

Becky A. Torres, Esq.

July 7, 2020

VIA EMAIL (arincon@rrnm.gov & bbabyak@rrnm.gov)

City of Rio Rancho Development Services
Attn: Ms. Amy Rincon and Brian Babyak
3200 Civic Center Circle NE
Rio Rancho, NM 87144

Re: Justification Letter for an Application for Zone Map Amendment for the property located at 1465 Rio Rancho Blvd SE, Rio Rancho, NM 87124 (the “Property”)

Dear Ms. Rincon and Mr. Babyak:

As you are aware, the former owner of the subject Property (Rio Rancho Lodge Partners, LLC by and through its Managing Member, Mr. Arthur Han) previously submitted to the City of Rio Rancho Development Services (the “City”) a zone map amendment application (the “**Application**”) to change the zoning designation of the Property to C-1 for commercial use. Since the submission of the Application, the Property has been purchased by 528 Development, LLC (“**528 Development**”). 528 Development now desires to assume the role of Applicant and further desires to amend the Application. This office represents 528 Development in the above-referenced matter.

The Property is currently zoned SU for use as a hotel. The Applicant now amends the original Application to request that the Property be zoned SU: Special Use, specifically tailored for the proposed uses of the Applicant, as set forth below.

The Applicant proposes to renovate the portion of the Property currently containing hotel rooms into a high-quality development comprising studio and 1-bedroom apartments or extended-stay rental units, addressing the need for quality, affordable housing in this underserved Rio Rancho market. The residential development will include amenities such as a private community pool, courtyard, and other common areas. Located within what is currently the reception area, conference center and banquet center of the hotel, the Applicant will develop additional amenities for the residents including a health and fitness center and business center, and additional amenities which will be open to the public such as meeting space, banquet services and conference center, and retail space. On the most easterly portion of the building where the Toro Bar and Grill was previously located, the Applicant will rehabilitate this space, address any issues arising from previous modifications purportedly outside of permitting and code, and remodel the restaurant and kitchen to lease to a restaurant operator.

As required by **Section 154.43** of the City Municipal Code, the Applicant will have prepared a proposed site plan depicting the proposed use for the Property, and will submit said site plan to Development Services as soon as it is complete.

I. JUSTIFICATION OF THE ZONE MAP AMENDMENT PURSUANT TO CITY OF RIO RANCHO CODE OF ORDINANCES

A. Section 150.07 (D) of the City of Rio Rancho Municipal Code contains the policies adopted by the City for deciding a zone map amendment application as follows:

“D) The following policies for deciding zone map change applications pursuant to the City zoning code are hereby adopted:

(1) A proposed zone change must be found to be consistent with the health, safety, morals, and general welfare of the City.

(2) 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.

(3) A proposed change shall generally be consistent 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.

(4) The applicant must demonstrate that the existing zoning is inappropriate because:

(a) There was an error, mistake or is necessary to correct an injustice that occurred when the existing zone map pattern was created, including the placement of an R-1 or transitional zone on an antiquated plat filed before the City’s incorporation and adoption of its own zoning code or on land annexed by the City; or

(b) Changed neighborhood or community conditions justify the change; or

(c) 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 (2) does not apply. Applicant’s reliance on this provision requires proof that (i) there is a public need for a change of the kind in question, and (ii) that need will be best served by changing the classification of the particular piece of property in question as compared with other available property.”

The Applicant's request for Special Use zoning, specifically tailored for the proposed uses conforms with these policies and should be approved for the following reasons:

1. As required by **Subsections 150.07(D) (1), (2) and (3)**, the proposed zone change is consistent with the health, safety, morals and general welfare of the City of Rio Rancho (the "City"), promotes stability in land use and zoning, and is generally consistent with the City's Comprehensive Plan. To the best of our knowledge, there are no approved Master Plans or Specific Area Plans applicable to the Property.

The requested zone change will allow i) the front portion of the Property and the improvements thereon to be utilized for the operation of a restaurant, café, or similar food service establishment with a drive-thru option; bakeries and confectioneries where goods are sold at retail prices; stores for the sale of retail goods, products and services; banquet and meeting room and convention facilities; and gymnasium and health club facilities open only to residents of the Property; and ii) the rear portion of the Property and the improvements thereon to be utilized for high quality and affordable studio and 1-bedroom residential extended stay rental units.

The City of Rio Rancho has experienced a multi-family housing shortage for several consecutive years. According to the RealPage, Inc. Apartment Market Report for the Albuquerque Area, 1Q 2020, out of 6 Albuquerque Area submarkets, the Rio Rancho/Westside submarket has the highest occupancy rate at 96.6% occupancy. In addition, as of 1Q 2020, our submarket's 2-year supply of apartment units is zero (0), and the 2-year inventory change in supply is -2.1% which represents a net loss of apartment units (this submarket is the only one of the six experiencing a 2-year inventory loss).

The Applicant's proposed use and planned renovation to the Property will serve to decrease the gap between supply and demand for apartment units within Rio Rancho, will provide high-quality yet affordable units.

2. The zone change request complies with Subsection **150.07(D)(4)** because the existing zoning is inappropriate for the following reasons. First, the Rio Rancho Inn was built prior to the incorporation of the City of Rio Rancho. When Rio Rancho incorporated and established the zone map, the Property was assigned a "special use" (SU) zoning designation to allow the then current use of the Property. Typically, an SU zoning designation requires a site plan and provides specific parameters as to the proposed use within the zone. The original zone designation of SU remains in place to date, yet provides no specifications, is not clearly defined, and creates ambiguity. The existing zoning is inappropriate under **Subsection 150.07(D)(4)(a)** because the current SU designation is not clearly defined. The requested zone change corrects this ambiguity. Secondly, the existing zoning is inappropriate under **Subsection 150.07(D)(4)(c)** because the requested use category is more advantageous to the community than the existing zoning as (i) there is a public need for use requested and (ii) the need is best served by changing the zoning on the subject Property as compared with other properties in the City. The Property has been operated as a hotel since its development over 40 years ago. For over a decade, multiple

owners of the Property have struggled financially to operate the Property as a profitable hotel. In fact, the Property has been foreclosed in recent history, and the successor-in-interest following the foreclosure, also the current owner, had previously sought a zone map amendment in order to amend the allowed use so as to regain profitability.

The proposed zone map amendment is generally consistent with the Comprehensive Plan for this area and greatly promotes the City's interests, as further explained hereinbelow. Although generally not the case in a zone change request, we also believe that this request does promote stability in land use and zoning because the change to the proposed SU zone is a minimal change necessary to allow the proposed use and the proposed use is substantially similar to the existing land use.

The newly rehabilitated Property will add to the general welfare of the City of Rio Rancho in the following ways: (i) added property taxes, (ii) added gross receipts taxes, (iii) stabilization of existing residential property values and property taxes, (iv) job creation for service sector, and (vi) increase supply of high quality, affordable apartment units.

B. The proposed zone change conforms to the policies contained in **Sections 150.07(E) and (F)**, which states as follows:

“(E) The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a change of zone.

“(F) Location on a collector or major street is not in itself sufficient justification of apartment, office, or commercial zoning.”

The Applicant is not requesting that the City consider the cost of land or other economic considerations pertaining to the Applicant nor is the Applicant requesting apartment office or commercial zoning based solely on the Property's location on a collector or major street.

C. The proposed zone map amendment request conforms to the policies contained in **Section 150.07(G)**, which states as follows:

“(G) A zone change request which would give a zone different from surrounding zoning to one small area, especially when only one premises 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 zone map amendment request conforms to the policies contained in **Section 150.07(G)** for two reasons. First, the requested area is not a “small area”. Rather, the site is approximately five (5) acres. Therefore, this section is not applicable and the rezoning will not create a “spot zone”. Second, the requested land use, although a different zoning category than the neighboring land, is fully compatible with the surrounding neighborhoods, and similar to the current SU designation. In essence, the proposed zone will allow the property to be used for a restaurant at the front of the Property and multi-family residential rentals in the rear of the Property. This use is very similar to the current uses allowed in the current zone. The proposed zone map amendment will simply allow the landowner to more effectively use the larger parcel of the subject property.

II. JUSTIFICATION OF THE ZONE MAP AMENDMENT PURSUANT TO POLICIES OF THE COMPREHENSIVE PLAN

This zone change request will promote the following Comprehensive Plan (the “Plan”) goals and/or policies:

Land Use	Goal L-1: Encourage mixed uses – retail, office, and residential centered on pedestrian-oriented developments along principal arterial roads. Goal L-3: Maintain a balance of land uses throughout the City.
Population & housing	Goal PH-2: Maintain the strength, vitality, and stability of all residential neighborhoods and types. Goal PH-3: Promote a variety of housing types to meet the needs of all members of the community. Goal PH-4: To ensure that single-family and multi-family residential neighborhoods provide an attractive living environment. Policy PH-1: Promote quality, community-friendly multifamily development, through features such as enhanced open space and pedestrian connectivity. Policy PH-2: Initiate and encourage neighborhood and community involvement to foster a positive civic and neighborhood image. Policy PH-6: Ensure that mixed-use development complements and enhances the character of neighboring residential and commercial development. Policy PH-10: Encourage high-density, mixed-income residential development within the Downtown area. Policy PH-13: Plan for housing for people with special needs throughout the city.
Urban Design	Goal UD 1: Create focused growth areas where existing public infrastructure can support higher density development.

Goal UD 4: Create safe developments that discourage crime.
Goal UD 5: Support infill and redevelopment within areas of the city that have been neglected.
Goal UD 6: Support development that links neighborhoods and encourages the use of all modes of transportation.

Economic Development Goal EDP-1: Create Jobs.
 Goal EDP-2: Retain Jobs.
 Goal EDP-3: Enhance the tax base.
 Goal EDP-4: Improve the quality of life.
 Goal EDR-1: Expand the economic base of Rio Rancho.
 Goal EDR-2: Reduce retail sales leakage to other New Mexico cities.

III. CONCLUSION

We appreciate the City's support of the proposed use for this Property. As set forth in this Justification Letter, the Applicant hereby requests that City of Rio Rancho Development Services staff recommend to the Planning and Zoning Commission a zoning designation for the Property of Special Use, specifically tailored for the Applicant's proposed use. In the alternative, if the zoning designation of Special Use is not approved, the Application requests that the original request for C-1 zoning for commercial use be restored in order to allow Mr. Han to continue pursuing said zone map amendment to C-1.

Please feel free to contact this office should you have any questions, or if we can provide any further information that may assist the City in reaching a decision. Thank you for your consideration.

Sincerely,

TORRES LAW FIRM, LLC



Becky A. Torres

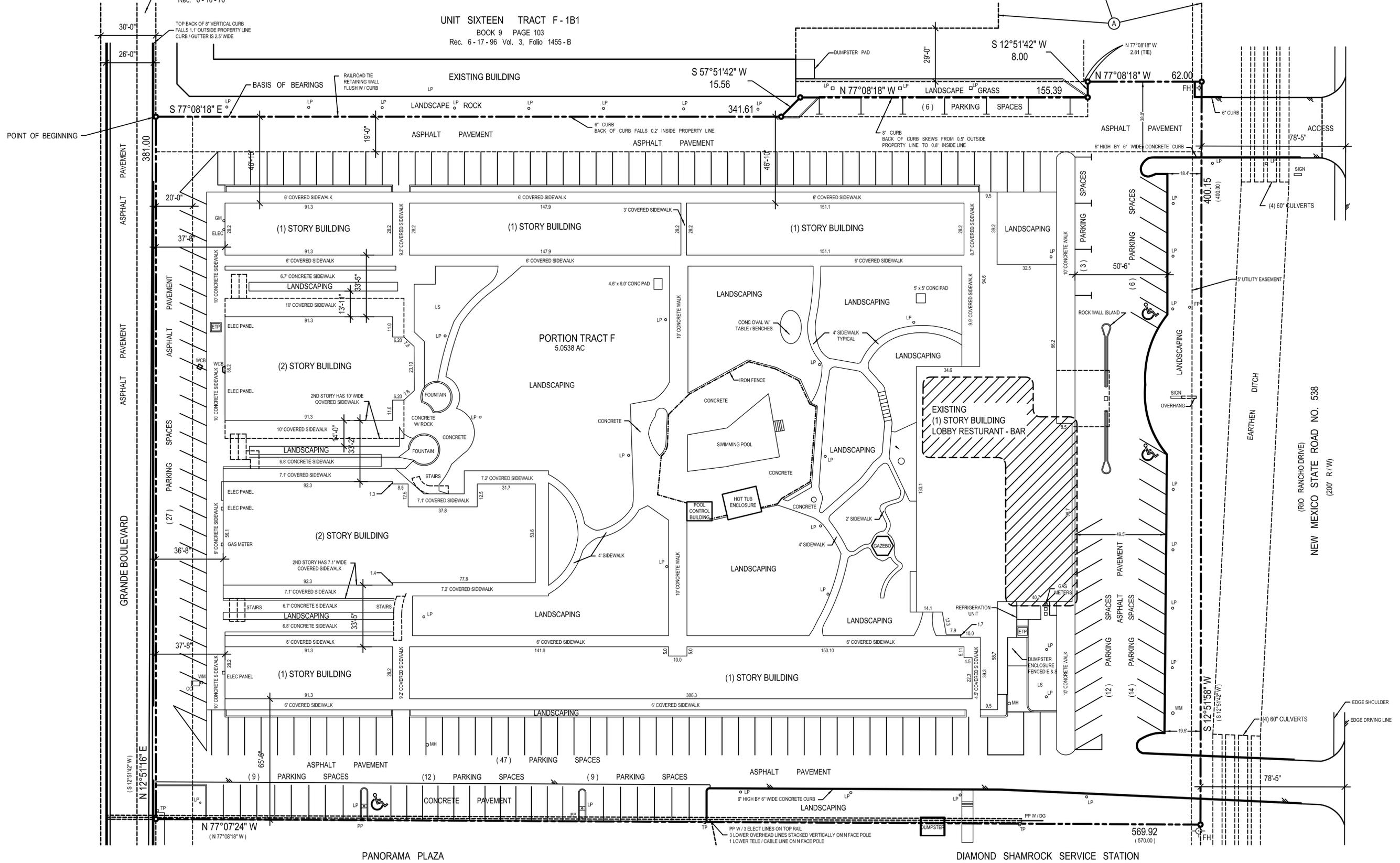
BAT/
cc: client

VICINITY MAP

Reciprocal access easement is 114 feet wide adjacent to Rio Rancho Drive
See plat recorded on June 17, 1996 in Rio Rancho Estates Plat Book No. 9.
Page 33 (Vol. 3, Folio 1455-B), Instrument No. 292 for total easement.

UNIT SIXTEEN
BOOK 9 PAGE 103
Rec. 6-10-70

UNIT SIXTEEN TRACT F-1B1
BOOK 9 PAGE 103
Rec. 6-17-96 Vol. 3, Folio 1455-B



Penny Design, LLC
303 SANDY HAVEN
Albuquerque, New Mexico
505-281-5489

528 Development LLD
1465 Pat D'Arco Hwy
Albuquerque, New Mexico 87124

MARK	DATE	DESCRIPTION

DATE: 7/5/2020
DRAWN BY: pd
CHECKED BY:
SET NO:
SHEET TITLE: