

**BEFORE THE PLANNING AND ZONING COMMISSION
OF THE INCORPORATED COUNTY OF LOS ALAMOS, NEW MEXICO**

Case No. REZ-2022-0017: A request by Transcor Development Corporation to amend the Los Alamos County Official Zoning Map to rezone two (2) parcels as Mixed-Use (MU). The properties, Eastern Area 3 Q1 and Q2, and commonly known as 2100 and 2202 Canyon Road, respectively, are currently zoned as Multiple-Family Residential, very high density (R-3-H-40). Combined they total approximately 4.75-acres.

**RECOMMENDATION TO COUNTY COUNCIL
ON APPLICATION REZ-2022-0017**

NOW COMES, the Planning and Zoning Commission ("Commission") of the Incorporated County of Los Alamos ("County"), who hereby finds and recommends as follows:

I. FINDINGS OF THE COMMISSION

1. On March 9, 2022, Transcor Development Corporation ("Applicant") submitted a Rezoning Application. The application requests that the Commission recommend the amendment of the County's Zoning Map pursuant to Section 16-155 of the Los Alamos County Code of Ordinances ("County Code").

2. As provided in the Application, and as provided in the CDD Staff Report, the Application seeks to rezone Lots EA3 - Q1 and Q2 ("Properties") from Multiple-Family Residential, very high-density (R-3-H-40) to Mixed-Use (MU).

3. The Properties are addressed as 2100 Canyon Road and 2202 Canyon Road and the Applicant, since April 2019, is the legal owner of the Properties. The two lots combined total 4.75 acres.

4. As provided in the CDD Staff Report and testimony of CDD Staff Lujan, the Application was presented to the County's Interdepartmental Review Committee ("IDRC") on March 17, 2022. Per the testimony of Mrs. Lujan, the IDRC did not have any comments, recommendations, or denial of the rezoning action, however, but did provide comments related to any later application for a site plan application.

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5. As provided by the CDD Staff Report and testimony of CDD Staff Lujan, notice of the public hearing was published in accordance with Section 16-192(a) of the County Code and the County Charter, however as there was no quorum of Commissioners present on April 13, 2022, the public hearing, pursuant to § 16-192(c), was rescheduled to April 21, 2022.

6. As the Application is for an amendment to County's official zoning map review, the Commission finds that the review criteria found in Section 16-155 and 16-452(b) apply to the Commission's review and decision-making process.

7. Present at the public hearing for the Applicant, Transcor, was Kate Maliskas and Adam Thorton. Present at the hearing for CDD was Desirae Lujan, Bryce Ternet, and Anita Barela. Appearing in opposition to the Application was Mr. Philip H. Gursky.

8. The Commission, having received testimony of the Applicant, Mr. Gursky, and CDD Staff Report, finds that the Applicant has not met its burden to demonstrate that the Application meets the review criteria in Section 16-155 of the County Code. The Commission, in support of this finding, provides as follows:

a. As to criteria (1) of Section 16-155, the Commission finds the testimony of Mr. Gursky persuasive that the proposed zoning map amendment would not conform to the County's adopted Comprehensive Plan, as it would alter and change the character of area neighborhoods and land use of high-density residential, specifically that the proposed zone, Mixed Use (MU) would increase both the density of the two parcels, as well as allow expanded commercial uses permitted under the MU zoning district. The Commission does appreciate and recognize that the two zoning districts share similar uses, and that the current zoning district does allow some limited commercial activities however, the Commission is concerned that the zoning change allows an impermissible increase in density and allowed uses in this Application.

b. The Commission finds the review criteria (2) of Section 16-155 has not been met based on the testimony and evidence presented at hearing by the Applicant, Mr. Gursky, and by CDD Staff Lujan, as the Commission was unable to reach a final consensus on whether the existing and planned capacity of onsite and off-site public services and facilities will adequately serve the Properties as proposed in the amendment to the official zoning map. The

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Commission notes that until a site plan is submitted, the Commission is unable to determine if this criterion has been met.

c. The Commission, pursuant to criteria (3) of Section 16-155, finds, based on the testimony of Mr. Gursky, that the proposed rezone of the Properties will be detrimental to the health, safety or general welfare of persons residing or working adjacent to or within the proximity of the subject property as the proposed Mixed Use zoning district would be inconsistent with the existing and surrounding high-density residential districts and established public and religious uses of the adjacent properties, *e.g.*, PEEC Environmental Center, and the Los Alamos Jewish Center. Further the Commission finds, based on the testimony of CDD Staff Lujan and Mr. Gursky, that the location of the Properties on Canyon Road, could cause a hazardous condition for people entering and exiting the Properties on foot and in vehicles, including those likely using the County's planned urban trail system which will cross Canyon Road in or near that location received from the testimony of Desirae Lujan and Anita Barela. The Commission finds, per the testimony of Mr. Gursky, that possible commercial lighting, signs and commercially related activities would be detrimental to the general welfare of persons residing and working adjacent to or within proximity of the subject Properties, including possible disruption to established religious uses in the adjacent lot on Fridays, Saturdays and Sundays.

d. The Commission, pursuant to Criteria (4) of Section 16-155, finds based on the testimony of the Applicant and CDD Staff Lujan the amendment to the official zoning map is necessary as it recognizes and addresses both changed conditions in relation to the current zoning district and in the County which warrants the rezoning. The Commission also finds that similar to the Commission's finding in subparagraph 8.b. above, that until a site plan is submitted it is impossible to determine whether the zoning change will more likely meet the goals contained in the comprehensive plan than of the current use.

e. The Commission, based on the review criteria in §16-155(5), finds based on the testimony of the Applicant, CDD Staff Lujan, and Mr. Gursky, that the Applicant has not demonstrated that the proposed zoning change (a) will not accomplish the policy and intent of the comprehensive plan, (b) no unique characteristics specific to the site exist that warrant the rezoning, or (c) the rezoning will be an appropriate transition between land uses of higher and lower intensity. The Commission specifically is more persuaded by the testimony of Mr.

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Gursky that the change will not be consistent with the surrounding land uses of higher and lower intensities in that the proposed zoning district, MU, allows higher densities to the Properties as well as extensive commercial uses that does not fit well with the surrounding properties and uses.

f. As provided by CDD Staff Lujan, the Commission finds that review criteria (6) of Section 16-155 is not applicable to this Application and review as the proposed rezoning action and zoning map amendment does not include the designation of a special plan (SP) district where a development plan or a site plan is a requirement for district approval.

II. RECOMMENDATION

1. The Commission, on a majority vote, and pursuant to Section 16-452(b), hereby finds that the Applicant has failed to demonstrate the Application to amend the official zoning map is in conformity with the review criteria as found Section 16-155 of the County Code.

2. The Commission therefore recommends **DENIAL** of Applicant's request for an amendment to the official zoning map in case number REZ-2022-0017.

APPROVED this the ____ day of Maya 2022.

Neal Martin

Neal Martin, Acting Chair of the Planning &
Zoning Commission for the Incorporated County of
Los Alamos