted transformers and utility pads are to allow 10 feet of clearance in front of the equipment door and 5-6 feet of clearance on the remaining three sides for safe operation, maintenance and repair purposes. Please refer to the PNM Electric Service Guide at [www.pnm.com](http://www.pnm.com) for specifications.