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CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Planning Department

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

September 07, 2020

TO: Pat Davis, President, City Council

FROM: Brennon Williams, Planning Director *Brennon Williams*

Subject: AC-20-9, Project PR-2020-003906, VA-2020-00140, VA-2020-00275: JAG Planning & Zoning, agents for Jesus Apodaca, appeal the Zoning Hearing Examiner's decision to deny a conditional use to allow self-storage for Lot 1D, MRGCD Map 37, located at 1718 Broadway Blvd NE, zoned MX-M [Section 14-16-4-3(D)(28)]

The reasons for the appeal, as outlined in appellant's letter, are listed below, with italicized responses from Planning Department staff. Please see the Appellant's letter for all details of the appeal.

A. The Zoning Hearing Examiner erred in applying the requirements of the integrated Development Ordinance (IDO).

- **The Zoning Hearing Examiner indicates the reason for denial is because the applicant did not reference any specific policies from the Comprehensive Plan.**

Per 14-16-6-4(F)(2) The applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence.

The Zoning Hearing Examiner stated in Finding #16, that the Applicant did not provide a relationship comparison between their assertions and consistency with the ABC Comprehensive Plan.

Evidence was provided, but the sound justification that the proposed use would meet the requirements of the ABC Comprehensive Plan is lacking. There is little indication of how the evidence provided relates to the ABC Comprehensive Plan.

While the Zoning Hearing Examiner observed that no citations were provided, the denial was based on the Applicant's failure to meet its burden of providing a sound justification, based on substantial evidence, that the requested Conditional Use approval would be consistent with the ABC Comp. Plan, as required by IDO Section 14-16-6-6(A)(3)(a).

The application was not denied for lack of citations but for lack of justifications.

- **The Zoning Hearing Examiner did not receive a recommendation from staff as outlined in the IDO**

Staff's recommendation was pursuant to applicable provisions of Section 14-16-6-4. The application requirements were satisfied and the recommendation was to proceed to a public hearing where the Zoning Hearing Examiner would hear additional evidence and issue a decision.

The Zoning Hearing Examiner has the ultimate authority to weigh the evidence as presented. Staff analysis does not include a pre-determination of approval or denial based on sound justification or substantial evidence. The Zoning Hearing Examiner considers testimony and evidence submitted at the hearing in rendering a decision. A staff recommendation of approval or denial would be premature until the after the record is closed.

The Zoning Hearing Examiner received a recommendation from planning staff.

B. The Zoning Hearing Examiner made a determination that is not supported by substantial evidence.

- **The Zoning Hearing Examiner approved findings of facts identifying information from the affected neighborhood as “substantial evidence that the conditional use would be inconsistent with the Comprehensive Plan.”**

Evidence submitted by the both Applicant and the Opponent Santa Barbara Martineztown Neighborhood Association, were included in the Zoning Hearing Examiner's Findings.

Finding #18: On balance, substantial evidence exists in favor of a conclusion that the proposed conditional use would be inconsistent with the ABC Comp. Plan, while there is a lack of substantial evidence in favor of a conclusion that the proposed conditional use would be consistent with the ABC Comp. Plan.

The burden is on the Applicant to show that a request is consistent with the ABC Comprehensive Plan, not on the Neighborhood Association to show why the request is inconsistent. The only standard is on the Applicant and the Applicant did not meet that standard.

The Zoning Hearing Examiner, after weighing the evidence presented, concluded in favor of the Santa Barbara Martineztown Neighborhood Association and denied the Applicant's request.

Lorena Patten-Quintana, ZHE Planner

AC-20-9 Appeal Memo

Final Audit Report

2020-09-08

Created:	2020-09-08
By:	Lucinda Montoya (lucindamontoya@cabq.gov) Signed
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"AC-20-9 Appeal Memo" History

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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Jesus Apodaca or Victor Apodaca (Agent, Juanita Garcia, JAG Planning & Zoning, LLC) request a conditional use to allow self-storage for Lot 1D, MRGCD Map 37, located at 1718 Broadway Blvd NE, zoned MX-M [Section 14-16-4-3(D)(28)]

Special Exception No:..... **VA-2020-00140**
Project No: **Project#2020-003906**
Hearing Date: 07-21-20
Closing of Public Record: 07-21-20
Date of Decision: 08-05-20

On the 21st day of July, 2020, Juanita Garcia, JAG Planning & Zoning, LLC, agent (“Agent”) for property owner Jesus Apodaca or Victor Apodaca (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow self-storage (“Application”) upon the real property located at 1718 Broadway Blvd NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow self-storage on the Subject Property.
2. The City of Albuquerque Integrated Development Ordinance (“IDO”) Section 14-16-7-1 defines “self-storage” as “[a] use consisting of 3 or more individual, small, self-contained units in a building that are leased or owned for the indoor storage of business and household goods or contractors' supplies”
3. The Subject Property is currently zoned MX-M (Mixed Use - Moderate Intensity Zone District).
4. IDO Section 14-16-2-4(C)(1) states that the “purpose of the MX-M zone district is to provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Centers and Corridors. Allowable uses are shown in Table 4-2-1.”
5. Table 4-2-1 lists self-storage as a conditional primary use within the MX-M zone.
6. The Subject Property is designated as an Area of Consistency.
7. The applicable overlay zone of the Subject Property is CPO-7.
8. The City Traffic Engineering Division submitted a report stating no objection to the requested conditional use approval based on its analysis of clear sight triangle requirements.
9. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
10. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
11. Agent, on behalf of the Applicant, met with representatives of the Santa Barbara Martineztown Neighborhood Association, representatives of the Martineztown Work

Group, and other community members, via a virtual meeting on Thursday, May 21, 2020. Minutes of that meeting are in the ZHE record on this Application.

12. The Agent and community members discussed, both prior to and at the July 21, 2020 ZHE hearing, the possibility of a facilitated meeting. However, based on the testimony before the ZHE, it appeared that a facilitated would not be fruitful. Therefore the ZHE did not require a facilitated meeting.
13. IDO Section 14-16-6-6(A)(3) (Review and Decision Criteria– Conditional Use) reads: “*An application for a Conditional Use Approval shall be approved if it meets all of the following criteria:*
 - (a) *It is consistent with the ABC Comp. Plan, as amended;*
 - (b) *It complies with all applicable provisions of the IDO, including, but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property;*
 - (c) *It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community;*
 - (d) *It will not create material adverse impacts on other land in the surrounding area, through increases in traffic congestion, parking congestion noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts;*
 - (e) *It will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am;*
 - (f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation*
14. Pursuant to IDO Section 14-16-6-4(F)(2), the Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence.
15. Regarding whether the proposed conditional use would be consistent with the ABC Comp. Plan, as required by IDO Section 14-16-6-6(A)(3)(a), Applicant submitted the following evidence and arguments:

“The site is located within an Area of Consistency and those uses that are listed as permissive or conditional are expected to occur within Areas of Consistency. The proposed request will meet the standards of the IDO, such as off-street parking requirements, building setbacks, building height limitations and landscaping requirements, which are all intended to protect nearby existing development from new uses. The applicant is requesting a use that is identified as a conditional use within the subject site's zone category. Those uses listed as permissive or conditional uses are uses that are expected to occur within a particular zone. The applicant is not requesting a use that is outside of the site's designated zone category.”
16. However, Applicant cited to no Policy, Goal, or other provision of the ABC Comp. Plan with which the proposed conditional use would be consistent. Similarly, Applicant provided no authority or citation for Applicant's assertion that uses that are listed as conditional are expected to occur within Areas of Consistency, nor for how that assertion relates to consistency with the ABC Comp. Plan.

17. Regarding whether the proposed conditional use would be consistent with the ABC Comp. Plan, Opponent Santa Barbara Martineztown Neighborhood Association submitted the following evidence and arguments:
- a. Under ABC Comp. Plan “Goal 4-1-the Goal is to enhance, protect and preserve distinct communities – Martineztown Santa Barbara Neighborhood is a historical residential neighborhood”.
 - b. “Policy 4.1.4. – Neighborhoods” would be violated “by not enforcing the historical protection to enhance, protect and preserve the historical residential neighborhood and traditional communities as key to our long term. Based on this Goal, the more restrictive zoning is required to be applied.”
 - c. “The Albuquerque Comprehensive Plan Part 14-16-1 General Provisions Purpose 1-3(A-L), The purpose is to protect the quality and character of residential neighborhoods;1-3(G) Protect the health, safety, and general welfare of the public; 1-3(J) Implement a connected system of parks , trails, and open spaces to promote improved outdoor activity and public health; 1-3(K) Provide reasonable protection from possible nuisances and hazards and to otherwise protect and improve public health; Provide reasonable protection possible nuisances and hazards and to otherwise protect and improve public health; Encourage efficient and connected transportation and circulation systems for motor vehicles, bicycles, and pedestrians.” Opponent Santa Barbara Martineztown Neighborhood Association testified that the proposed use would bring increased large truck and other traffic to an already congested area, having a detrimental effect on health safety and welfare, particularly given the location of the Subject Property across Hannett Avenue NE.
 - d. “In the Comp Plan Introduction on Environmental justice: After making significant gains in protecting our natural environment, we will need to continue to develop and implement strategies to address the environmental health hazards that affect vulnerable populations more severely in some areas of our community.” Opponent Santa Barbara Martineztown Neighborhood Association testified that the negative effects are unfairly focused on a vulnerable population in an historic residential neighborhood.
 - e. “Part 1.4 Legal Purpose of the Comp Plan states the Comp Plan is the general plan for Albuquerque and Bernalillo County, . . . Its statutory purpose, in NMSA 1978, Section 3-19-9(A), is ‘to guide and accomplish a coordinated, adjusted and harmonious development of the City, which will, in accordance with existing, and future needs, best promote health, safety, morals, other, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development.” Opponent Santa Barbara Martineztown Neighborhood Association testified that the proposed use would be out of harmony with existing and future needs of the neighborhood, because of the negative impacts on environment, health, safety, and welfare.
 - f. “The Albuquerque Comprehensive Plan, Chapter 5, Land Use, 5.1.1 Introduction states “In general, it is important to protect public health and safety by separating residential and industrial land uses and ensuring adequate buffering, separation distances, or mitigation measures between incompatible uses.” . . . Policy 5.6.3 (a-j) “Areas of Consistency: Protect and enhance the character of existing single-

family neighborhoods....” Opponent Santa Barbara Martineztown Neighborhood Association testified that the proposed conditional use would be incompatible with the adjacent residential uses.

- g. “Chapter 13, Resilience & Sustainability, Section on Air Quality states that since Albuquerque is located in a river valley bounded by a high mountain range to the east, Albuquerque's geographic location, mile-high altitude, and meteorological conditions such as canyon winds affect Albuquerque’s air quality. Martineztown Santa Barbara Neighborhood is bounded by Interstate 25 to the east and Interstate 40 to the west. A Health Impact Study done for Martineztown Santa Barbara Neighborhood indicates that Martineztown Santa Barbara Neighborhood is an already vulnerable area and any more concentrated pollution such as storage facility for a contractor’s yard is detrimental to the health, safety, and welfare of the neighborhood.” A copy of this Health Impact Study was submitted into the public record in this matter.
18. On balance, substantial evidence exists in favor of a conclusion that the proposed conditional use would be inconsistent with the ABC Comp. Plan, while there is a lack of substantial evidence in favor of a conclusion that the proposed conditional use would be consistent with the ABC Comp. Plan.
19. Consequently, Applicant has failed to meet its burden of providing a sound justification, based on substantial evidence, for the requested decision that the requested Conditional Use approval would be consistent with the ABC Comp. Plan, as required by IDO Section 14-16-6-6(A)(3)(a).
20. Section 14-16-6-6(A)(3) requires Applicant to establish a sound justification for all the criteria stated in that Section – if one criterion fails, the entire application must fail. As stated, above, Applicant has failed to satisfy the criterion set forth in IDO Section 14-16-6-6(A)(3)(a). Therefore, the application must be denied. Given the denial on such grounds, the ZHE need not address the remaining criteria of IDO Section 14-16-6-6(A)(3) or any other applicable criterion of approval.

DECISION:

DENIAL of a conditional use to allow self-storage.

APPEAL:

If you wish to appeal this decision, you must do so by August 20, 2020 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional

use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.

A handwritten signature in blue ink, appearing to read "Robert Lucero".

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File

Zoning Enforcement

Juanita Garcia, JAG Planning & Zoning, LLC, jag@jagpandz.com



Please check the appropriate box and refer to supplemental forms for submittal requirements. All fees must be paid at the time of application.

Administrative Decisions	Decisions Requiring a Public Meeting or Hearing	Policy Decisions
<input type="checkbox"/> Archaeological Certificate (Form P3)	<input type="checkbox"/> Site Plan – EPC including any Variances – EPC (Form P1)	<input type="checkbox"/> Adoption or Amendment of Comprehensive Plan or Facility Plan (Form Z)
<input type="checkbox"/> Historic Certificate of Appropriateness – Minor (Form L)	<input type="checkbox"/> Master Development Plan (Form P1)	<input type="checkbox"/> Adoption or Amendment of Historic Designation (Form L)
<input type="checkbox"/> Alternative Signage Plan (Form P3)	<input type="checkbox"/> Historic Certificate of Appropriateness – Major (Form L)	<input type="checkbox"/> Amendment of IDO Text (Form Z)
<input type="checkbox"/> Minor Amendment to Site Plan (Form P3)	<input type="checkbox"/> Demolition Outside of HPO (Form L)	<input type="checkbox"/> Annexation of Land (Form Z)
<input type="checkbox"/> WTF Approval (Form W1)	<input type="checkbox"/> Historic Design Standards and Guidelines (Form L)	<input type="checkbox"/> Amendment to Zoning Map – EPC (Form Z)
	<input type="checkbox"/> Wireless Telecommunications Facility Waiver (Form W2)	<input type="checkbox"/> Amendment to Zoning Map – Council (Form Z)
		Appeals
		<input checked="" type="checkbox"/> Decision by EPC, LC, ZHE, or City Staff (Form A)

APPLICATION INFORMATION

Applicant: Jesus Apodaca	Phone: 401-2856
Address: 412 Hannett Ave NE	Email: victor@jfgconstruction.com
City: Albuquerque State: NM	Zip: 87102
Professional/Agent (if any): Juanita Garcia - JAG Planning + Zoning	Phone: 362-8903
Address: P.O. Box 7857	Email: jag@jagpandz.com
City: Albuquerque State: NM	Zip: 87194
Proprietary Interest in Site: owner	List all owners: Jesus F. Apodaca

BRIEF DESCRIPTION OF REQUEST

Appeal of Zoning Hearing Examiner to deny VA-2020-00140 Conditional use to allow a Self-storage

SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)

Lot or Tract No.: ID	Block: —	Unit: —
Subdivision/Addition: —	MRGCD Map No.: 37	UPC Code: 101405850050413133
Zone Atlas Page(s): J-14	Existing Zoning: M-XM	Proposed Zoning: No change
# of Existing Lots: —	# of Proposed Lots: —	Total Area of Site (acres): .5732

LOCATION OF PROPERTY BY STREETS

Site Address/Street: **1718 Broadway^{NE}** Between: **Lomas Blvd** and: **I-40**

CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)

VA-2020-00140

Signature: Juanita Garcia	Date: 8/20/2020
Printed Name: Juanita Garcia	<input type="checkbox"/> Applicant or <input checked="" type="checkbox"/> Agent

FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees	Case Numbers	Action	Fees
VA-2020-00275	Appeal	\$130			

Meeting/Hearing Date:	Fee Total: \$130
Staff Signature: Vanessa A Segura	Date: 8/20/2020 Project # PR-2020-003906

FORM A: Appeals

Complete applications for appeals will only be accepted within 15 consecutive days, excluding holidays, after the decision being appealed was made.

- APPEAL OF A DECISION OF CITY PLANNING STAFF (HISTORIC PRESERVATION PLANNER) ON A HISTORIC CERTIFICATE OF APPROPRIATENESS – MINOR TO THE LANDMARKS COMMISSION (LC)
- APPEAL OF A DECISION OF CITY PLANNING STAFF ON AN IMPACT FEE ASSESSMENT TO THE ENVIRONMENTAL PLANNING COMMISSION (EPC)

APPEAL TO CITY COUNCIL THROUGH THE LAND USE HEARING OFFICER (LUHO)

___ Interpreter Needed for Hearing? ___ if yes, indicate language: _____

___ A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD. PDF *shall be organized* with the Development Review Application and this Form A at the front followed by the remaining documents *in the order provided on this form.* PR-2020-003906

Project number of the case being appealed, if applicable: VA-2020-00140

Application number of the case being appealed, if applicable: VA-2020-00140

Type of decision being appealed: Conditional Use

Letter of authorization from the appellant if appeal is submitted by an agent

Appellant's basis of standing in accordance with IDO Section 14-16-6-4(U)(2)

Reason for the appeal identifying the section of the IDO, other City regulation, or condition attached to a decision that has not been interpreted or applied correctly, and further addressing the criteria in IDO Section 14-16-6-4(U)(4)

___ Copy of the Official Notice of Decision regarding the matter being appealed

<i>I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting or hearing, if required, or otherwise processed until it is complete.</i>	
Signature: <u>Juanita Garcia</u>	Date: <u>8/20/2020</u>
Printed Name: <u>Juanita Garcia</u>	<input type="checkbox"/> Applicant or <input checked="" type="checkbox"/> Agent
FOR OFFICIAL USE ONLY	
Case Numbers:	Project Number:
<u>VA-2020-00275</u>	<u>PR-2020-003906</u>
Staff Signature: <u>Vanessa A Segura</u>	
Date: <u>8/20/2020</u>	

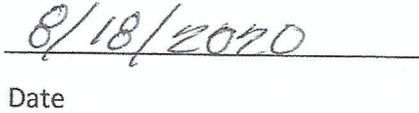


LETTER OF AUTHORIZATION

Subject Property: 1718 Broadway Blvd NE (MRGCD MAP 37 TR 1-D EXC NLY PORTION OUT TO R/W HANNETT AVE NE. Containing approximately 0.41 Acres

I, the undersigned owner of subject property, hereby designate JAG Planning & Zoning, LLC to be my authorized representative for the conditional use appeal for Self-Storage.


Jesus F. Apodaca


Date



August 20, 2020

Pat Davis, President
Albuquerque City Council
c/o Land Use Hearing Officer (LUHO)

Honorable President Pat Davis,

This appeal has been submitted pursuant to Section §14-16-6-4(U) of the Integrated Development Ordinance (IDO) by JAG Planning and Zoning, LLC on behalf of Jesus Apodaca. Mr. Apodaca appeals the denial decision of the Zoning Hearing Examiner (ZHE) dated August 5, 2020 for a Conditional Use to allow a Self-Storage for the location of 1718 Broadway Blvd NE and legally described as Lot 1D, MRGCD Map 37 and zoned M-XM (VA-2020-00140).

Standing and Timing of Appeal

This appeal was submitted within the appeal deadline as specified within the ZHE decision of August 20, 2020. Mr. Apodaca has standing to appeal this decision since Mr. Apodaca is the applicant for this request, as specified in Table 6-4-3. JAG, Planning & Zoning and Victor Apodaca, the property owner's son, were present at the July 21, 2020 ZHE hearing, as required by Section 6-4-4 (U)(2)(b) and did provide testimony and evidence to support the approval of this request.

Appeal Criteria for Decision

The criteria for review of an appeal shall be whether the decision-making body or the prior appeal body made 1 of the following mistakes:

- 6-4(U)(4)(a) The decision-making body or the prior appeal body acted fraudulently, arbitrarily, or capriciously.
- 6-4(U)(4)(b) The decision being appealed is not supported by substantial evidence.
- 6-4(U)(4)(c) The decision-making body or the prior appeal body erred in applying the requirements of this IDO (or a plan, policy, or regulation referenced in the review and decision-making criteria for the type of decision being appealed).

Criteria for Approval of a Conditional Use

The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(A)(3) (Conditional Use – Review and Decision Criteria) reads: “... An application for a Conditional Use – ZHE shall be approved if it meets all of the following criteria:

- **6-6(A)(3)(a) It is consistent with the adopted ABC Comp Plan, as amended.**
- **6-6(A)(3)(b) It complies with all applicable provisions of this IDO, including but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in a prior permit or approval affecting the property.**
- **6-6(A)(3)(c) It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.**
- **6-6(A)(3)(d) It will not create material adverse impacts on other land in the surrounding area through increases in traffic congestion, parking congestion, noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts.**
- **6-6(A)(3)(e) It will not increase non-residential activity within 300 feet of a lot in any Residential zone district between the hours of 8:00 P.M. and 6:00 A.M.**
- **6-6(A)(3)(f) It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.**

Additional Criteria for Conditional Use of a Self-Storage

Section 14-16-4-1 Conditional Use to allow a Self-Storage contains the following additional standards if granted approval as specified in Section 14-16-4-3D(28):

- **4-3(D)(28)(a) All storage shall be within a building. No outdoor storage of goods or vehicles is allowed.**
- **4-3(D)(28)(b) An opaque wall or fence at least 6 feet and no more than 8 feet high, or a vegetated buffer at least 50 feet in width, shall be provided along any lot line that abuts any Residential zone district or lot containing a Residential use in any Mixed-use zone district.**
- **4-3(D)(28)(c) Security fencing shall not include razor wire or barbed wire.**
- **4-3(D)(28)(d) Public access to any storage units within 100 feet of any Residential zone district or lot containing a Residential use in any Mixed-use zone district is not allowed between 10:00 P.M. and 7:00 A.M.**

-
- **4-3(D)(28)(e) In the MX-L, MX-M, MX-H, and MX-FB zone districts, and on lots in the NR-C zone district within a UC-AC-MS-PT area, access to individual storage units shall be through interior corridors; direct access to individual units from outdoor areas is not allowed.**
 - **4-3(D)(28)(f) In the NR-C zone district outside of UC-MS-PT areas, exterior doors to individual storage units shall not face any abutting street frontage, or, if the site is located on a corner parcel, shall not face the primary street frontage.**

Proposed Request and History of the Property

The applicant is proposing to construct a 3,000 square foot self-storage building to store construction material that is currently used for the applicant's construction business. The applicant has owned and operated the current business, JFQ Construction, Inc., on the site for over 5 years. JFQ Construction provides general contracting services and mostly works on State of New Mexico Highway Department projects throughout New Mexico.

The subject site of 1718 Broadway Blvd NE is located at the southeast corner of the intersection of Broadway and Hannett, south of I-40 and north of Lomas Blvd NW. The site was originally developed as residential with two single-family dwelling units (front and back) and a detached garage. However, over the years the back-dwelling unit became dilapidated and ultimately became substandard. The applicant intends to demolish the back-dwelling unit in order to construct the self-storage building. The front dwelling unit is currently being used as an office for the applicant's business.

Prior to the adoption of the Integrated Development Ordinance (IDO), the site was zoned SU-2 C-3 and was a part of the Santa Barbara/Martineztown Sector Development Plan. The applicant was told by a previous code enforcement representative that a contractor's yard/office would be allowed on the site given the C-3 reference in the SU-2 C-3 zoning. However, what was not told to the applicant was that SU-2 C-3 was actually a commercial zone category that would not allow a contractor's yard, unless a conditional use approval had been granted, since SU-2 C-3 was more equivalent to the C-2 zone than the C-3 zone. The applicant was operating on the presumption that the site had the correct zone category to operate a contractor's yard until the applicant received notice from Code Enforcement.

The adoption of the IDO no longer allows a construction yard on the subject site through the conditional use application. The proposed Self-Storage building is intended to bring the property into compliance with the regulations of the IDO.

ZHE Hearing of July 21, 2020

The appellant and agent, were present at the July 21, 2020 ZHE hearing and provided verbal testimony regarding the conditional use request. The ZHE hearing included testimony from a representative of the affected neighborhood association, Martineztown/Santa Barbara Neighborhood Association, who discussed their concerns and reasons for opposition to the conditional use application. The appellant provided photographs to demonstrate the current condition of the site and addressed concerns that were verbally presented by the neighborhood representative. Because of Covid-19, the meeting was held through Zoom and not in person.

Reasons for the Appeal

- A. The Zoning Hearing Examiner erred in applying the requirements of the Integrated Development Ordinance (IDO).
 - The Zoning Hearing Examiner indicates the reason for denial is because the applicant did not reference any specific polices from the Comprehensive Plan.

It is factual that the application did not quote any specific policy from the Comprehensive Plan, but there was an attempt to address this criterion. The applicant provided a general statement in regards to meeting the Comprehensive Plan by proposing an application for a use that is allowable within the site's zone category that will be developed in a manner that will address abutting residential uses. The application did not include the reference of any specific policy within the Comprehensive Plan because it was unclear that one needed to be provided given the novelty of the process created within the IDO for conditional use applications and because of the language within the IDO regarding this criterion. Criterion number one reads that an application for conditional use shall be approved if:

6-6(A)(3)(a) It is consistent with the adopted ABC Comp Plan, as amended.

This criterion is generally stated and does not specifically state that policies need to be addressed and does not imply that the application needs to meet the Comprehensive Plan with

the specific reference of applicable Goals and Policies in the Comprehensive Plan similar to what is required for a Zone Change (See page 427 of the IDO). For example, the criterion for a zone change in reference to the Comprehensive Plan reads as follows:

6-7(F)(3)(a) The proposed zone change is consistent with the health, safety, and general welfare of the City as shown by furthering (and not being in conflict with) a preponderance of applicable Goals and Policies in the ABC Comp Plan, as amended, and other applicable plans adopted by the City.

The Zoning Hearing Examiner indicated that since no policies were specifically noted, the application should be denied. If the criteria for a conditional use application contained language similar to a zone change, the application would have included many specific applicable goals and policies that are applicable to this request.

The response to this criterion is as follows:

“The proposed conditional use will not materially undermine the intent and purpose of the Albuquerque Bernalillo County Comprehensive Plan as recently amended and adopted. The site is located within an Area of Consistency and those uses that are listed as permissive or conditional are expected to occur within Areas of Consistency. The proposed request will meet the standards of the IDO, such as off-street parking requirements, building setbacks, building height limitations and landscaping requirements, which are all intended to protect nearby existing development from new uses. The applicant is requesting a use that is identified as a conditional use within the subject site’s zone category. Those uses listed as permissive or conditional uses are uses that are expected to occur within a particular zone. The applicant is not requesting a use that is outside of the site’s designated zone category.”

The response to this criterion did not address any one specific policy, but it did address how the application would generally meet the Comprehensive Plan by proposing a use that is expected to occur within this zone category and if approved would be developed in a manner that will be consistent with the Comprehensive Plan.

For example, Policy 5.1.2.2, Directing Growth of the Comprehensive Plan identifies places in the city where development is expected and encouraged in Development Areas identified as Areas of Consistency. As mentioned above, the subject site is located in an Area of Consistency and development that does happen should be designed carefully to reinforce the character, scale and intensity of the surrounding neighborhoods or non-residential development.

The response to this criterion also indicated that the site would be developed in a manner that would be consistent with the standards of the IDO, specifically, related to off-street parking, building setbacks, building height limitations and landscaping requirements that are intended to protect nearby existing development as identified in Policy 5.6.3, Area of Consistency, of the Comprehensive Plan.

The IDO was recently adopted by the City of Albuquerque and took many years of analysis and review to determine the appropriate uses, permissive and conditional, within each of the zone categories. Since all the uses identified within a zone category by the recently adopted IDO were carefully and methodically listed in consideration of the Comprehensive Plan, the expectation is that all uses allowed within a particular zone category should meet the Goals and Policies of the Comprehensive Plan.

Furthermore, the IDO also contains development standards, such as setback, off-street parking, landscaping requirements to help guide development in a manner that is consistent with the Comprehensive Plan.

In addition to the development standards, the IDO has criteria for a Conditional Use application, and if the application meets that criteria, implies that conditional use will meet the policies and goals of the Comprehensive Plan. For further review, this type of request (Conditional Use for Self-Storage) contains another set of criteria that were addressed separately; however, the ZHE did not address or provide analysis regarding all the remaining criteria and it's unclear if the application would have met the remaining criteria.

On page 1-7 of the Comprehensive Plan, the Comprehensive Plan is described as: "... the main policy document used to guide discretionary decisions about changes to zoning and the adoption of new plan. The Plan relies on coordinated zoning standards and capital improvement programs to give "teeth" to the "shoulds" that it sets out." Language in the Comprehensive Plan identifies that the goals and policies are to be used in Zone Changes, New Policies/Plans and Capital Improvement Plans & Action Priorities but does not specifically reference for a Conditional Use.

Given this language, applications similar to a Conditional Use should rely heavily on the criteria, beyond criterion number 1, and regulations within the IDO to determine if a conditional use can be approved, which will, arguably, meet the goals and policies of the Comprehensive Plan.

-
- The Zoning Hearing Examiner did not receive a recommendation from staff as outlined in the IDO.

The procedural process for a Conditional Use application, as identified in 14-6-6-2(A)(2) of the IDO, indicates that “staff shall review the application and forward a recommendation to the ZHE pursuant to all applicable provision of Section 14-16-6-4 (General Procedures)” (See Page 385 of the IDO) The applicant did request for and obtained a mandatory pre-application review of the request, which was included with the application, but no further review of the application and no recommendation was made to the Zoning Hearing Examiner.

If staff had reviewed the application and determined that it did not include specific citations of goals or policies of the Comprehensive Plan, as required by the ZHE, staff would have likely recommended denial of the application or would have discussed this matter with the applicant to address any concerns, prior to the ZHE hearing. The applicant would have had the opportunity to address any concerns prior to or at the public hearing, if a recommendation of denial was being made by staff. The IDO was recently adopted along with the new procedures on development applications and this requirement appears to be intended to guide applicants through the new process.

B. The Zoning Hearing Examiner made a determination that is not supported by substantial evidence.

- The Zoning Hearing Examiner approved findings of facts identifying information from the affected neighborhood as “substantial evidence that the conditional use would be inconsistent with the Comprehensive Plan.”

The Zoning Hearing Examiner adopted 20 findings in his denial of the subject request. Finding number 17 identifies the “evidence and arguments from the Santa Barbara Martineztown Neighborhood Association” as the “substantial evidence that the conditional use would be inconsistent with the Comprehensive Plan.” The following is the applicant’s response to Finding 17 and how the evidence provided has not been substantiated:

17. Regarding whether the proposed conditional use would be consistent with the ABC Comp. Plan, Opponent Santa Barbara Martineztown Neighborhood Association submitted the following evidence and arguments:

a. Under ABC Comp. Plan “Goal 4-1-the Goal is to enhance, protect and preserve distinct communities – Martineztown Santa Barbara Neighborhood is a historical residential neighborhood . . .”. With the adoption of this finding, the Zoning Hearing Examiner determined that the site is located within a historical residential neighborhood as mentioned in the letter from the affected neighborhood association. While the applicant does agree that there are historical elements within this neighborhood, the site and the neighborhood is not designated as a Historical Zone or Overlay which would require the site to be subject to regulations that are intended to preserve the integrity of its historical significance (See Page 59 of the IDO). It was conveyed to the ZHE that the site is not within a historical designated area and is not subject to additional regulations pertaining to preservation. The goal referenced in this finding is an example of how a Goal within the Comprehensive Plan can be and has been used as an argument but was not substantiated with evidence as being applicable.

b. “Policy 4.1.4. – Neighborhoods” would be violated “by not enforcing the historical protection to enhance, protect and preserve the historical residential neighborhood and traditional communities as key to our long term. Based on this Goal, the more restrictive zoning is required to be applied.” With the adoption of this finding, the Zoning Hearing Examiner again determined that the site is located within a historical residential neighborhood as mentioned in the letter from the affected neighborhood association. This finding implies that the ZHE had to enforce the goal for “historical protection to enhance, protect and preserve the historical residential neighborhood.” However, the record does not reflect what regulations need to be enforced to comply with this Comprehensive Plan policy. The ZHE indicates that the more restrictive zoning is required to be applied. It is unclear what is the more restrictive zoning that needs to be applied. This is an example of how policies within the Comprehensive Plan are intended to guide development with the City of Albuquerque for historical neighborhoods, but is not intended to be used for those sites and areas that are not designated as a historical zone or having a historical overlay. There is no substantial evidence to support this finding.

c. "The Albuquerque Comprehensive Plan Part 14-16-1 General Provisions Purpose 1-3(A-L), The purpose is to protect the quality and character of residential neighborhoods; 1-3(G) Protect the health, safety, and general welfare of the public; 1-3(J) Implement a connected system of parks, trails, and open spaces to promote improved outdoor activity and public health; 1-3(K) Provide reasonable protection from possible nuisances and hazards and to otherwise protect and improve public health; Provide reasonable protection possible nuisances and hazards and to otherwise protect and improve public health; Encourage efficient and connected transportation and circulation systems for motor vehicles, bicycles, and pedestrians." Opponent Santa Barbara Martineztown Neighborhood Association testified that the proposed use would bring increased large truck and other traffic to an already congested area, having a detrimental effect on health safety and welfare, particularly given the location of the Subject Property across Hannett Avenue NE. **With the adoption of this finding, the Zoning Hearing Examiner determined that the proposed request would result in increased large truck and other traffic to an already congested area.** However, it was testified by the applicant that no additional traffic, beyond what currently exists, will occur with the approval of this request. The proposed use is for a self-storage for the applicant's business and will not be open to the public. It was also argued that there are more intense uses that are allowed permissively that would result in increased traffic. As previously mentioned, the property is zoned MX-M and would allow uses that includes a school, church, restaurant, bar, bank, small and medium retailing that would definitely result in higher vehicular traffic than a self-storage building for the applicant's business use.

d. "In the Comp Plan Introduction on Environmental justice: After making significant gains in protecting our natural environment, we will need to continue to develop and implement strategies to address the environmental health hazards that affect vulnerable populations more severely in some areas of our community." Opponent Santa Barbara Martineztown Neighborhood Association testified that the negative effects are unfairly focused on a vulnerable population in an historic residential neighborhood. **With the adoption of this finding, the Zoning Hearing Examiner determined that applications similar to this conditional use will have a negative effect that are unfairly focused on a vulnerable population in an historic residential neighborhood.** As was previously argued, the proposed use, if granted approval, will not involve the storage of any hazardous materials and will ensure that it will meet all of the requirements related to water,

sewer, grading and drainage and air quality requirements, as specified at building permit. The record did not contain information on how this conditional use application would have a negative effect and only accepted the argument from the neighborhood association as being factual.

e. "Part 1.4 Legal Purpose of the Comp Plan states the Comp Plan is the general plan for Albuquerque and Bernalillo County, ... Its statutory purpose, in NMSA 1978, Section 3-19-9(A), is 'to guide and accomplish a coordinated, adjusted and harmonious development of the City, which will, in accordance with existing, and future needs, best promote health, safety, morals, other, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development.'" Opponent Santa Barbara Martineztown Neighborhood Association testified that the proposed use would be out of harmony with existing and future needs of the neighborhood, because of the negative impacts on environment, health, safety, and welfare. **See d. above.**

f. "The Albuquerque Comprehensive Plan, Chapter 5, Land Use, 5.1.1 Introduction states "In general, it is important to protect public health and safety by separating residential and industrial land uses and ensuring adequate buffering, separation distances, or mitigation measures between incompatible uses." . . . Policy 5.6.3 (aj) "Areas of Consistency: Protect and enhance the character of existing single- family neighborhoods...." Opponent Santa Barbara Martineztown Neighborhood Association testified that the proposed conditional use would be incompatible with the adjacent residential uses. **With the adoption of this finding, the Zoning Hearing Examiner determined that the proposed request will be incompatible with adjacent residential uses but failed to acknowledge that a petition of support from the immediate neighboring property owners was submitted with the application.** The IDO is structured in such a manner that any commercial development next to a residential zone would be required to meet special buffer and landscaping requirements to protect the residential uses. It has also been argued by the applicant that, if approved, the applicant is willing to comply with all the development requirements identified within the IDO, especially adjacent to the residential zone to the east.

g. "Chapter 13, Resilience & Sustainability, Section on Air Quality states that since Albuquerque is located in a river valley bounded by a high mountain range to the east, Albuquerque's geographic location, mile-high altitude, and meteorological conditions such as canyon winds affect Albuquerque's air quality. Martineztown Santa Barbara

Neighborhood is bounded by Interstate 25 to the east and Interstate 40 to the west. A Health Impact Study done for Martineztown Santa Barbara Neighborhood indicates that Martineztown Santa Barbara Neighborhood is an already vulnerable area and any more concentrated pollution such as storage facility for a contractor's yard is detrimental to the health, safety, and welfare of the neighborhood." A copy of this Health Impact Study was submitted into the public record in this matter. **With the adoption of this finding, the ZHE determined that the proposed request would allow a storage facility associated with a contractor's yard and would allow more concentrated pollution within a neighborhood and referenced the Health Impact Study that was submitted by the affected neighborhood association. This is problematic because this request is not to allow a facility for a contractor's yard. The applicant has acknowledged that the site is in violation of the current regulations and the approval of this request will allow the site to come into compliance.**

The ZHE relied on a document that was submitted by the affected neighborhood association and identified the document as a "study." However, when looking at the document, the introduction paragraph indicates that a full Health Impact Assessment could not be completed because of time constraints. Furthermore, the study was completed when the 2012 Martineztown/Santa Barbara Sector Development Plan was being adopted and not the IDO.

The affected neighborhood association testified that a pending law suit against the City of Albuquerque is in progress regarding the adoption of the IDO and the zone categories that have been assigned to the properties within the Martineztown/Santa Barbara Neighborhood Association boundary. This law suit has not been resolved and is against the affected neighborhood association and the City of Albuquerque. The applicant's property has the zone category that has been adopted by the City of Albuquerque and the subject site should not be subject to this report prior to any court decisions.

The adoption of Finding 17 reflects the numerous references of Comprehensive Plan Policies and Goals that were specifically quoted by the affected neighborhood association, but there was no evidence provided to demonstrate support of those policies and goals. The applicant understands that it is the applicant's responsibility to justify the approval of a conditional use but the denial of a conditional use should not occur if evidence that has been provided by an opposing party has not been properly substantiated.

Conclusion

The denial of this conditional use is contrary to the IDO as discussed above and the associated Notification of Decision letter contains findings of facts that are not supported by the record. We request approval of the conditional use or have the matter remanded back to the Zoning Hearing Examiner for a reexamination of the application.

Thank you for your consideration on this matter.

Sincerely,

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

Juanita Garcia
Principal

6-7(F)(3) Review and Decision Criteria

An application for a Zoning Map Amendment shall be approved if it meets all of the following criteria:

- 6-7(F)(3)(a) The proposed zone change is consistent with the health, safety, and general welfare of the City as shown by furthering (and not being in conflict with) a preponderance of applicable Goals and Policies in the ABC Comp Plan, as amended, and other applicable plans adopted by the City.
- 6-7(F)(3)(b) If the proposed amendment is located wholly or partially in an Area of Consistency (as shown in the ABC Comp Plan, as amended), the applicant has demonstrated that the new zone would clearly reinforce or strengthen the established character of the surrounding Area of Consistency and would not permit development that is significantly different from that character. The applicant must also demonstrate that the existing zoning is inappropriate because it meets any of the following criteria:
 - 1. There was typographical or clerical error when the existing zone district was applied to the property.
 - 2. There has been a significant change in neighborhood or community conditions affecting the site.
 - 3. A different zone district is more advantageous to the community as articulated by the ABC Com Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).
- 6-7(F)(3)(c) If the proposed amendment is located wholly in an Area of Change (as shown in the ABC Comp Plan, as amended) and the applicant has demonstrated that the existing zoning is inappropriate because it meets at least one of the following criteria:
 - 1. There was typographical or clerical error when the existing zone district was applied to the property.
 - 2. There has been a significant change in neighborhood or community conditions affecting the site that justifies this request.
 - 3. A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).
- 6-7(F)(3)(d) The zone change does not include permissive uses that would be harmful to adjacent property, the neighborhood, or the community, unless the Use-specific Standards in Section 16-16-4-3 associated with that use will adequately mitigate those harmful impacts.

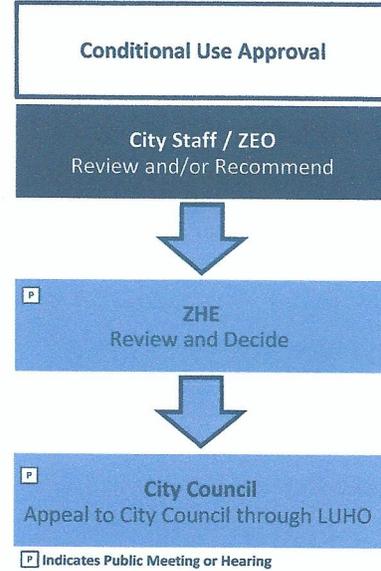
6-6 DECISIONS REQUIRING A PUBLIC MEETING OR HEARING

6-6(A) CONDITIONAL USE APPROVAL

All applicable provisions of Section 14-16-6-4 (General Procedures) apply unless specifically modified by the provisions of this Subsection 14-16-6-6(A) or the DPM.

6-6(A)(1) Applicability

- 6-6(A)(1)(a) This Subsection 14-16-6-6(A) applies to all applications for a use listed as conditional (i.e. Conditional Primary, Conditional Accessory, or Conditional Vacant if the application is filed after the primary building on the property has been vacant for 5 years or more) in Table 4-2-1. Conditional uses are only allowed if approved pursuant to this Subsection 14-16-6-6(A).
- 6-6(A)(1)(b) A Conditional Use Approval is only valid for the location stated in the application and cannot be transferred to a new location.
- 6-6(A)(1)(c) If an approved conditional use is discontinued for a period of 12 consecutive months, it may not be reestablished without a new Conditional Use Approval.



6-6(A)(2) Procedure

- 6-6(A)(2)(a) The City Planning Department staff shall review the application and forward a recommendation to the ZHE pursuant to all applicable provisions of Section 14-16-6-4 (General Procedures).
- 6-6(A)(2)(b) The ZHE shall conduct a public hearing on the application and make a written decision on the application pursuant to all applicable provisions of Section 14-16-6-4 (General Procedures).

6-6(A)(3) Review and Decision Criteria

An application for a Conditional Use Approval shall be approved if it meets all of the following criteria:

- 6-6(A)(3)(a) It is consistent with the adopted ABC Comp Plan, as amended.
- 6-6(A)(3)(b) It complies with all applicable provisions of this IDO, including but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in a prior permit or approval affecting the property.

Part 14-16-3 Overlay Zones

3-1 OVERLAY ZONES ESTABLISHED

- 3-1(A) The Overlay zones listed in Sections 14-16-3-3 through 14-16-3-6 (Overlay Zones) are hereby created. These Overlay zones shall have the boundaries shown on the Official Zoning Map maintained in electronic form by the City Planning Department and available on the City of Albuquerque website.
- 3-1(B) These Overlay zones supplement, but do not replace, the underlying base zone districts listed in Sections 14-16-2-3 through 14-16-2-6 and applicable to the property. In the case of a conflict between the provisions of a base zone district and the provisions of an Overlay zone, the provisions of the Overlay zone shall prevail. Where multiple Overlay zones apply to a property, development must comply with all relevant provisions. Where an Overlay zone is silent, IDO requirements apply.

3-2 OVERLAY ZONE SUMMARY TABLE

Table 3-2-1 shows the City of Albuquerque’s previous overlays in relation to IDO Overlay zones.

Previous Zone or Overlay		IDO Overlay Zone	
Airport Protection		Airport Protection Overlay Zones	
AP-1	Airport Protection	APO	Airport Protection Overlay
AP-2	Airport Protection		
Design and Urban Conservation Overlay Zones		Character Protection Overlay Zones	
DOZ	Design Overlay Zone	CPO-1	Barelas
		CPO-2	Coors Boulevard
		CPO-3	Downtown Neighborhood Area
SDP	Sector Development Plan	CPO-4	East Downtown
		CPO-5	High Desert
		CPO-6	Los Duranes
UCOZ	Urban Conservation Overlay Zone	CPO-7	Martineztown/Santa Barbara
		CPO-8	Nob Hill/Highland
		CPO-9	North I-25
		CPO-10	Rio Grande Boulevard
		CPO-11	Sawmill/Wells Park
		CPO-12	Volcano Mesa
Historic Zones and Overlays		Historic Protection Overlay Zones	
H-1	Historic Old Town Zone	HPO-5	Old Town
HOZ	Historic Overlay Zones	HPO-1	East Downtown
		HPO-2	Eighth & Forrester
		HPO-3	Fourth Ward
		HPO-4	Huning Highland
		HPO-6	Silver Hill
View Protection Regulations		View Protection Overlay Zones	
DOZ	Design Overlay Zone	VPO-1	Coors Boulevard
SDP	Sector Development Plan	VPO-2	Northwest Mesa Escarpment

Introduction

Land-use plans play a significant role in the look, feel and vitality of a neighborhood and can strongly influence neighborhood conditions such as clean air, access to safe places to play and work, and the availability of quality schools and employment. Researchers are discovering that the availability of neighborhood conditions such as these profoundly influence residents' overall health, particularly among childrenⁱ. Conversely, residents living in neighborhoods characterized by poor quality schools, few job opportunities, and a polluted environment have poor overall health and a shorter life expectancy. In fact, in Bernalillo County there is a dramatic difference in life expectancy depending on where one lives – with residents residing in higher income, predominantly non-Hispanic white, and amenity rich neighborhoods living up to 22 years longerⁱⁱ.

Planners can create land-use plans that encourage healthy neighborhoods for all by considering how the plan will positively, or negatively, impact the health and welfare of the residents who live there. A tool called Health Impact Assessment, or HIA, enables planners to consider the health impacts of a proposed plan prior to decision making by gathering health related data.

Because of the Bernalillo County Place Matters Team's (Team) experience with HIAs, representatives of the Martineztown Work Group (MWG) asked the Team to conduct a HIA on the proposed 2012 Santa Barbara Martineztown (SBMZ) Sector Development Plan (Plan). Specifically, neighborhood residents were concerned that the Plan's implementation would result in higher density developments, which in turn, would increase vehicle volumes within their neighborhood and negatively impact: 1) road safety resulting in increased crash related fatalities/injuries; 2) air quality resulting in increased respiratory illness, cancer, and cardiovascular disease, and; 3) noise levels resulting in increased learning disabilities among children. Unfortunately, given time constraints, the Team could not conduct a full blown HIA and instead offered to develop a report for the City Councilors of the City of Albuquerque consisting of data on current neighborhood conditions as they relate to vehicle volumes and health and a summary of research on the impact of increased vehicle volumes on health.

The Santa Barbara-Martineztown Community

The two census tracts underlying SB-MZ are tracts 20 and 29 (map 1) with a total 2010 population of 6,321, comprised of 57.6% (census tract 20) and 58.5% (census tract 29) Hispanics. Comparatively, Bernalillo County is comprised of 48.1 percent Hispanics. Twenty-five percent (tract 20) and 14.9% (tract 29) of SB-MZ residents live below the Federal Poverty Level (\$23,550 annually for a family of four), compared to 16.6% of Bernalillo County residents.

SB-MZ geographically sits at the cross-roads of two major Interstates, I-25 and I-40, and is bordered by two major roadways, Lomas Blvd. and Menaul Blvd. to the north and south, respectively, with the BN&SF railroad nearby, to the west.



CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Jesus Apodaca or Victor Apodaca (Agent, Juanita Garcia, JAG Planning & Zoning, LLC) request a conditional use to allow self-storage for Lot 1D, MRGCD Map 37, located at 1718 Broadway Blvd NE, zoned MX-M [Section 14-16-4-3(D)(28)]

Special Exception No:..... **VA-2020-00140**
Project No: **Project#2020-003906**
Hearing Date: 07-21-20
Closing of Public Record: 07-21-20
Date of Decision: 08-05-20

On the 21st day of July, 2020, Juanita Garcia, JAG Planning & Zoning, LLC, agent (“Agent”) for property owner Jesus Apodaca or Victor Apodaca (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow self-storage (“Application”) upon the real property located at 1718 Broadway Blvd NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow self-storage on the Subject Property.
2. The City of Albuquerque Integrated Development Ordinance (“IDO”) Section 14-16-7-1 defines “self-storage” as “[a] use consisting of 3 or more individual, small, self-contained units in a building that are leased or owned for the indoor storage of business and household goods or contractors' supplies”
3. The Subject Property is currently zoned MX-M (Mixed Use - Moderate Intensity Zone District).
4. IDO Section 14-16-2-4(C)(1) states that the “purpose of the MX-M zone district is to provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Centers and Corridors. Allowable uses are shown in Table 4-2-1.”
5. Table 4-2-1 lists self-storage as a conditional primary use within the MX-M zone.
6. The Subject Property is designated as an Area of Consistency.
7. The applicable overlay zone of the Subject Property is CPO-7.
8. The City Traffic Engineering Division submitted a report stating no objection to the requested conditional use approval based on its analysis of clear sight triangle requirements.
9. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
10. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
11. Agent, on behalf of the Applicant, met with representatives of the Santa Barbara Martineztown Neighborhood Association, representatives of the Martineztown Work

Group, and other community members, via a virtual meeting on Thursday, May 21, 2020. Minutes of that meeting are in the ZHE record on this Application.

12. The Agent and community members discussed, both prior to and at the July 21, 2020 ZHE hearing, the possibility of a facilitated meeting. However, based on the testimony before the ZHE, it appeared that a facilitated would not be fruitful. Therefore the ZHE did not require a facilitated meeting.
13. IDO Section 14-16-6-6(A)(3) (Review and Decision Criteria– Conditional Use) reads: “*An application for a Conditional Use Approval shall be approved if it meets all of the following criteria:*
 - (a) *It is consistent with the ABC Comp. Plan, as amended;*
 - (b) *It complies with all applicable provisions of the IDO, including, but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property;*
 - (c) *It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community;*
 - (d) *It will not create material adverse impacts on other land in the surrounding area, through increases in traffic congestion, parking congestion noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts;*
 - (e) *It will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am;*
 - (f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation*
14. Pursuant to IDO Section 14-16-6-4(F)(2), the Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence.
15. Regarding whether the proposed conditional use would be consistent with the ABC Comp. Plan, as required by IDO Section 14-16-6-6(A)(3)(a), Applicant submitted the following evidence and arguments:

“The site is located within an Area of Consistency and those uses that are listed as permissive or conditional are expected to occur within Areas of Consistency. The proposed request will meet the standards of the IDO, such as off-street parking requirements, building setbacks, building height limitations and landscaping requirements, which are all intended to protect nearby existing development from new uses. The applicant is requesting a use that is identified as a conditional use within the subject site's zone category. Those uses listed as permissive or conditional uses are uses that are expected to occur within a particular zone. The applicant is not requesting a use that is outside of the site's designated zone category.”
16. However, Applicant cited to no Policy, Goal, or other provision of the ABC Comp. Plan with which the proposed conditional use would be consistent. Similarly, Applicant provided no authority or citation for Applicant's assertion that uses that are listed as conditional are expected to occur within Areas of Consistency, nor for how that assertion relates to consistency with the ABC Comp. Plan.

17. Regarding whether the proposed conditional use would be consistent with the ABC Comp. Plan, Opponent Santa Barbara Martineztown Neighborhood Association submitted the following evidence and arguments:
- a. Under ABC Comp. Plan “Goal 4-1-the Goal is to enhance, protect and preserve distinct communities – Martineztown Santa Barbara Neighborhood is a historical residential neighborhood . . .”.
 - b. “Policy 4.1.4. – Neighborhoods” would be violated “by not enforcing the historical protection to enhance, protect and preserve the historical residential neighborhood and traditional communities as key to our long term. Based on this Goal, the more restrictive zoning is required to be applied.”
 - c. “The Albuquerque Comprehensive Plan Part 14-16-1 General Provisions Purpose 1-3(A-L), The purpose is to protect the quality and character of residential neighborhoods;1-3(G) Protect the health, safety, and general welfare of the public; 1-3(J) Implement a connected system of parks , trails, and open spaces to promote improved outdoor activity and public health; 1-3(K) Provide reasonable protection from possible nuisances and hazards and to otherwise protect and improve public health; Provide reasonable protection possible nuisances and hazards and to otherwise protect and improve public health; Encourage efficient and connected transportation and circulation systems for motor vehicles, bicycles, and pedestrians.” Opponent Santa Barbara Martineztown Neighborhood Association testified that the proposed use would bring increased large truck and other traffic to an already congested area, having a detrimental effect on health safety and welfare, particularly given the location of the Subject Property across Hannett Avenue NE.
 - d. “In the Comp Plan Introduction on Environmental justice: After making significant gains in protecting our natural environment, we will need to continue to develop and implement strategies to address the environmental health hazards that affect vulnerable populations more severely in some areas of our community.” Opponent Santa Barbara Martineztown Neighborhood Association testified that the negative effects are unfairly focused on a vulnerable population in an historic residential neighborhood.
 - e. “Part 1.4 Legal Purpose of the Comp Plan states the Comp Plan is the general plan for Albuquerque and Bernalillo County, ... Its statutory purpose, in NMSA 1978, Section 3-19-9(A), is ‘to guide and accomplish a coordinated, adjusted and harmonious development of the City, which will, in accordance with existing, and future needs, best promote health, safety, morals, other, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development.” Opponent Santa Barbara Martineztown Neighborhood Association testified that the proposed use would be out of harmony with existing and future needs of the neighborhood, because of the negative impacts on environment, health, safety, and welfare.
 - f. “The Albuquerque Comprehensive Plan, Chapter 5, Land Use, 5.1.1 Introduction states “In general, it is important to protect public health and safety by separating residential and industrial land uses and ensuring adequate buffering, separation distances, or mitigation measures between incompatible uses.” . . . Policy 5.6.3 (a-j) “Areas of Consistency: Protect and enhance the character of existing single-

family neighborhoods....” Opponent Santa Barbara Martineztown Neighborhood Association testified that the proposed conditional use would be incompatible with the adjacent residential uses.

- g. “Chapter 13, Resilience & Sustainability, Section on Air Quality states that since Albuquerque is located in a river valley bounded by a high mountain range to the east, Albuquerque's geographic location, mile-high altitude, and meteorological conditions such as canyon winds affect Albuquerque’s air quality. Martineztown Santa Barbara Neighborhood is bounded by Interstate 25 to the east and Interstate 40 to the west. A Health Impact Study done for Martineztown Santa Barbara Neighborhood indicates that Martineztown Santa Barbara Neighborhood is an already vulnerable area and any more concentrated pollution such as storage facility for a contractor’s yard is detrimental to the health, safety, and welfare of the neighborhood.” A copy of this Health Impact Study was submitted into the public record in this matter.
- 18. On balance, substantial evidence exists in favor of a conclusion that the proposed conditional use would be inconsistent with the ABC Comp. Plan, while there is a lack of substantial evidence in favor of a conclusion that the proposed conditional use would be consistent with the ABC Comp. Plan.
- 19. Consequently, Applicant has failed to meet its burden of providing a sound justification, based on substantial evidence, for the requested decision that the requested Conditional Use approval would be consistent with the ABC Comp. Plan, as required by IDO Section 14-16-6-6(A)(3)(a).
- 20. Section 14-16-6-6(A)(3) requires Applicant to establish a sound justification for all the criteria stated in that Section – if one criterion fails, the entire application must fail. As stated, above, Applicant has failed to satisfy the criterion set forth in IDO Section 14-16-6-6(A)(3)(a). Therefore, the application must be denied. Given the denial on such grounds, the ZHE need not address the remaining criteria of IDO Section 14-16-6-6(A)(3) or any other applicable criterion of approval.

DECISION:

DENIAL of a conditional use to allow self-storage.

APPEAL:

If you wish to appeal this decision, you must do so by August 20, 2020 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional

use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Juanita Garcia, JAG Planning & Zoning, LLC, jag@jagpandz.com

REQUEST FOR SPECIAL EXCEPTION

Variance Conditional Use Other Interpreter: Yes No

VA# 2020-00140 PR# 2020-003906

Date: 6/2/2020		Received By: Charles Maestas	
Address of Request: 1718 BROADWAY BLVD NE			
City: Albuquerque	State: NM	Zip: 87102	
Lot: 1D	Block: 0000	Zone: MX-M	Map page: J14
Subdivision: MRGCD Map 37		UPC#: 101405850050413133	
Property Owner(s): Jesus Apodaca or Victor Apodaca			
Mailing Address: 412 Hannett Ave NE			
City: Albuquerque	State: NM	Zip: 87102	
Phone: Click here to enter text.	Email: Click here to enter text.		
Agent: Juanita Garcia – JAG Planning & Zoning, LLC			
Mailing Address: PO Box 7857			
City: Albuquerque	State: NM	Zip: 87194	
Phone: (505)362-8903	Email: jag@jagpandz.com		
		Fee Total: \$ 260.00	

Completed Application Requirements:

- Copy of relevant IDO section
- Letter of authorization (if agent representation)
- Proof of Pre-application Meeting (not required for a variance)
- Proof that neighborhood meeting requirements were met
- Proof that public notice requirements were met
- Photos (site and existing structures)
- Sketch plan
- Justification letter
- Sign posting

Approved for acceptance by: 

Date:

Hearing Date: Jul 21, 2020

ZONING OFFICIAL USE ONLY			
Request for exception to IDO Section: 14-16- 4-3(D)(28)			
Description of request: Conditional Use to allow self-storage			
<input checked="" type="checkbox"/> Ownership verified on AGIS	<input type="checkbox"/> Proof of ownership included	<input checked="" type="checkbox"/> Letter of authorization included	
Case history number(s) from AGIS: 1009119			
APO:	CPO# 7	HPO#	VPO# Click here to enter text.
Wall variances not allowed in low-density residential development in these 2 areas per 5-7(D)(3)(e):			
1) CPO 3 and 2) Monte Vista / College View Historic Dist. - Mapped Area:			
2) CPO-8 states walls no more than 3 feet high, but may request a variance			

REQUEST FOR SPECIAL EXCEPTION

Variance Conditional Use Other

Interpreter: Yes No

VA# _____ PR# _____

Date: 06-02-2020		Received By:	
Address of Request: 1718 Broadway Blvd NE			
City: Albuquerque		State: NM	Zip: 87102
Lot: 1D	Block:	Zone: MX-M	Map pg. J-14
Subdivision: MRQCD Map 37		UPC# 1014058 50050413133	
Property Owner(s): Jesus Apodaca or Victor Apodaca			
Mailing Address: 412 Hannett Ave NE			
City: Albuquerque		State: NM	Zip: 87102
Phone: (505)		Email:	
Agent: Tia Anita Garcia - JAG Planning + Zoning, LLC			
Mailing Address: P.O. BOX 7857			
City: Albuquerque		State: NM	Zip: 87194
Phone: (505) 362-8903		Email: jag@jagpandz.com	
Fee Total:			

Completed Application Requirements:

- o Copy of relevant IDO section
- o Letter of authorization (if agent representation)
- o Proof of Pre-application Meeting (not required for a variance)
- o Proof that neighborhood meeting requirements were met
- o Proof that public notice requirements were met
- o Photos (site and existing structures)
- o Sketch plan
- o Justification letter
- o Sign posting

Approved for acceptance by:

Date:

Hearing Date:

ZONING OFFICIAL USE ONLY			
Request for exception to IDO Section: 14-16-			
Description of request:			
<input type="checkbox"/> Ownership verified on AGIS	<input type="checkbox"/> Proof of ownership included	<input checked="" type="checkbox"/> Letter of authorization included	
Case history number(s) from AGIS: 1009119			
APO:	CPO#	HPO#	VPO#
Wall variances not allowed in low-density residential development in these 2 areas per 5-7(D)(3)(e):			
1) CPO 3 and 2) Monte Vista / College View Historic Dist. - Mapped Area			
2) CPO-8 states walls no more than 3 feet high, but may request a variance			

Table 4-2-1: Allowable Uses																			
P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory CV = Conditional if Structure Vacant for 5 years or more T = Temporary Blank Cell = Not Allowed																			
Zone District >>	Residential						Mixed-use				Non-Residential					Use-specific Standards			
	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU		A	B	C
Club or event facility							C	P	P	P	P	P	P	CV		P	P	C	4-3(D)(23)
Commercial services								P	P	P	P	P	P	P					
Construction contractor facility and yard										C	C	P	P	P					4-3(D)(24)
Crematorium														P					
Medical or dental clinic							P	P	P	P	P	P	P	P					4-3(D)(25)
Mortuary								C	P	P	P	P	C		A				
Office							P	P	P	P	P	P	P	P					
Personal and business services, small							P	P	P	P	P	P	P	P					4-3(D)(26)
Personal and business services, large									P	P	P	P	P	P					4-3(D)(26)
Research or testing facility							P	P	P	P	P	P	P	P					4-3(D)(27)
Self-storage								C	C	P	P	P	P	P			A		4-3(D)(28)
Outdoor Recreation and Entertainment																			
Amphitheater										C	C	C	C	C	A	P	A	C	
Balloon Fiesta Park events and activities																P			4-3(D)(29)
Drive-in theater									C	C	C	C	C						4-3(D)(30)
Fairgrounds															P				
Residential community amenity	P	P	P	P	P	P	P	P	P	P								A	
Stadium or racetrack															P	P			
Other outdoor entertainment	CA	CA	CA	CA	CA	CA	A	A	A	A	P	P	P	A		P		P	4-3(D)(31)
Retail Sales																			
Adult retail										P		P	P	P					4-3(D)(6)
Bakery goods or confectionery shop							CV	P	P	P	P	P	P	P					
Building and home improvement materials store									C	C	P	P	P	C					4-3(D)(32)
Farmers' market	T		T	T	T	T	T	P	P	P	P	P	CV	CV		P	A	CA	4-3(D)(33)
General retail, small			A			A	A	P	P	P	P	P	P	P					4-3(D)(34)
General retail, medium									P	P	P	C	C						4-3(D)(34)
General retail, large									C	C	P	P							4-3(D)(34)
Grocery store								P	P	P	P		P	P					4-3(D)(35)
Liquor retail							C	A	P	P	P	C	C	C					4-3(D)(36)
Pawn shop								C	P	P	P	P	P	P					4-3(D)(37)
Transportation																			
Airport															P				4-3(D)(38)
Freight terminal or dispatch center												C	P	P					
Hellpad									CA	CA	A	P	P	P	A				4-3(D)(39)
Park-and-ride lot						C	C	C	C	P	C	C	P	C	A	A			4-3(D)(40)

4-3(D)(25)(c) If located in an MX-T or MX-L zone district, this use shall not exceed 10,000 square feet of gross floor area.

4-3(D)(26) Personal and Business Services, Small or Large

4-3(D)(26)(a) The following provisions apply only to bail bond businesses:

1. The lot shall not be accessed from a street designated as a local street in the LRTS Guide.
2. Bail bond businesses may not be located on the same parcel as another bail bond business.
3. Unless located within 500 feet of a courthouse, a bail bond business may not be located closer than 1 mile to any other bail bond business.
4. If a bail bond business is abandoned, discontinued, or ceases continuous operation for more than 12 consecutive months, it shall not be reestablished at that location if it is within 1 mile of any other bail bond business, unless it is located within 500 feet of a courthouse.

4-3(D)(26)(b) The following provisions apply if the use includes dry cleaning of clothes and is located in any Mixed-use zone district:

1. Only nonflammable or noncombustible materials may be used in the cleaning process.
2. The portion of the structure in which any cleaning process is done must be at least 50 feet from any Residential zone district or lot containing a Residential use in any Mixed-use zone district.

4-3(D)(27) Research or Testing Facility

4-3(D)(27)(a) Any facility using hazardous materials or procedures subject to additional review, licensing, or approval by state or federal law, or emitting electromagnetic radiation or other radiation, shall comply with all state and federal requirements regarding the storage, handling, transfer, use, and safety of those materials, procedures, or radiation, and shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).

4-3(D)(27)(b) If located in an MX-T or MX-L zone district, this use shall not exceed 10,000 square feet of gross floor area.

4-3(D)(27)(c) Facilities that require Conditional Use Approval pursuant to Subsection (a) above are prohibited in the MX-T or MX-L zone districts.

4-3(D)(28) Self-storage

4-3(D)(28)(a) All storage shall be within a building. No outdoor storage of goods or vehicles is allowed.

4-3(D)(28)(b) An opaque wall or fence at least 6 feet and no more than 8 feet high, or a vegetated buffer at least 50 feet in width, shall be

provided along any lot line that abuts any Residential zone district or lot containing a Residential use in any Mixed-use zone district.

4-3(D)(28)(c) Security fencing shall not include razor wire or barbed wire.

4-3(D)(28)(d) Public access to any storage units within 100 feet of any Residential zone district or lot containing a Residential use in any Mixed-use zone district is not allowed between 10:00 P.M. and 7:00 A.M.

4-3(D)(28)(e) In the MX-L, MX-M, MX-H, and MX-FB zone districts, and on lots in the NR-C zone district within a UC-AC-MS-PT area, access to individual storage units shall be through interior corridors; direct access to individual units from outdoor areas is not allowed.

4-3(D)(28)(f) In the NR-C zone district outside of UC-MS-PT areas, exterior doors to individual storage units shall not face any abutting street frontage, or, if the site is located on a corner parcel, shall not face the primary street frontage.

4-3(D)(29) Balloon Fiesta Park Events and Activities

Uses and conditions on operations are governed by the Balloon Fiesta Master Plan, as amended.

4-3(D)(30) Drive-in Theater

4-3(D)(30)(a) This use shall be enclosed with an opaque wall, fence, or vegetated buffer at least 6 feet and no more than 8 feet high.

4-3(D)(30)(b) A screen located less than 500 feet from an arterial street shall be located, oriented, or shielded so that the picture surface cannot be seen from the arterial street.

4-3(D)(31) Other Outdoor Entertainment

4-3(D)(31)(a) This use shall include fencing or other measures meeting the standards in Section 14-16-5-6 (Landscaping, Buffering, and Screening) and designed to prevent balls or other objects from the activity from passing beyond the property line and onto any surrounding properties not owned by the owner or operator of the use.

4-3(D)(31)(b) Rifle range (public or private) and flying of kites are prohibited in the Air Space and Runway Protection Sub-areas. See Section 14-16-2-7.1.C (Airport Protection Overlay Zone Use Regulations).

4-3(D)(32) Building and Home Improvement Materials Store

4-3(D)(32)(a) All outdoor storage, display, and sales areas must be screened from any adjacent Residential zone district or lot containing a Residential use in any Mixed-use zone district as required by Section 14-16-5-6 (Landscaping, Buffering, and Screening).

4-3(D)(32)(b) If this use also meets the definition of a large retail facility, the Use-specific Standards in Subsection 14-16-4-3(D)(34) (General Retail) for large retail facilities also apply.

OWNERSHIP DATA	
PARCEL ID:	1 014 058 500 504 13133
OWNER 1:	APODACA JESUS F
MAILING ADDRESS:	PO BOX 25624 ALBUQUERQUE NM 87125
LOCATION ADDRESS	
1718 BROADWAY BLVDNE 87102	
LEGAL DESCRIPTION	
<ul style="list-style-type: none"> • MRGCD MAP 37 TR 1-D EXC NLY PORTION OUT TO R/W HANNETT AVE N • E CONT 0.41 AC 	

PRE-APPLICATION REVIEW TEAM (PRT) MEETING REQUEST

Pre-application Review Team (PRT) Meetings are available to help applicants identify and understand the allowable uses, development standards, and processes that pertain to their request. ***PRT Meetings are for informational purposes only; they are non-binding and do not constitute any type of approval.*** Any statements regarding zoning at a PRT Meeting are not certificates of zoning. The interpretation of specific uses allowed in any zone district is the responsibility of the Zoning Enforcement Officer (ZEO).

When you submit PRT notes to meet a Pre-application Meeting requirement in Table 6-1-1, you will be charged a \$50 PRT fee.

Official Use only

PA#: _____ Received By: _____ Date: _____

APPOINTMENT DATE & TIME: _____

Applicant Name: Juanita Garcia - JAG Planning & Zon Phone#: 362-8903 Email: jag@jagpandz.com

PROJECT INFORMATION:

For the most accurate and comprehensive responses, please complete this request as fully as possible and submit any relevant information, including site plans, sketches, and previous approvals.

Size of Site: .5732 Existing Zoning: MX-M Proposed Zoning: No Change

Previous case number(s) for this site: No Known Case Numbers

Applicable Overlays or Mapped Areas: CPO - 7 Martineztown/Santa Barbara

Residential – Type and No. of Units: No Residential Use on this site

Non-residential – Estimated building square footage: 3,000 No. of Employees: _____

Mixed-use – Project specifics: Office & Self Storage Building

LOCATION OF REQUEST:

Physical Address: 1718 Broadway NE Zone Atlas Page (Please identify subject site on the map and attach) J-14

BRIEFLY DESCRIBE YOUR REQUEST (What do you plan to develop on this site?)

Conditional Use for the construction of a 3,000 square foot Self-Storage Building for contractor's supplies associated with the construction business use on the site.

QUESTIONS OR CONCERNS (Please be specific so that our staff can do the appropriate research)

No specific questions or concerns at this time. This meeting request is intended to satisfy the IDO's Conditional Use PRT application requirement.

PRE-APPLICATION REVIEW TEAM (PRT) MEETING NOTES

PA# 20-081 Date: April 3, 2020 Time: _____

Address: 1718 Broadway NE

AGENCY REPRESENTATIVES AT MEETING:

Planning: Lorena Patten

Code Enforcement: _____

Fire Marshall: _____

Transportation: _____

Other: _____

PRT DISCUSSIONS ARE FOR INFORMATIONAL PURPOSES ONLY!

THEY ARE NON-BINDING AND DO NOT CONSTITUTE ANY KIND OF APPROVAL..

Additional research may be necessary to determine the exact type of application and/or process needed. Factors unknown at this time and/or thought of as minor could become significant as the case progresses.

REQUEST: Conditional Use for Self-Storage

SITE INFORMATION: SEE ATTACHED

Zone: _____ Size: _____

Use: _____ Overlay Zone: _____

Comp Plan Area Of: _____ Comp Plan Corridor: _____

Comp Plan Center: _____ MPOS or Sensitive Lands: _____

Parking: _____ MR Area: _____

Landscaping: _____ Street Trees: _____

Use Specific Standards: _____

Dimensional Standards: _____

*Neighborhood Organization/s: _____

**This is preliminary information only. Neighborhood Organization information is only accurate when obtained from the Office of Neighborhood Coordination (ONC) at www.cabq.gov/neighborhoods/resources.*

PROCESS:

Type of Action: Conditional Use

Review and Approval Body: ZHE Is this PRT a requirement? Yes

Applicant/Address: Juanita Garcia 1718 Broadway NE

Request: Conditional Use for self-storage

Zone District/Purpose: MX-M/The purpose of the MX-M zone district is to provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Centers and Corridors

Allowable Use:

Self-storage								C	C	P	P	P	P	P	P		A		4-3(D)(28)
--------------	--	--	--	--	--	--	--	---	---	---	---	---	---	---	---	--	---	--	------------

Applicable Comp Plan Designation(s): Area of Consistency

Applicable Overlay Zones: CPO-7 Martineztown/Santa Barbara

Applicable Use-Specific Standard(s): 4-3(D)(28) Self-storage

4-3(D)(28)(a) All storage shall be within enclosed buildings. No outdoor storage of goods or vehicles is allowed.

4-3(D)(28)(b) In the MX-L, MX-M, MX-H, and MX-FB zone districts, and on lots in any NR-C zone district within an UC-AC-MS-PT area, access to individual storage units shall be through interior corridors; direct access to individual units from outdoor areas is not allowed.

4-3(D)(28)(c) In the NR-C zone district outside of UC-MS-PT areas, exterior doors to individual storage units shall not face any abutting street frontage, or, if the site is located on a corner parcel, shall not face the primary street frontage.

4-3(D)(28)(d) An opaque wall or fence at least 6 feet and no more than 8 feet high, or a vegetated buffer at least 50 feet in width, shall be provided along any lot line that abuts a Residential zone district or residential component of a Mixed-use zone district.

4-3(D)(28)(e) Security fencing shall not include razor wire or barbed wire.

4-3(D)(28)(f) Public access to any storage units within 100 feet of any Residential zone district or lot containing a residential use in a Mixed-use zone district is not allowed between 10:00 P.M. and 7:00 A.M.

Link to the Integrated Development Ordinance: <http://documents.cabq.gov/planning/IDO/IDO-Effective-2018-05-17.pdf>,



FW: ZHE Contacts for 1718 Broadway

1 message

Sanchez, Suzanna A. <suzannasanchez@cabq.gov>
To: "jag@jagpandz.com" <jag@jagpandz.com>

Fri, Apr 10, 2020 at 1:28 PM

Hello,

My previous email lacked the attachment.

Suzie

From: Sanchez, Suzanna A.
Sent: Friday, April 10, 2020 1:16 PM
To: 'jag@jagpandz.com'
Subject: ZHE Contacts for 1718 Broadway

043

Dear Applicant,

Below are the neighborhood associations that need to be notified of your ZHE application. Please use the attached Notice Handout for guidance.

You must give the neighborhood association 15 days to respond before you are able to submit your application.

Association Name	First Name	Last Name	Email	Address Line 1	City	State	Zip	Mobile Phone	Phone
Martineztown Work Group	Rosalie	Martinez	rosalimartinez06@gmail.com	507 Rosemont NE	Albuquerque	NM	87102	5054174004	
Martineztown Work Group	Loretta	Naranjo Lopez	lnjalopez@msn.com	1127 Walter NE	Albuquerque	NM	87102		5052707716
Santa Barbara Martineztown NA	Loretta	Naranjo Lopez	lnjalopez@msn.com	1127 Walter NE	Albuquerque	NM	87102		5052707716

Below is a list of property owners within 100+ feet of the subject property. Please use the Public Notice of Hearing letter in the attached Notice Handout to notify the property owners surrounding the subject property. Also, please provide a receipt from the post office as proof that letters were sent out.

Owner	Owner Address	Owner Address 2
MERA JORGE & MARIA TELLEZ	301 ASPEN AVE NE	ALBUQUERQUE NM 87102
ALLEN BRIAN	401 MARTINEZ DR NE	ALBUQUERQUE NM 87102
ALLEN BRIAN	401 MARTINEZ DR NE	ALBUQUERQUE NM 87102
APODACA VICTOR F	412 HANNETT AVE NE	ALBUQUERQUE NM 87102
SPRINGER INDUSTRIAL CENTER INC	1717 LOUISIANA BLVD NE SUITE 111	ALBUQUERQUE NM 87110- 7014
MCMULLEN GAYLA C TRUSTEE MCMULLEN RVT	400 HANNETT AVE NE	ALBUQUERQUE NM 87102- 1570
POPE STEPHANIE	1714 BROADWAY BLVD NE	ALBUQUERQUE NM 87102
MERA JORGE & MAARIA TELLEZ	301 ASPEN AVE NE	ALBUQUERQUE NM 87102
CHAVEZ MANUEL D III	401 ASPEN AVE NE	ALBUQUERQUE NM 87102
KOLCH JEFFREY L	319 SAN PABLO NE	ALBUQUERQUE NM 87108
APODACA JESUS F	501 MARTINEZ DR NE	ALBUQUERQUE NM 87102
LUCERO DARRYL A	420 HANNETT AVE NE	ALBUQUERQUE NM 87102- 1570
FLEMING NETTIE & TINLIN SANDRA & ROSALES DARLENE	6301 ELK HORN DR NE	ALBUQUERQUE NM 87109- 6834

APODACA JESUS F	P O BOX 25624	ALBUQUERQUE NM 87125
RUBY RALPH J JR	404 HANNETT AVE NE	ALBUQUERQUE NM 87102-1570
MARCUM JAMES & PAMELA K	407 DOLORES DR NW	ALBUQUERQUE NM 87105-1443
SPRINGER INDUSTRIAL CENTER INC	1717 LOUISIANA BLVD NE SUITE 111	ALBUQUERQUE NM 87110-7014

Please let me know if you have any questions about the application process as well as the application submittal process.

Thank you,

Suzie



SUZIE SANCHEZ

zhe administrative assistant

o 505.924.3894

e suzannasanchez@cabq.gov

cabq.gov/planning



May 4, 2020

Rosalie Martinez
Martineztown Work Group
507 Rosemont NE
Albuquerque, NM 87102

Re: Neighborhood Meeting about Future Development Application

Ms. Martinez,

In accordance with the procedures of the City of Albuquerque's Integrated Development Ordinance (IDO) Subsection 14-16-6-4(C) Neighborhood Meeting, we are providing you an opportunity to discuss the following application that we will be making for a project proposed in or near your neighborhood:

Conditional Use to allow a Self-Storage for 1718 Broadway Blvd NE.

Application(s) per Table 6-1-1 in the IDO – Conditional Use to allow for a Self-Storage will be heard through the Zoning Hearing Examiner (ZHE). This would be an informal meeting where JAG Planning & Zoning, agent for Victor Apodaca, would be available to present the proposal and discuss any ideas or concerns you may have.

The purpose of the request is to construct a 3,000 square foot self-storage building to store construction material that is currently used for the applicant's construction business to bring the property into compliance with the IDO. Enclosed for your information is a copy of a site plan identifying the proposed building, Zone Atlas page J-14-Z identifying the location of subject site and the area of consistency.

Per the IDO, you have 15 days from the date of this letter to respond, by either 1) requesting a meeting or 2) declining the meeting. If you do not respond within 15 days, you are waiving the opportunity for a Neighborhood Meeting, and we can submit our application anytime thereafter. We would like to submit our application on or before June 2, 2020.

We appreciate the opportunity to introduce this request to you and the association. If you or anyone has any questions or clarifications regarding this application, feel free to contact either Juanita Garcia at (505) 362-8903 or Andrew Garcia at (505) 363-5613 or at jag@jagpandz.com.

Sincerely,

Juanita Garcia
Principal

P.O. BOX 7857, ALBUQUERQUE, NM 87194
(505) 362-8903 & (505) 363-5613
JAG@JAGPANDZG.COM



May 4, 2020

Loretta Naranjo Lopez
Martineztown Work Group
1127 Walter NE
Albuquerque, NM 87102

Re: Neighborhood Meeting about Future Development Application

Ms. Naranjo Lopez,

In accordance with the procedures of the City of Albuquerque's Integrated Development Ordinance (IDO) Subsection 14-16-6-4(C) Neighborhood Meeting, we are providing you an opportunity to discuss the following application that we will be making for a project proposed in or near your neighborhood:

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Sincerely,

Juanita Garcia
Principal

P.O. BOX 7857, ALBUQUERQUE, NM 87194
(505) 362-8903 & (505) 363-5613
JAG@JAGPANDZG.COM



May 4, 2020

Loretta Naranjo Lopez
Santa Barbara Martineztown NA
1127 Walter NE
Albuquerque, NM 87102

Re: Neighborhood Meeting about Future Development Application

Ms. Naranjo Lopez,

In accordance with the procedures of the City of Albuquerque's Integrated Development Ordinance (IDO) Subsection 14-16-6-4(C) Neighborhood Meeting, we are providing you an opportunity to discuss the following application that we will be making for a project proposed in or near your neighborhood:

Conditional Use to allow a Self-Storage for 1718 Broadway Blvd NE.

Application(s) per Table 6-1-1 in the IDO – Conditional Use to allow for a Self-Storage will be heard through the Zoning Hearing Examiner (ZHE). This would be an informal meeting where JAG Planning & Zoning, agent for Victor Apodaca, would be available to present the proposal and discuss any ideas or concerns you may have.

The purpose of the request is to construct a 3,000 square foot self-storage building to store construction material that is currently used for the applicant's construction business to bring the property into compliance with the IDO. Enclosed for your information is a copy of a site plan identifying the proposed building, Zone Atlas page J-14-Z identifying the location of subject site and the area of consistency.

Per the IDO, you have 15 days from the date of this letter to respond, by either 1) requesting a meeting or 2) declining the meeting. If you do not respond within 15 days, you are waiving the opportunity for a Neighborhood Meeting, and we can submit our application anytime thereafter. We would like to submit our application on or before June 2, 2020.

We appreciate the opportunity to introduce this request to you and the association. If you or anyone has any questions or clarifications regarding this application, feel free to contact either Juanita Garcia at (505) 362-8903 or Andrew Garcia at (505) 363-5613 or at jag@jagpandz.com.

Sincerely,

Juanita Garcia
Principal

P.O. BOX 7857, ALBUQUERQUE, NM 87194
(505) 362-8903 & (505) 363-5613
JAG@JAGPANDZG.COM



May 4, 2020

Ian Colburn
Santa Barbara Martineztown NA
1002 Arno NE
Albuquerque, NM 87102

Re: Neighborhood Meeting about Future Development Application

Mr. Colburn,

In accordance with the procedures of the City of Albuquerque's Integrated Development Ordinance (IDO) Subsection 14-16-6-4(C) Neighborhood Meeting, we are providing you an opportunity to discuss the following application that we will be making for a project proposed in or near your neighborhood:

Conditional Use to allow a Self-Storage for 1718 Broadway Blvd NE.

Application(s) per Table 6-1-1 in the IDO – Conditional Use to allow for a Self-Storage will be heard through the Zoning Hearing Examiner (ZHE). This would be an informal meeting where JAG Planning & Zoning, agent for Victor Apodaca, would be available to present the proposal and discuss any ideas or concerns you may have.

The purpose of the request is to construct a 3,000 square foot self-storage building to store construction material that is currently used for the applicant's construction business to bring the property into compliance with the IDO. Enclosed for your information is a copy of a site plan identifying the proposed building, Zone Atlas page J-14-Z identifying the location of subject site and the area of consistency.

Per the IDO, you have 15 days from the date of this letter to respond, by either 1) requesting a meeting or 2) declining the meeting. If you do not respond within 15 days, you are waiving the opportunity for a Neighborhood Meeting, and we can submit our application anytime thereafter. We would like to submit our application on or before June 2, 2020.

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Sincerely,

Juanita Garcia
Principal

P.O. BOX 7857, ALBUQUERQUE, NM 87194
(505) 362-8903 & (505) 363-5613
JAG@JAGPANDZ.COM



buffalodesign
architects
1025 Montgomery Blvd NE
Albuquerque, NM 87111

PROJECT

PROPOSED SITE DEVELOPMENT A1:

1778 BROADWAY BLVD, NE
ALBUQUERQUE, NEW MEXICO

REVISION # DATE

CLIENT PROJ #:
ARCHIT PROJ #:
DRAWING #:
CHECKED BY:
DATE: 04/27/2020
SHEET TITLE:

AS-101

LEGAL DESCRIPTION:
TRACT 1-D M.R.C.C.D. MAP NO. 37
WITHIN TOWN OF ALBUQUERQUE GRANT
CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO

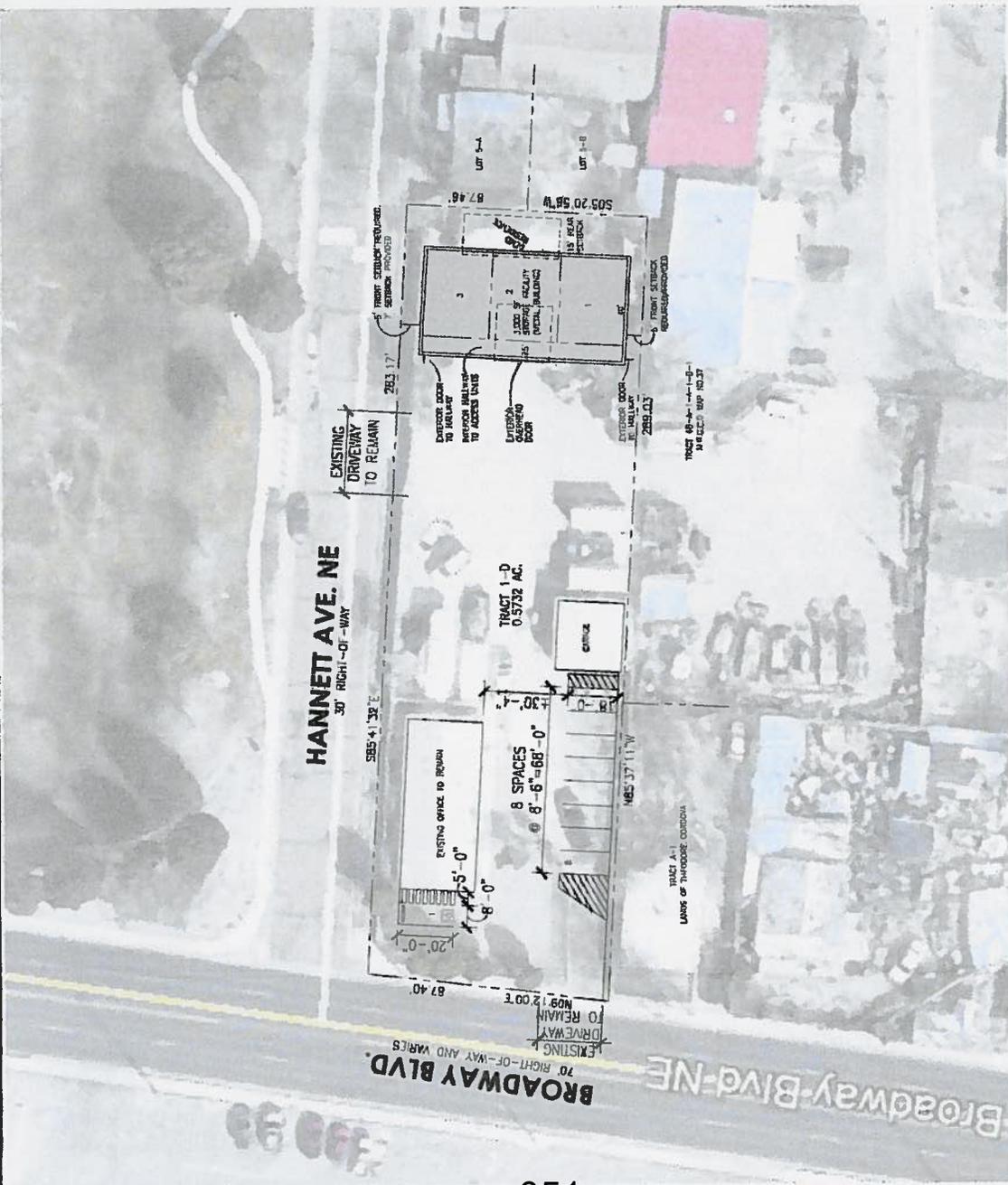
LAND AREA:
0.5732 ACRES (24,969 SQ. FT.)

BUILDING AREAS:
TOTAL BUILDING AREA: 1,674 SF.
EXISTING OFFICE: 3,000 SF.
PROPOSED STRUCTURE (SINGLE-STORY STRUCTURE): 28'-0" MAX. HEIGHT

ZONE ATLAS PAGE:
J-14-Z

CURRENT ZONING:
CITY OF ALBUQUERQUE IDD ZONE DISTRICT: MX-M

PARKING REQUIREMENTS:
OFFICE: 1,674 SF / 200 = 8.37/8
WAREHOUSE: 3,000 SF / 2,000 = 1.5/1
PARKING SPACES REQUIRED = 9 SPACES
PARKING SPACES PROVIDED = 9 SPACES
(INCLUDING HC SPACE)



0 40' 80'
SCALE: 1" = 40'

ARCHITECTURAL SITE PLAN

A1

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ALBUQUERQUE, NM 87102

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<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.55
Total P	\$4.10

Sent To: **Rosalita Martínez**
Street: **Martinez Working Group**
City, St: **507 Rosemont NE Albuquerque, NM 87102**

Postmark: **MAY 4 2020**
Postage: **05/04/2020**

PS Form 3800, April 2019, PSN 7530-01-000-9000

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<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.55
Total P	\$4.10

Sent To: **Loretta Naranjo Lopez**
Street: **Martinez Working Group**
City, St: **1127 Walter NE Albuquerque, NM 87102**

Postmark: **MAY 4 2020**
Postage: **05/04/2020**

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Postage	\$0.55
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Sent To: **Ian Colburn**
Street: **Santa Barbara Martineztown NA**
City, St: **1002 Arno NE Albuquerque, NM 87102**

Postmark: **MAY 4 2020**
Postage: **05/04/2020**

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Postage	\$0.55
Total P	\$4.10

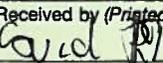
Sent To: **Loretta Naranjo Lopez**
Street: **Santa Barbara Martineztown NA**
City, St: **1127 Walter NE Albuquerque, NM 87102**

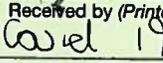
Postmark: **MAY 4 2020**
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<p>1. Article Addressed to:</p> <p>Rosalie Martinez Martinez Working Group 507 Rosemont NE Albuquerque, NM 87102</p>  <p>9590 9402 4067 8079 8896 02</p>	<p>B. Received by (Printed Name) <i>CE HT 222</i> C. Date of Delivery <i>5/6</i></p>												
<p>2. Article Number (Transfer from service label) 7017 3380 0000 8439 3183</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>												
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table> <p>Domestic Return Receipt</p>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
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<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery												

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<p>1. Article Addressed to:</p> <p>Ian Colburn Santa Barbara Martineztown NA 1002 Arno NE Albuquerque, NM 87102</p>  <p>9590 9402 4067 8079 8882 61</p>	<p>B. Received by (Printed Name) <i>Covid 19</i> C. Date of Delivery</p>												
<p>2. Article Number (Transfer from service label) 7017 3380 0000 8439 3169</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>												
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table> <p>Domestic Return Receipt</p>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
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<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery												

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1. Article Addressed to:	B. Received by (Printed Name)	C. Date of Delivery
<p>Loretta Naranjo Lopez Santa Barbara Martineztown NA 1127 Walter NE Albuquerque, NM 87102</p>		
 9590 9402 4067 8079 8895 96	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
2. Article Number (Transfer from service label)	3. Service Type	
7017 3380 0000 8439 3176	<input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Signature Confirmation Restricted Delivery (over \$500)	
PS Form 3811, July 2015 PSN 7530-02-000-9053		Domestic Return Receipt

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1. Article Addressed to:	B. Received by (Printed Name)	C. Date of Delivery
<p>Loretta Naranjo Lopez Martinez Working Group 1127 Walter NE Albuquerque, NM 87102</p>		
 9590 9402 4067 8079 8896 19	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
2. Article Number (Transfer from service label)	3. Service Type	
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PS Form 3811, July 2015 PSN 7530-02-000-9053		Domestic Return Receipt

Santa Barbara/Martineztown Neighborhood Association Meeting Notes

Thursday May 21, 2020 at 5:30 pm

Participants:

Agents on behalf of the applicant – Victor Apodaca

Juanita Garcia – JAG Planning & Zoning, LLC

Andrew Garcia – JAG Planning & Zoning, LLC

Representatives

Ian Colburn – Santa Barbara Martineztown NA

Loretta Naranjo Lopez – Santa Barbara Martineztown NA & Martineztown Working Group NA

Rosalie Martinez – Martineztown Work Group NA

Gilbert Speakman

Olivia Ayon

Evelyn Bonilla

Jesse Lopez

All participants meet virtually on Thursday May 21, 2020 at 5:30 pm to discuss the proposed Conditional Use application to allow a Self-Storage for 1718 Broadway NE. The meeting began with an explanation of who JAG Planning & Zoning, LLC is in relation to the applicant, Victor Apodaca. The agents gave a brief explanation of the type of business that Mr. Apodaca conducts on the site. The agents indicated that Mr. Apodaca has a construction business that is associated with NM Highway contracts and works on roadway projects. The agents continued to explain that JAG Planning & Zoning are agents to this request and have been hired by Victor Apodaca to represent him in this request. The agents explained that this request is not a zone change and that the proposed use is listed as a conditional use in the zoning code for the property, which is zoned MX-M.

Representatives of the Neighborhood Association indicated that they believed the site has an incorrect zone category and should be zoned residential, since the site has historically been used as a residence. Neighborhood representatives also indicated that they have a pending lawsuit against the City of Albuquerque because of the adoption of the Integrated Development Ordinance (IDO) regarding the zoning for the entire area of Santa Barbara/Martineztown Neighborhood Association boundary, including the applicant's property, that is currently pending in court. The representatives indicated that over the years the area has encountered discrimination because of the commercial zoning that has been placed on this site and within the neighborhood.

The agents explained the request to the representatives and indicated that a 3,000 square foot building is proposed as shown on the site plan, and would be located toward the rear of the site. It was indicated that the structure would meet all applicable setback requirements and building height requirements and would not be any higher than 20 feet, even though the IDO allows the structure to be 26 feet in height. The agents also explained that all off-street parking, landscaping and all requirements associated with the proposed structure would also be

met. The agents indicated that not a lot of changes are expected along the boundary of the site. The site contains a solid wall along the north and east sides of the property that are expected to remain. The agents also indicated that a 15' wide landscape buffer will be provided along the east property line between the proposed building and the abutting residential zone.

The representatives asked about the proposed activity. How many times will the applicant be at the site and how will the applicant enter the site. The agents indicated that the applicant intends to be at the site to pick up materials as needed depending on how busy the applicant is and is expected to enter the site from Hannett and Broadway. The agents also indicated to the representatives that the driveway entrance from Hannett is not expected to be widened. The representatives expressed concerns regarding the proximity of this site to the park and that the proposed use will have an impact on the activity occurring on the park.

The agents explained that the proposed storage unit will be used to store construction material associated with the applicant's construction business. The agents explained that the following material is expected to be stored on the site: expansion joints, concrete curing compound, concrete color, braces, ties, concrete forming materials, lumber for framing concrete and materials to set concrete forms. The representatives asked if there would be any hazardous materials stored in the self-storage unit and if the self-storage unit would be rented out to the members of the public. The agents indicated that the unit would be used only by the applicant.

The neighborhood representatives asked questions regarding OSHA, if an Air Impact Study or Environmental Impact study would be required. The agents indicated that the criteria for a conditional use does not require an Environmental Impact Study or an Air Impact Study. The representatives indicated that they wanted one anyway. The agents indicated that they would research the IDO to determine if the proposed use requires an Air Impact Study or an Environmental Impact study. The agents also indicated that OSHA standards are federal standards and could not respond to the requirements of OSHA and how they relate to this proposed request. Neighborhood representatives asked about the trucks and equipment that are currently parked on the site and the agents indicated that the applicant would have parking associated with the office use on the site. The agents indicated that heavy equipment would need to be removed from the site and that the applicant is looking at other sites to park the equipment.

The representatives also asked for a Traffic study and the agents indicated that if the use is approved, the building permit review will then determine if a traffic study is required. The agents indicated that the proposed use is for storage and that other uses that are permissive could generate more parking and traffic to and from the site. The agents went on to explain what other permissive uses would be allowed. These uses include a restaurant, a bar, day care center, community center or library, school, hospital, museum or art gallery, church, theater, catering service, night club, tap room or a tasting room. The agents indicated that some of the permissive uses allowed on the site could essentially generate more traffic than the proposed use and the allowance for parking on the street as identified in the IDO could allow parking to

occur within the neighborhood. The representatives also indicated that they would prefer to have the applicant use Broadway instead of Hannett.

The neighborhood representatives asked if the property owner would be interested in moving his entire business to another site. The representatives indicated that they would like to have a facilitated meeting and the agents indicated that the Zoning Hearing Examiner would need to make that determination at the hearing. The agents asked the representatives if the purpose for the facilitated meeting would be for the purposes of determining solutions to minimize any impacts of this application or would it be for the purposes of convincing the applicant to move his business to some other location. The representatives indicated that they would want to have a facilitated meeting to convince the applicant to move their business to some other location.

The representatives indicated that the neighborhood area should be preserved as historical and the site has been used for single family and that the site should be used as residential instead of commercial. We indicated that the property is zoned commercial and the proposed use is an allowed type of conditional use.

The agents indicated that an application to the ZHE would be submitted on June 2nd and the application would be heard on July 21, 2020.

The agents indicated they would provide the following to the representatives:

1. Another copy of the site plan via email;
2. Any information from the city regarding this request;
3. A determination if the applicant would like to meet with the board through the facilitated meetings process.

Jorge Mera & Maria Tellez
301 Aspen Ave NE
Albuquerque, NM 87102

Brian Allen
401 Martinez DR NE
Albuquerque, NM 87102

Victor F. Apodaca
412 Hannett Ave NE
Albuquerque, NM 87102

Springer Industrial Center, Inc.
1717 Louisiana Blvd NE, Suite 111
Albuquerque, NM 87110

Gayla C. McMullen Trustee
McMullen RVT
400 Hannett Ave NE
Albuquerque, NM 87102

Stephanie Pope
1714 Broadway Blvd NE
Albuquerque, NM 87102

Manuel D. Chavez, III
401 Aspen Ave NE
Albuquerque, NM 87102

Jeffrey L. Kolch
319 San Pablo NE
Albuquerque, NM 87108

Jose F. Apodaca
501 Martinez DR NE
Albuquerque, NM 87102

Darryl A. Lucero
420 Hannett Ave NE
Albuquerque, NM 87102

**Nettie Fleming, Sandra Tinlin &
Darlene Rosales**
6301 Elk Horn Drive NE
Albuquerque, NM 87109

Ralph Ruby, Jr.
404 Hannett Ave NE
Albuquerque, NM 87102

James & Pamela Marcum
407 Dolores DR NW
Albuquerque, NM 87105

Jesus F. Apodaca
P.O. Box 25624
Albuquerque, NM 87125

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JAG PLANNING & ZONING

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 Albuquerque, NM 87194

One piece of ordinary mail addressed to:
 Gayla C. McMullen Trustee
 McMullen RVT
 400 Hannett Ave NE
 Albuquerque, NM 87102

PS Form 3817, Mar. 1989

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JAG PLANNING & ZONING

P.O. Box 7857
 Albuquerque, NM 87194

One piece of ordinary mail addressed to:
 Jesus F. Apodaca
 P.O. Box 25624
 Albuquerque, NM 87125

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 Albuquerque, NM 87194

One piece of ordinary mail addressed to:
 James & Pamela Marcum
 407 Dolores DR NW
 Albuquerque, NM 87105

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Received From:
JAG PLANNING & ZONING

P.O. Box 7857
 Albuquerque, NM 87194

One piece of ordinary mail addressed to:
 Stephanie Pope
 1714 Broadway Blvd NE
 Albuquerque, NM 87102

PS Form 3817, Mar. 1989

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& ZONING

P.O. Box 7857
Albuquerque, NM 87194

One piece of ordinary mail addressed to:

Brian Allen
401 Martinez DR NE
Albuquerque, NM 87102

PS Form 3817, Mar. 1989



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Albuquerque, NM 87102

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Albuquerque, NM 87102

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Albuquerque, NM 87194

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Manuel D. Chavez, III
401 Aspen Ave NE
Albuquerque, NM 87102

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Albuquerque, NM 87194

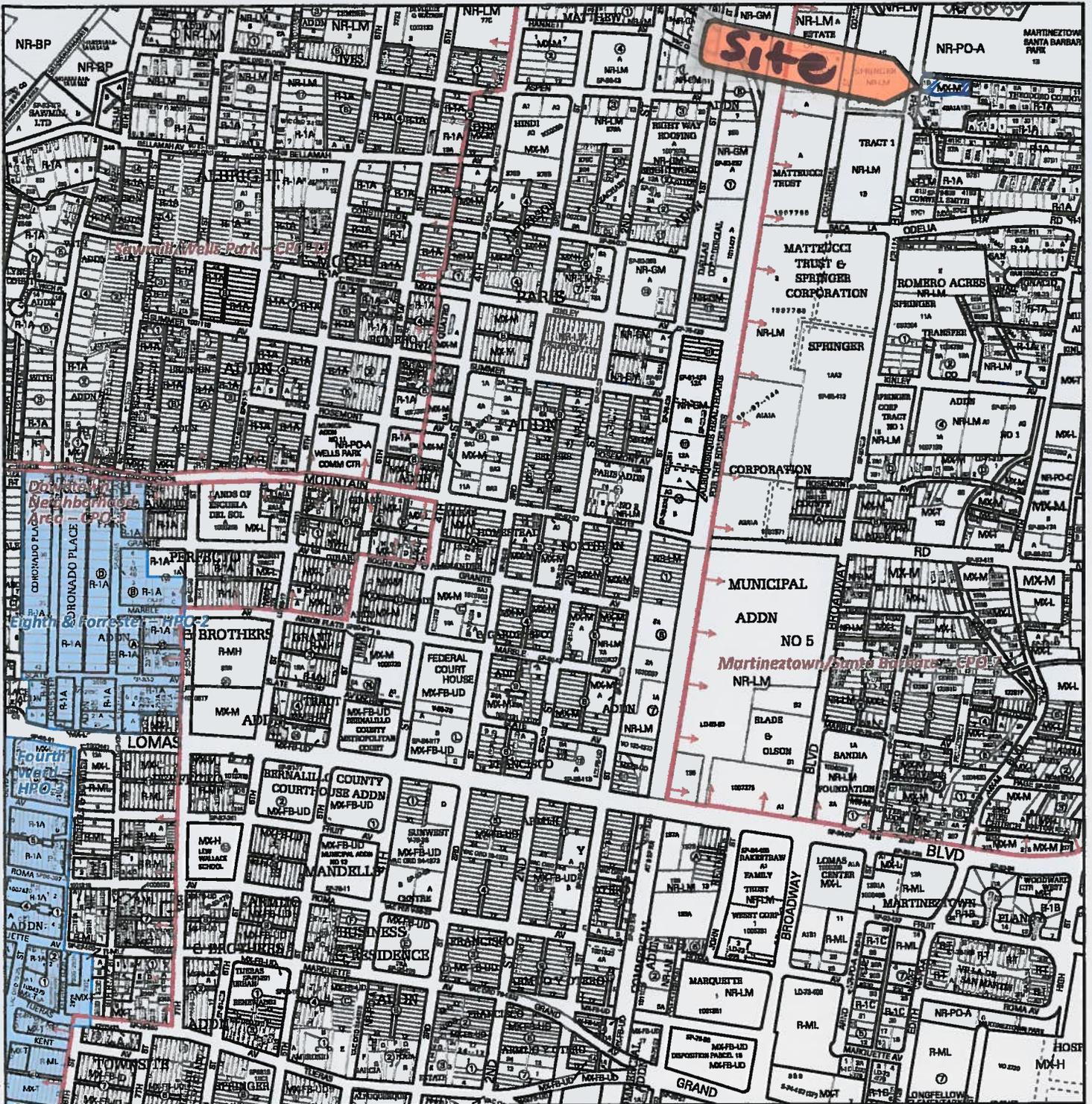
One piece of ordinary mail addressed to:

Jose F. Apodaca
501 Martinez DR NE
Albuquerque, NM 87102

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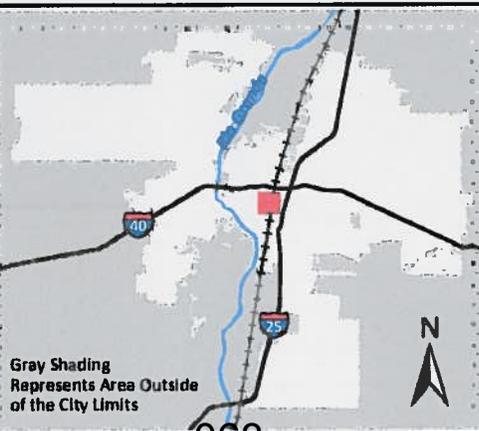


For more details about the Integrated Development Ordinance visit: <http://www.cabq.gov/planning/codes-policies-regulations/integrated-development-ordinance>

IDO Zone Atlas May 2018



IDO Zoning information as of May 17, 2018
The Zone Districts and Overlay Zones
are established by the
Integrated Development Ordinance (IDO).



Gray Shading
Represents Area Outside
of the City Limits

Zone Atlas Page:
J-14-Z

- Easement
- Areas Outside of City Limits
- Airport Protection Overlay (APO) Zone
- Character Protection Overlay (CPO) Zone
- Historic Protection Overlay (HPO) Zone
- View Protection Overlay (VPO) Zone
- Petroglyph National Monument
- Escarpment





buffalodesign
architects
 1809 north university boulevard ne
 albuquerque, nm 87111

PROJECT

PROPOSED SITE DEVELOPMENT AT:

1718 BROADWAY BLVD. NE
 ALBUQUERQUE, NEW MEXICO

REVISION #	DATE

CLIENT PROJ. #:	AS-101
ARCHIT PROJ. #:	
DESIGNER:	
CHECKED BY:	
DATE:	04/27/2020
SHEET TITLE:	AS-101

LEGAL DESCRIPTION:
 TRACT 1-D M.R.G.C.D. MAP NO.37
 WITHIN TOWN OF ALBUQUERQUE GRANT
 CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO

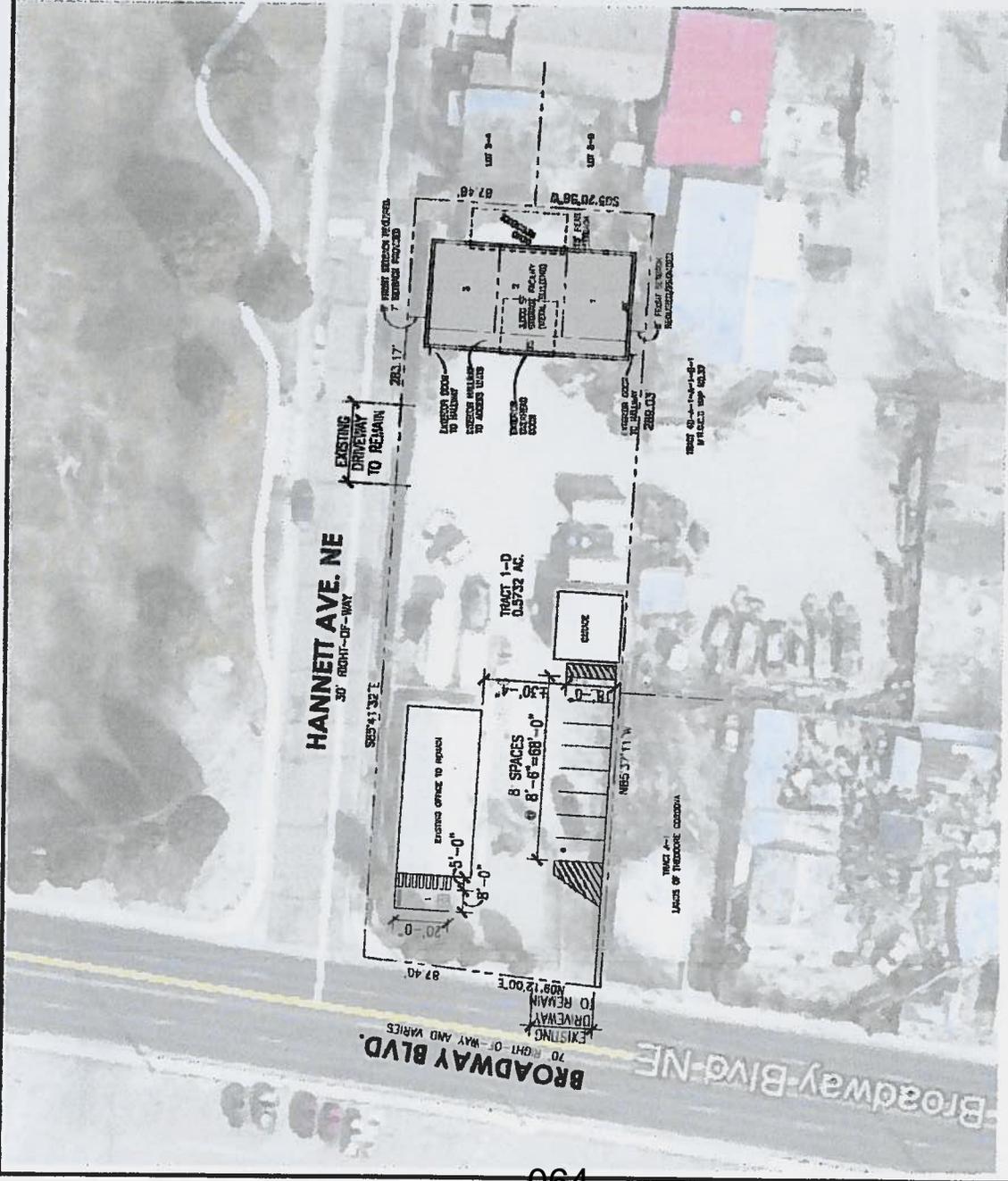
LAND AREA:
 0.5732 ACRES (24,868 SQ. FT.)

BUILDING AREA:
 TOTAL BUILDING AREA: 1,674 SF.
 EXISTING OFFICE: 3,000 SF.
 PROPOSED STRUCTURE (SINGLE-STORY STRUCTURE: 26'-0" MAX. HEIGHT)

ZONE ATLAS PAGE:
 J-14-Z

CURRENT ZONING:
 CITY OF ALBUQUERQUE IDD ZONE DISTRICT: IIX-M

PARKING REQUIREMENTS:
 OFFICE: $1,674 \text{ SF} / 200 = 8.37/8$
 WAREHOUSE: $3,000 \text{ SF} / 2,000 = 1.5/1$
 PARKING SPACES REQUIRED = 9 SPACES
 PARKING SPACES PROVIDED = 9 SPACES
 (INCLUDING HC SPACE)



(A1) ARCHITECTURAL SITE PLAN



June 2, 2020

Robert Lucero
Zoning Hearing Examiner
City of Albuquerque
Planning Department

Mr. Lucero,

JAG Planning and Zoning, LLC, on behalf of the applicant Victor Apodaca, is requesting approval of a conditional use to allow a Self-Storage Building for the property legally described as Tract 1-D, MRGCD MAP 37, containing .41 acres, located at 1718 Broadway Blvd NE and is zoned MX-M. Prior to the adoption of the Integrated Development Ordinance (IDO), the site was zoned SU-2 C-3 and was a part of the Santa Barbara/Martineztown Sector Development Plan. The property is owned by Jesus Apodaca, who is the father of the applicant. The applicant is proposing to construct a 3,000 square foot self-storage building to store construction material that is currently used for the applicant's construction business.

History of the property

The subject site of 1718 Broadway Blvd NE is located at the southeast corner of the intersection of Broadway and Hannett, south of I-40 and north of Lomas Blvd NW. The site was originally developed as residential with two single-family dwelling units (front and back) and a detached garage. However, over the years the back-dwelling unit became dilapidated and ultimately became substandard. The applicant intends to demolish the back-dwelling unit in order to construct the self-storage building. The front dwelling unit is currently being used as an office for the applicant's business.

The applicant has owned and operated the current business, JFQ Construction, Inc., on the site for over 5 years JFQ Construction provides general contracting business and mostly works on State of New Mexico Highway Department projects throughout New Mexico. The applicant was told by a previous code enforcement representative that a contractor's yard/office would be allowed on the site given the C-3 zoning. However, what was not told to the applicant was that SU-2 C-3 was actually a commercial zone category that would not allow a contractor's yard, unless a conditional use approval had been granted. The applicant was operating on the presumption that the site had the correct zone category to operate the current contractor's yard until the applicant received notice from Code Enforcement.

The adoption of the IDO no longer allows a construction yard on the subject site through the conditional use application. The proposed Self-Storage building is intended to bring the property into compliance with the regulations of the IDO.

Criteria for Approval of a Conditional Use

The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(A)(3) (Conditional Use – Review and Decision Criteria) reads: “... An application for a Conditional Use – ZHE shall be approved if it meets all of the following criteria:

- **6-6(A)(3)(a) It is consistent with the adopted ABC Comp Plan, as amended.**
- **6-6(A)(3)(b) It complies with all applicable provisions of this IDO, including but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in a prior permit or approval affecting the property.**
- **6-6(A)(3)(c) It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.**
- **6-6(A)(3)(d) It will not create material adverse impacts on other land in the surrounding area through increases in traffic congestion, parking congestion, noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts.**
- **6-6(A)(3)(e) It will not increase non-residential activity within 300 feet of a lot in any Residential zone district between the hours of 8:00 P.M. and 6:00 A.M.**
- **6-6(A)(3)(f) It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.**

Additional Criteria for Conditional Use of a Self-Storage

Section 14-16-4-1 Conditional Use to allow a Self-Storage contains the following additional standards if granted approval as specified in Section 14-16-4-3D(28):

- **4-3(D)(28)(a) All storage shall be within a building. No outdoor storage of goods or vehicles is allowed.**
- **4-3(D)(28)(b) An opaque wall or fence at least 6 feet and no more than 8 feet high, or a vegetated buffer at least 50 feet in width, shall be provided along any lot line that abuts any Residential zone district or lot containing a Residential use in any Mixed-use zone district.**
- **4-3(D)(28)(c) Security fencing shall not include razor wire or barbed wire.**
- **4-3(D)(28)(d) Public access to any storage units within 100 feet of any Residential zone district or lot containing a Residential use in any Mixed-use zone district is not allowed between 10:00 P.M. and 7:00 A.M.**

- **4-3(D)(28)(e)** In the MX-L, MX-M, MX-H, and MX-FB zone districts, and on lots in the NR-C zone district within a UC-AC-MS-PT area, access to individual storage units shall be through interior corridors; direct access to individual units from outdoor areas is not allowed.
- **4-3(D)(28)(f)** In the NR-C zone district outside of UC-MS-PT areas, exterior doors to individual storage units shall not face any abutting street frontage, or, if the site is located on a corner parcel, shall not face the primary street frontage.

Reasons for the Conditional Use Approval

The following will address all of the criteria for a conditional use to allow for a Self-Storage, as identified in sections identified above.

1. *The Conditional Use will be consistent with the adopted ABC Comp Plan, as amended.*

The proposed conditional use will not materially undermine the intent and purpose of the Albuquerque Bernalillo County Comprehensive Plan as recently amended and adopted. The site is located within an Area of Consistency and those uses that are listed as permissive or conditional are expected to occur within Areas of Consistency. The proposed request will meet the standards of the IDO, such as off-street parking requirements, building setbacks, building height limitations and landscaping requirements, which are all intended to protect nearby existing development from new uses. The applicant is requesting a use that is identified as a conditional use within the subject site's zone category. Those uses listed as permissive or conditional uses are uses that are expected to occur within a particular zone. The applicant is not requesting a use that is outside of the site's designated zone category.

2. *The Conditional Use will comply with all applicable provisions of this IDO, including but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in a prior permit or approval affecting the property.*

The applicant is requesting a conditional use to allow for a Self-Storage building. This type of conditional use does contain additional use-specific standards that are outlined in Section 14-16-4-3, as identified above.

- **4-3(D)(28)(a)** *All storage shall be within a building. No outdoor storage of goods or vehicles is allowed.*

The applicant is proposing three storage units that will be within a building. This conditional use application does not request the storage of vehicles or goods outside of what is currently allowed as a permissive use.

-
- ***4-3(D)(28)(b) An opaque wall or fence at least 6 feet and no more than 8 feet high, or a vegetated buffer at least 50 feet in width, shall be provided along any lot line that abuts any Residential zone district or lot containing a Residential use in any Mixed-use zone district.***

The subject site currently contains an opaque wall at least 6 feet and no more than 8 feet in height surrounding a majority of the property. There is a chain link fence along the western portion of the property that is located closer to Broadway Blvd. The site abuts a residential zone along the east property line that currently contains a block wall that is at least six-feet in height. If granted approval, the applicant is also expected to place a landscape buffer along the east property line in the area that abuts the residential zone.

- ***4-3(D)(28)(c) Security fencing shall not include razor wire or barbed wire.***

The existing wall and fencing do not have any razor wire or barbed wire. The applicant also does not intend on placing any new razor or barbed wire, if granted approval.

- ***4-3(D)(28)(d) Public access to any storage units within 100 feet of any Residential zone district or lot containing a Residential use in any Mixed-use zone district is not allowed between 10:00 P.M. and 7:00 A.M.***

The Self-Storage units will be privately owned and operated only by the applicant. The storage units will not have access to the public at any given time during the day.

- ***4-3(D)(28)(e) In the MX-L, MX-M, MX-H, and MX-FB zone districts, and on lots in the NR-C zone district within a UC-AC-MS-PT area, access to individual storage units shall be through interior corridors; direct access to individual units from outdoor areas is not allowed.***

The Self-Storage building will be designed in such a manner that all the individual units will be accessible through a corridor and will not have direct access from outdoor areas.

- ***4-3(D)(28)(f) In the NR-C zone district outside of UC-MS-PT areas, exterior doors to individual storage units shall not face any abutting street frontage, or, if the site is located on a corner parcel, shall not face the primary street frontage.***

The Self-Storage building is proposed to be constructed toward the rear of the site, approximately 140' from the front property line or the primary street frontage. Broadway Blvd

is considered to be the primary street frontage since the site's address is along Broadway. The definition of Street Frontage is any building located within 30' from the street frontage. Furthermore, if granted approval, the applicant intends to construct the Self-Storage building in a manner that is consistent with the IDO and the Development Process Manual (DPM), which requires proper drainage and vehicular access onto the subject site. The applicant also intends to construct the Self-Storage building to meet the minimum building setback, building height requirements and all applicable regulations and codes.

3. The Conditional Use will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.

The surrounding properties are developed with a mixture of uses. The area to the north has a large public park, single-family residential to the east, commercial and/or industrial development to the south and west. The applicant is proposing to construct the Self-Storage building toward the rear of the site. The site currently contains a dwelling unit toward the front that is used as an office and existing storage buildings throughout the site. The site currently contains two vehicular entrances. One is located along Broadway Blvd and the second is located along Hannett Ave.

There is a second dwelling unit on the site that is proposed to be demolished by the property owner for the construction of the storage building. The location of the existing development and existing driveways has contributed to the applicant's placement of the Self-Storage building. The entrances to the proposed storage areas are opposite of the abutting residential property, which will be buffered by a landscaping strip at least 15 feet in width. The design of the proposed building and the placement of a wall and landscaping strip will eliminate any significant adverse impact on adjacent properties or the surrounding neighborhood or the larger community.

4. The Conditional Use will not create material adverse impacts on other land in the surrounding area through increases in traffic congestion, parking congestion, noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts.

The proposed conditional use will not create a material adverse impact on other land in the surrounding area. A Self-Storage building will not cause there to be a traffic congestion or parking congestion since the activity will be not be available to the public. The applicant intends to use the self-storage building for their personal business. There will be no noise or vibration of materials that will be used by the applicant for the storage of construction materials.

5. *The Conditional Use will not increase non-residential activity within 300 feet of a lot in any Residential zone district between the hours of 8:00 P.M. and 6:00 A.M.*

The applicant maintains a construction business on the site, which includes an office and outdoor storage of equipment and materials. The applicant intends to place the construction material within the proposed Self-Storage building and place the equipment storage at a location that will be in compliance with the IDO. There are occasional instances where the applicant may need to conduct business on the site between the hours of 8:00 pm and 6:00 am. The applicant will typically gain access to the self-storage building on Sundays to pick up materials for an out of town job and then return any unused materials on Friday, when returning from the job site. On occasion, the applicant will return from the job site in the later part of the day. This proposed request will not increase the non-residential activity within 300 feet of the abutting residential zone.

6. *The Conditional Use will not negatively impact pedestrian or transit connectivity without appropriate mitigation.*

The proposed use will not have a negative impact on pedestrian or transit connectivity. The site is currently located on the southeast corner of Broadway Blvd NE and Hannett Ave NE. The site does not abut a transit route as identified on any City of Albuquerque Transit Route maps. The 2040 Long-Range Bikeway System Map shows this portion of Broadway Blvd as being a proposed bicycle lane. The proposed construction of the Self-Storage building will be located toward the rear of the site and further away from Broadway Blvd.

Neighborhood Notification

The proposed use required neighborhood notification as outlined in the IDO. The affected neighborhood associations were notified by certified mail and were given an opportunity to meet to discuss the application. A virtual meeting was held on Thursday, May 21, 2020 at 5:30 pm. A summary of the neighborhood meeting and a list of members present at the meeting has been provided as part of this application. At the neighborhood meeting, members expressed concerns regarding this request that was mostly associated with the commercial zoning of the site. The affected neighborhood associations currently have a pending lawsuit against the City of Albuquerque because of the zoning within the neighborhood association's boundary area, including the subject site. It is believed, by the neighborhood association that this site should not be zoned commercial and commercial uses should not be allowed.

However, no formal decision on the position of the affected neighborhood associations had been provided prior to the submittal of this letter.

Conclusion

The approval of this conditional use is not contrary to the IDO as mentioned above. The proposed conditional use will allow development to occur on the subject site that is consistent with the public safety, health and public welfare of the community and will not materially undermine the intent and purpose of the IDO or any other applicable ordinance or regulations.

Thank you for your consideration on this matter. I can be reached at (505) 362-8903 or at jag@jagpandz.com.

Sincerely,



Juanita Garcia
Principal

JAG Planning & Zoning, LLC

SIGN POSTING AGREEMENT

REQUIREMENTS

POSTING SIGNS ANNOUNCING PUBLIC HEARINGS

All persons making application to the City under the requirements and procedures established by the Integrated Development Ordinance are responsible for the posting and maintaining of one or more signs on the property which is subject to the application, as shown in Table 6-1-1. Vacations of public rights-of-way (if the way has been in use) also require signs. Waterproof signs are provided at the time of application for a \$10 fee per sign. If the application is mailed, you must still stop at the Development Services Front Counter to pick up the sign(s).

The applicant is responsible for ensuring that the signs remain posted throughout the 15-day period prior to any public meeting or hearing. Failure to maintain the signs during this entire period may be cause for deferral or denial of the application. Replacement signs for those lost or damaged are available from the Development Services Front Counter.

1. LOCATION

- A. The sign shall be conspicuously located. It shall be located within twenty feet of the public sidewalk (or edge of public street). Staff may indicate a specific location.
- B. The face of the sign shall be parallel to the street, and the bottom of the sign shall be at least two feet from the ground.
- C. No barrier shall prevent a person from coming within five feet of the sign to read it.

2. NUMBER

- A. One sign shall be posted on each paved street frontage. Signs may be required on unpaved street frontages.
- B. If the land does not abut a public street, then, in addition to a sign placed on the property, a sign shall be placed on and at the edge of the public right-of-way of the nearest paved City street. Such a sign must direct readers toward the subject property by an arrow and an indication of distance.

3. PHYSICAL POSTING

- A. A heavy stake with two crossbars or a full plywood backing works best to keep the sign in place, especially during high winds.
- B. Large headed nails or staples are best for attaching signs to a post or backing; the sign tears out less easily.

4. TIME

Signs must be posted from JULY 6, 2020 To JULY 21, 2020

5. REMOVAL

- A. The sign is not to be removed before the initial hearing on the request.
- B. The sign should be removed within five (5) days after the initial hearing.

I have read this sheet and discussed it with the Development Services Front Counter Staff. I understand (A) my obligation to keep the sign(s) posted for (15) days and (B) where the sign(s) are to be located. I am being given a copy of this sheet.

Charita Garcia
(Applicant or Agent)

6/08/2020
(Date)

I issued 2 signs for this application, 6/2/2020, Charles Meester
(Date) (Staff Member)

PROJECT NUMBER: PR-2020-003906/VA-2020-00140



CITY OF ALBUQUERQUE INVOICE

JAG PLANNING AND ZONING JUANITA GARCIA

PO BOX 7857

Reference NO: VA-2020-00140

Customer NO: CU-105409719

Date	Description	Amount
6/02/20	Application Fee	\$260.00

Due Date: **6/02/20**

Total due for this invoice:

\$260.00

Options to pay your invoice:

1. Online with a credit card: <http://posse.cabq.gov/posse/pub/lms/Default.aspx>
2. In person: Plaza Del Sol, 600 2nd St. NW, Albuquerque, NM 87102

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City of Albuquerque
PO Box 1293
Albuquerque, NM 87103

Date: 6/02/20
Amount Due: \$260.00
Reference NO: VA-2020-00140
Payment Code: 130
Customer NO: CU-105409719

JAG PLANNING AND ZONING JUANITA
GARCIA
PO BOX 7857
ALBUQUERQUE, NM 87194



130 0000VA20200014000102546711565724500000000000026000CU105409719



CITY OF ALBUQUERQUE INVOICE

Date: 6/2/2020
Office: ANNEX Cashier: TRSRMS
Batch: 11296 Tran #: 33

ITA GARCIA

PO BOX 7857

=====
Building Permits
12:01 PM Station ID
Office ANNEX
Receipt #: 00633186
Reference VA-2020-00140
Trans Amt: \$260.00

)

Fee Amount
\$260.00

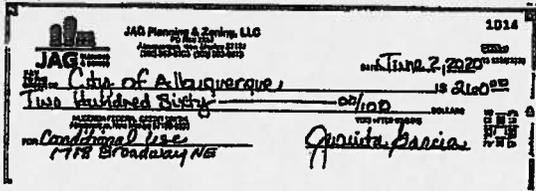
Total due for this invoice: \$260.00

130 Building Permit \$260.00
Payment Total: \$260.00

posse.cabq.gov/posse/pub/lms/Default.aspx
St. NW, Albuquerque, NM 87102

Transaction Total: \$260.00
Check Tendered : \$260.00

=====
Checks presented:



Thank you for your payment.
Have a nice day!

IM PORTION OF THIS INVOICE NOTICE WITH PAYMENT

Public Notice of Hearing

July 6, 2020

To Whom This May Concern:

We are requesting approval from the Zoning Hearing Examiner within the City of Albuquerque for a conditional use to allow a Self-Storage. The intent of this request is to allow for the construction of a 3,000 square foot Self-Storage Unit for the use of the property owner and not for the purposes of renting. A copy of the site plan and the Zone Atlas Map (J-14) was sent to you on June 1, 2020.

Property owner: Victor and Jesus Apodaca

Agent (If applicable): JAG Planning & Zoning, LLC

Property Address: 1718 Broadway Blvd NE, Albuquerque, NM, 87102.

A hearing will be held on July 21, 2020 beginning at 9:00AM via ZOOM.

Join Zoom Meeting

<https://cabq.zoom.us/j/93420676806>

Meeting ID: 934 2067 6806

One tap mobile

+12532158782,,93420676806# US (Tacoma)

+13017158592,,93420676806# US (Germantown)

Dial by your location

+1 253 215 8782 US (Tacoma)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 669 900 6833 US (San Jose)

Meeting ID: 934 2067 6806

Find your local number: <https://cabq.zoom.us/j/93420676806>

Thank you,

Agent's Name: Juanita Garcia, JAG Planning & Zoning, LLC

Agent's Number and Email Address: jag@jagpandz.com or (505) 362-8903

For more information, please contact the ZHE Administrative Assistant Suzie Sanchez at 505- 924-3894 or suzannasanchez@cabq.gov.

Please note: "You may submit written comments to the Zoning Hearing Examiner up to 6 days before the hearing (5pm on the Wednesday before the hearing). Written comments received after that deadline may result in deferral.

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_____	Brian Allen
_____	401 Martinez DR NE
_____	Albuquerque, NM 87102



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_____	Jorge Mera & Maria Tellez
_____	301 Aspen Ave NE
_____	Albuquerque, NM 87102



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	Nettie Fleming, Sandra Tinlin & Darlene Rosales 6301 Elk Horn Drive NE Albuquerque, NM 87109

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One piece of ordinary mail addressed to:	Gayla C. McMullen Trustee McMullen RVT 400 Hannett Ave NE Albuquerque, NM 87102



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One piece of ordinary mail addressed to:	Stephanie Pope 1714 Broadway Blvd NE Albuquerque, NM 87102



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City of Albuquerque ZHE – July 21, 2020

Agenda Item #20

VA-2020-00140

PR-2020-003906

Jesus Apodaca or Victor Apodaca (Agent, Juanita Garcia, JAG Planning & Zoning, LLC) request a conditional use to allow self-storage for Lot 1D, MRGCD Map 37, located at 1718 Broadway Blvd NE, zoned MX-M [Section 14-16-4-3(D)(28)]

Ownership: **Owner:** APODACA JESUS F

Zone District/Purpose: MX-M/The purpose of the MX-M zone district is to provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Centers and Corridors.

Allowable Use:

Self-storage									C	C	P	P	P	P	P		A		4-3(D)(28)
--------------	--	--	--	--	--	--	--	--	---	---	---	---	---	---	---	--	---	--	------------

Applicable Comp Plan Designation(s): Area of Consistency

Applicable Overlay Zones: CPO-7

Applicable Use-Specific Standard(s): Rear abuts R1-A, South side abuts MX-M, check use on MX-M

4-3(D)(28) Self-storage

4-3(D)(28)(a) All storage shall be within a building. No outdoor storage of goods or vehicles is allowed.

4-3(D)(28)(b) An opaque wall or fence at least 6 feet and no more than 8 feet high, or a vegetated buffer at least 50 feet in width, shall be provided along any lot line that abuts any Residential zone district or lot containing a Residential use in any Mixed-use zone district.

4-3(D)(28)(c) Security fencing shall not include razor wire or barbed wire.

4-3(D)(28)(d) Public access to any storage units within 100 feet of any Residential zone district or lot containing a Residential use in any Mixed-use zone district is not allowed between 10:00 P.M. and 7:00 A.M.

4-3(D)(28)(e) In the MX-L, MX-M, MX-H, and MX-FB zone districts, and on lots in the NR-C zone district within a UC-AC-MS-PT area, access to individual storage units shall be through interior corridors; direct access to individual units from outdoor areas is not allowed.

4-3(D)(28)(f) In the NR-C zone district outside of UC-MS-PT areas, exterior doors to individual storage units shall not face any abutting street frontage, or, if the site is located on a corner parcel, shall not face the primary street frontage.

Applicable Dimensional/Development Standards: n/a

Prior Approval Conditions: No prior special exceptions listed

Traffic Recommendations: No objections

Planning Recommendation: This matter should proceed to a public hearing where the Zoning Hearing Examiner will hear additional evidence and make a written decision pursuant to applicable provisions of Section 14-16-6-4.



CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
INTER-OFFICE MEMORANDUM

June 22, 2020

To: Lorena Patten-Quintana, ZHE Planner

From: Matt Grush, P.E. Senior Engineer

Subject: COMMENTS FOR THE ZHE HEARING OF July 21, 2020

The Transportation Development Review Services Section has reviewed the zone hearing requests, and submits the attached comments.

VA-2020-00140

PR-2020-003906

Address: 1718 Broadway Blvd. NE

Transportation Review: No objections

CU application



City of Albuquerque



227
0
113
227 Feet
1: 1,362

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THIS MAP IS NOT TO BE USED FOR NAVIGATION

- Legend**
- Address Points
 - Bernalillo County Parcels
 - Municipal Limits
 - Corrales
 - Edgewood
 - Los Ranchos
 - Rio Rancho
 - Tijeras
 - UNINCORPORATED
 - World Street Map

VA-2020-00140
 Projct #
 PR-2020-003906

Notes
 Conditional Use for 1718 Broadway Blvd NE

We the undersigned property owner/tenant support the proposed Conditional Use to allow a Self-Storage for the location of 1718 Broadway Blvd NE.

1. Gabriel Figueroa 416 Hannett Ave NE APT A
Printed Name Address

Gabriel Figueroa 06/14/2020
Signature Date

2. Ralph Rubi Jr. 404 HANNETT N.E.
Printed Name Address

Ralph Rubi Jr. 6/14/20
Signature Date

3. Darryl Lucero 420 Hannett Ave
Printed Name Address

Darryl Lucero June 14-2020
Signature Date

4. Jose F Lucero 428 Hannett NE
Printed Name Address

Jose F Lucero 6/14/20
Signature Date

We the undersigned property owner/tenant support the proposed Conditional Use to allow a Self-Storage for the location of 1718 Broadway Blvd NE.

5. Robert Cordova 436 Hannett Ave 87102
Printed Name Address

Robert Cordova 6-14-20
Signature Date

6. Nathaniel Allen 401 Martinez Dr 87102
Printed Name Address

Nathaniel Allen 6-14-20
Signature Date

7. Gayla McMullen 400 Hannett Ave. NE 87102
Printed Name Address

Gayla McMullen 6-14-20
Signature Date

Printed Name Address

Signature Date

From: [SBMTNA](#)
To: [Sanchez, Suzanna A.](#); [Patten-Quintana, Lorena](#)
Subject: Fwd: Fw: FYI - 1718 Broadway NE, VA#2020-00140, PR#2020-003906, Conditional Use for Self Storage
Date: Thursday, July 09, 2020 2:04:27 PM
Attachments: [EXHIBITS11THROUGH141718BROADWAYNE.pdf](#)
[EXHIBITS6THROUGH101718BROADWAYNE.pdf](#)
[EXHIBITS1THROUGH5FOR1718BROADWAYNE.pdf](#)

Exhibits only are attached

The Santa Barbara Martineztown Neighborhood Association (SBMTNA) Board of Directors has attached a letter with Attachments and Exhibits to the Zoning Hearing Examiner (ZHE) in regards to case VA#2020-00140, PR#2020-003906, Conditional Use for Self Storage for 1718 Broadway NE.

The SBMTNA requests a meeting notice and zoom access to allow for comments on this case.

If you have any questions, please email or call me at (505)270-7716.

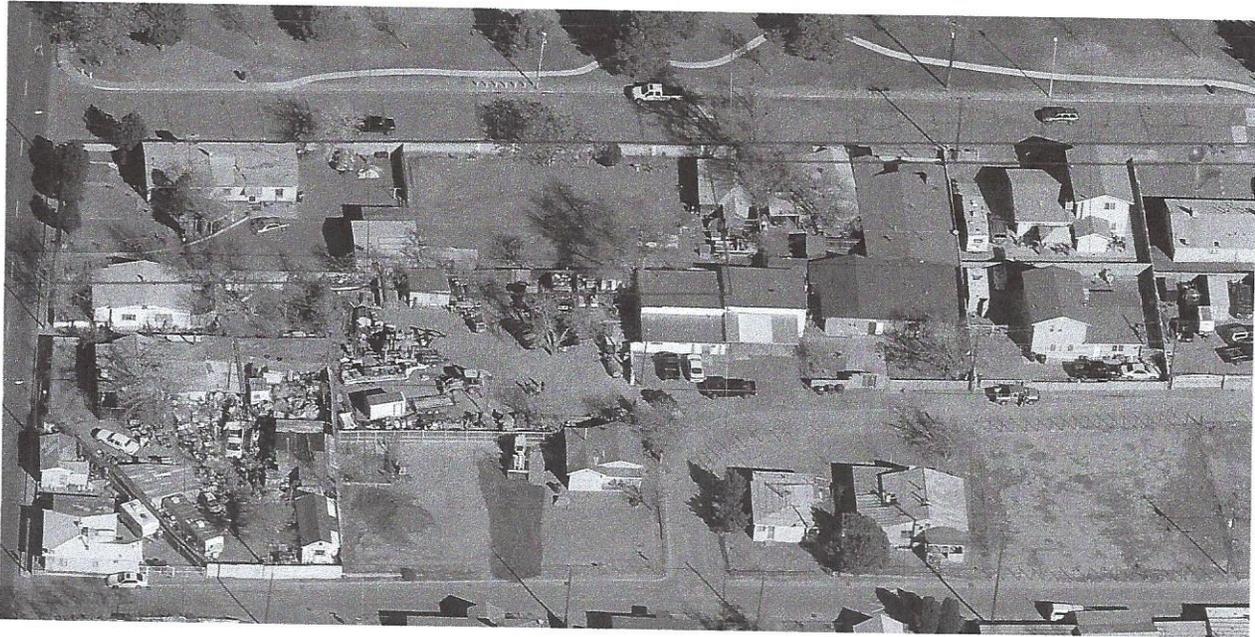
Thank you.

Loretta Naranjo Lopez, President
SBMTNA
1420 Edith NE
Albuquerque, NM 87102
(505)270-7716
sbmartineztown@gmail.com

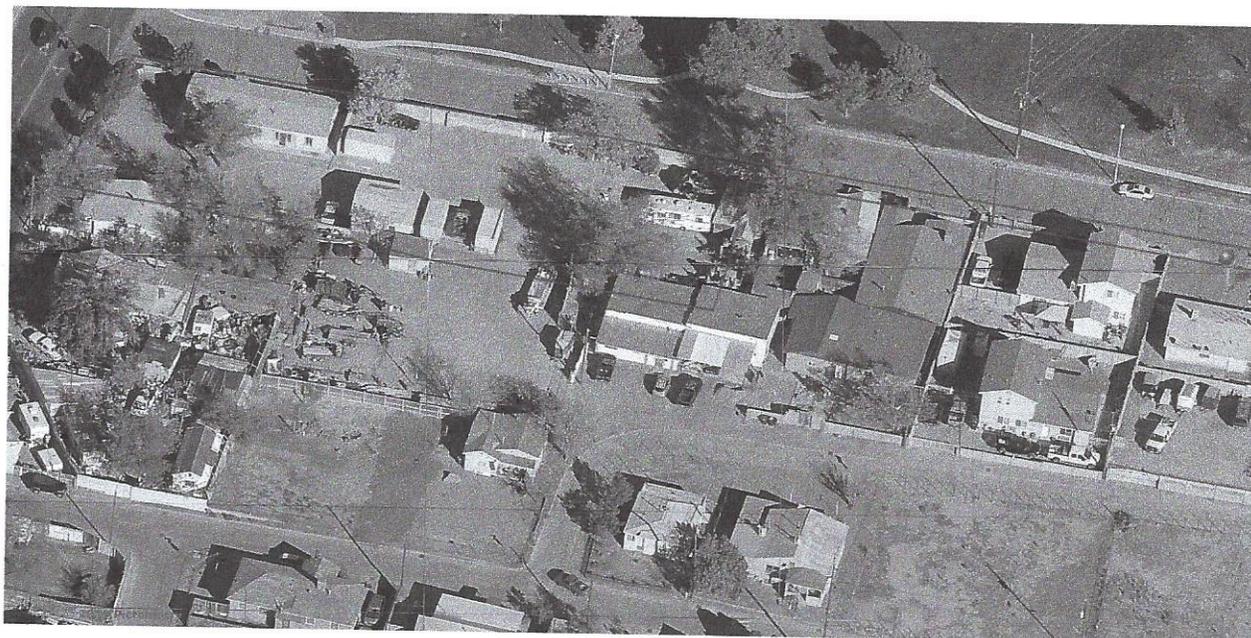
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Bernard Property Records
Satellite View 3-24-2005



Bernard Property Records
Current Satellite View
Satellite View
1/19/2015



Bunco Property Records
current Satellite View

11/19/2014

PROPERTY RECORDS E-FILE ASSESSOR'S FORMS ASSESSOR WEBSITE

CONTACT US | ?

- Profile
- Values
- Map
- Satellite View
- Tax Calculator

PARID: 101405850050413133
APODACA JESUS F.

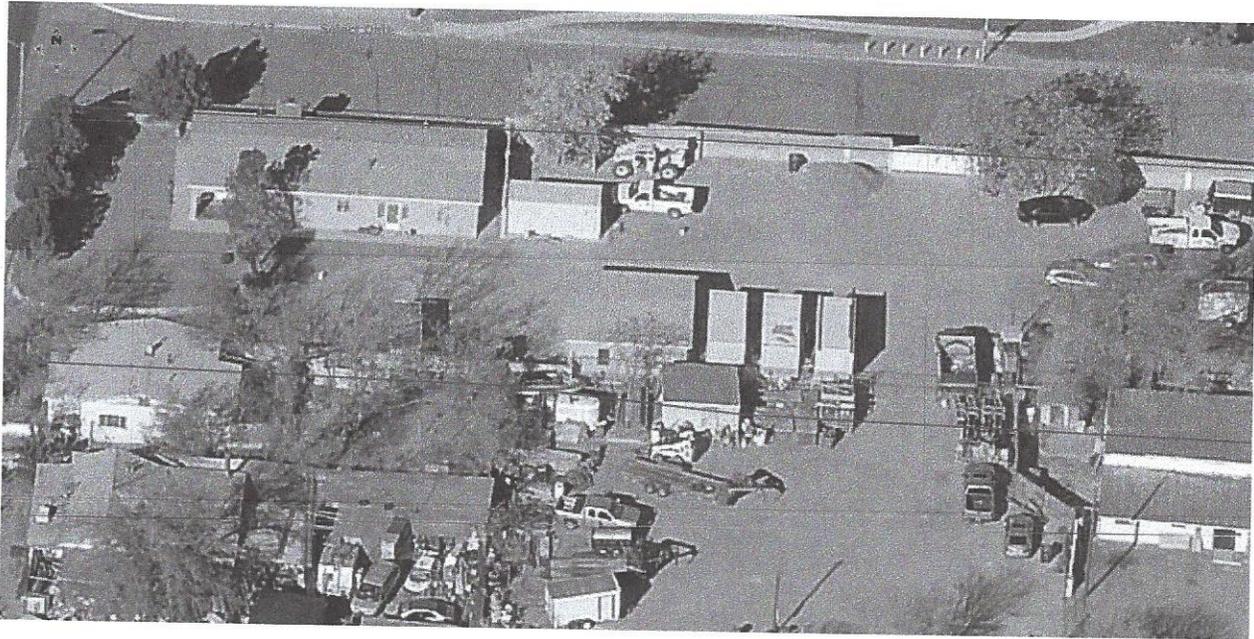
Record Navigator

1718 BRO

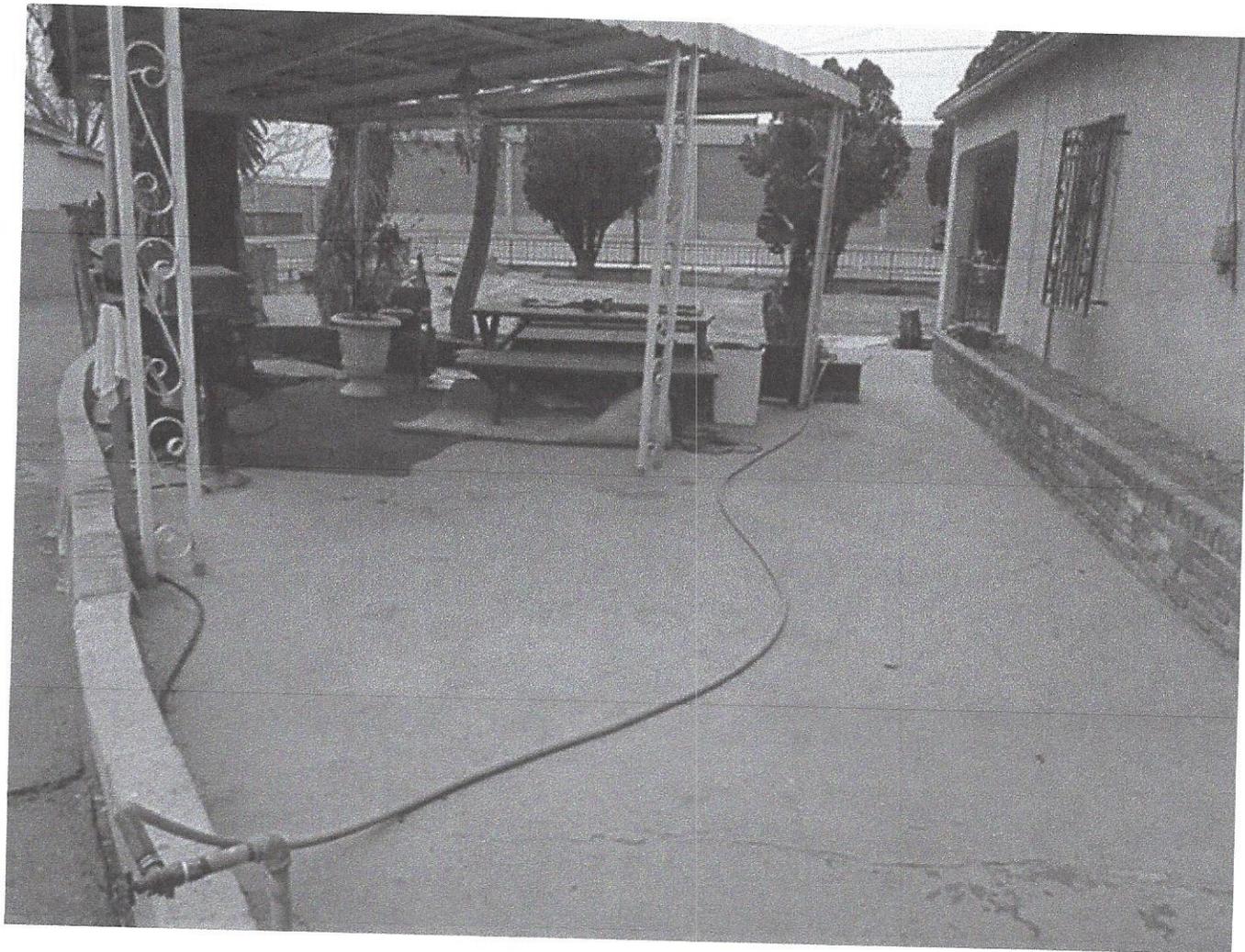


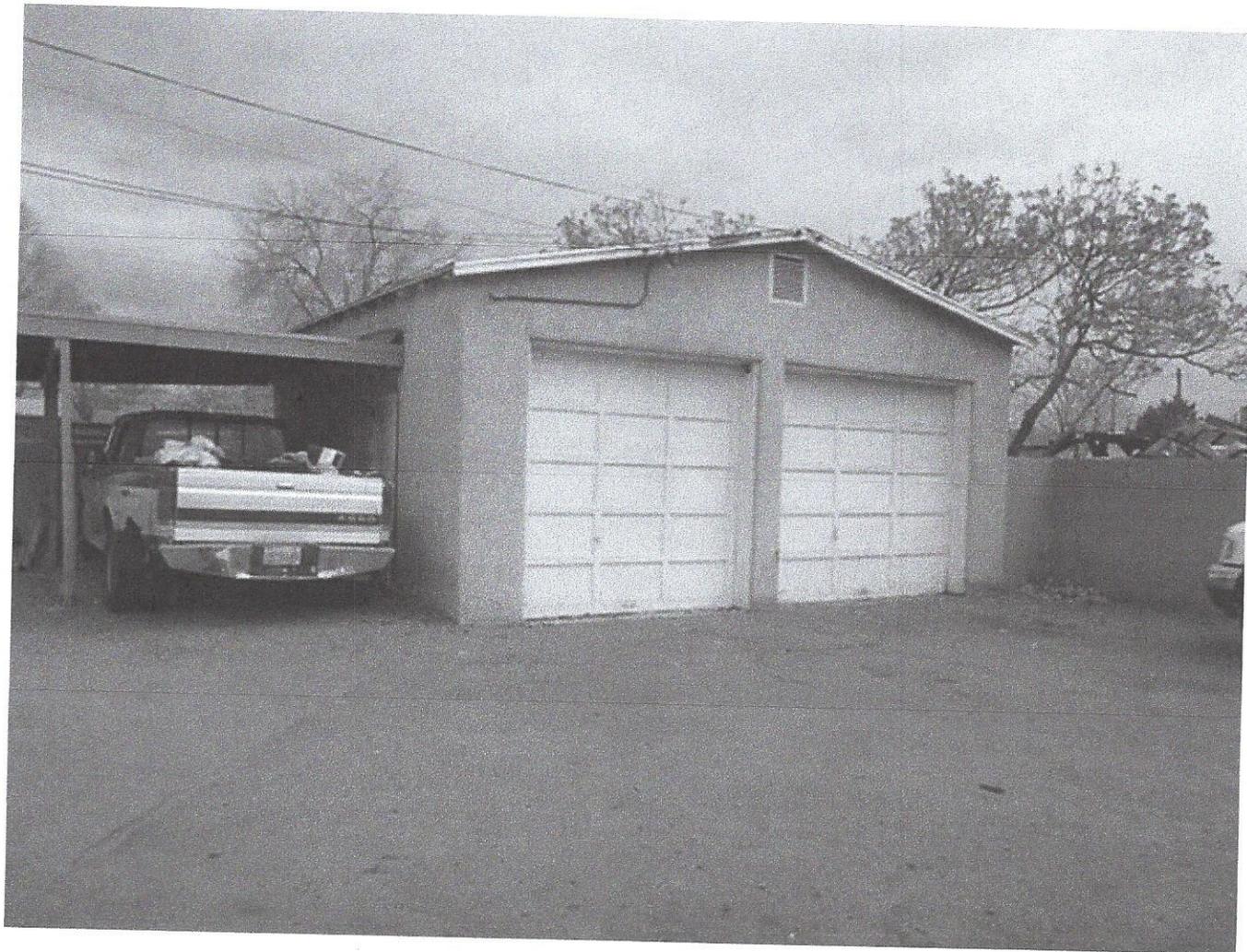
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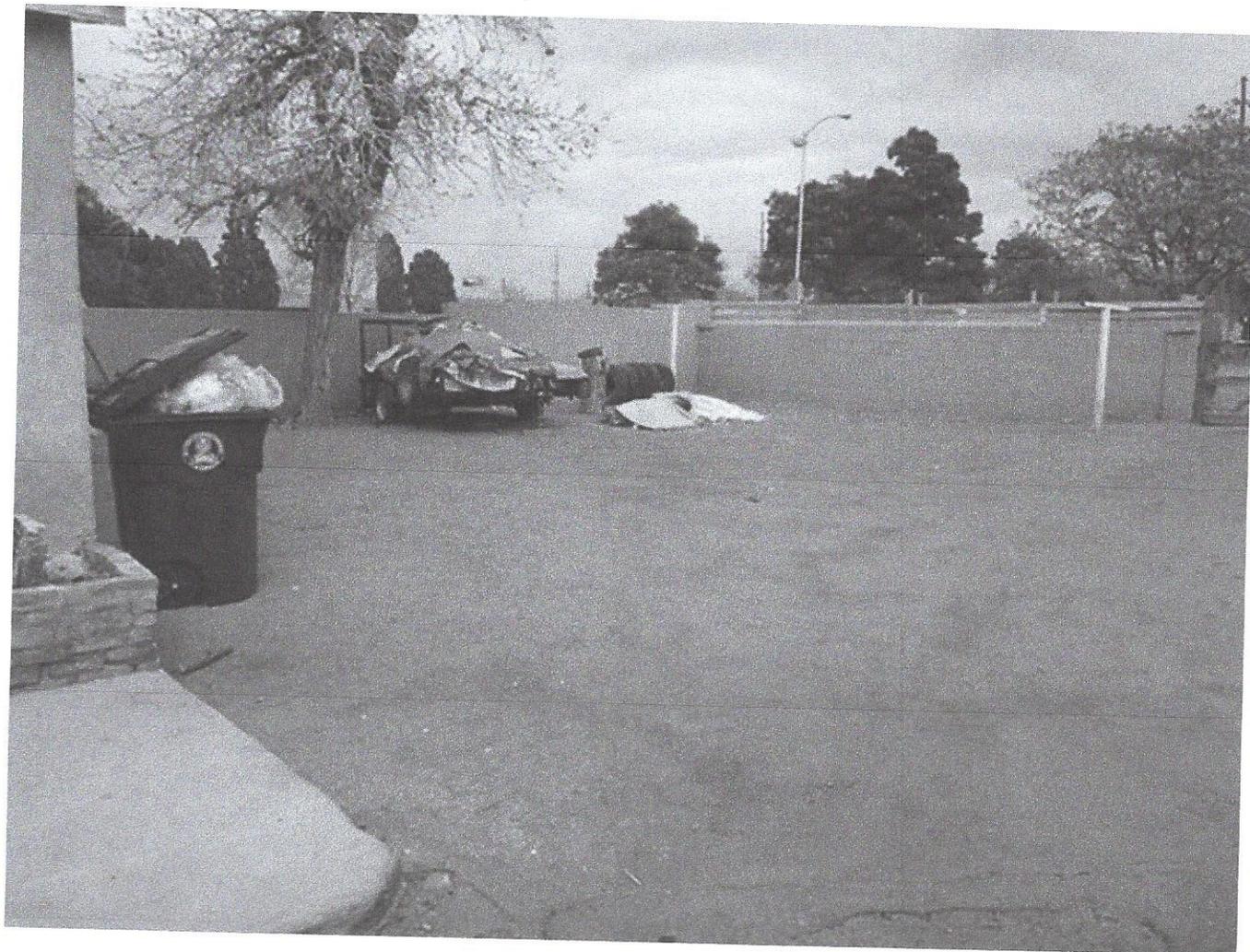
*Bernco Property Records
 current Satellite View
 11/26/2018*

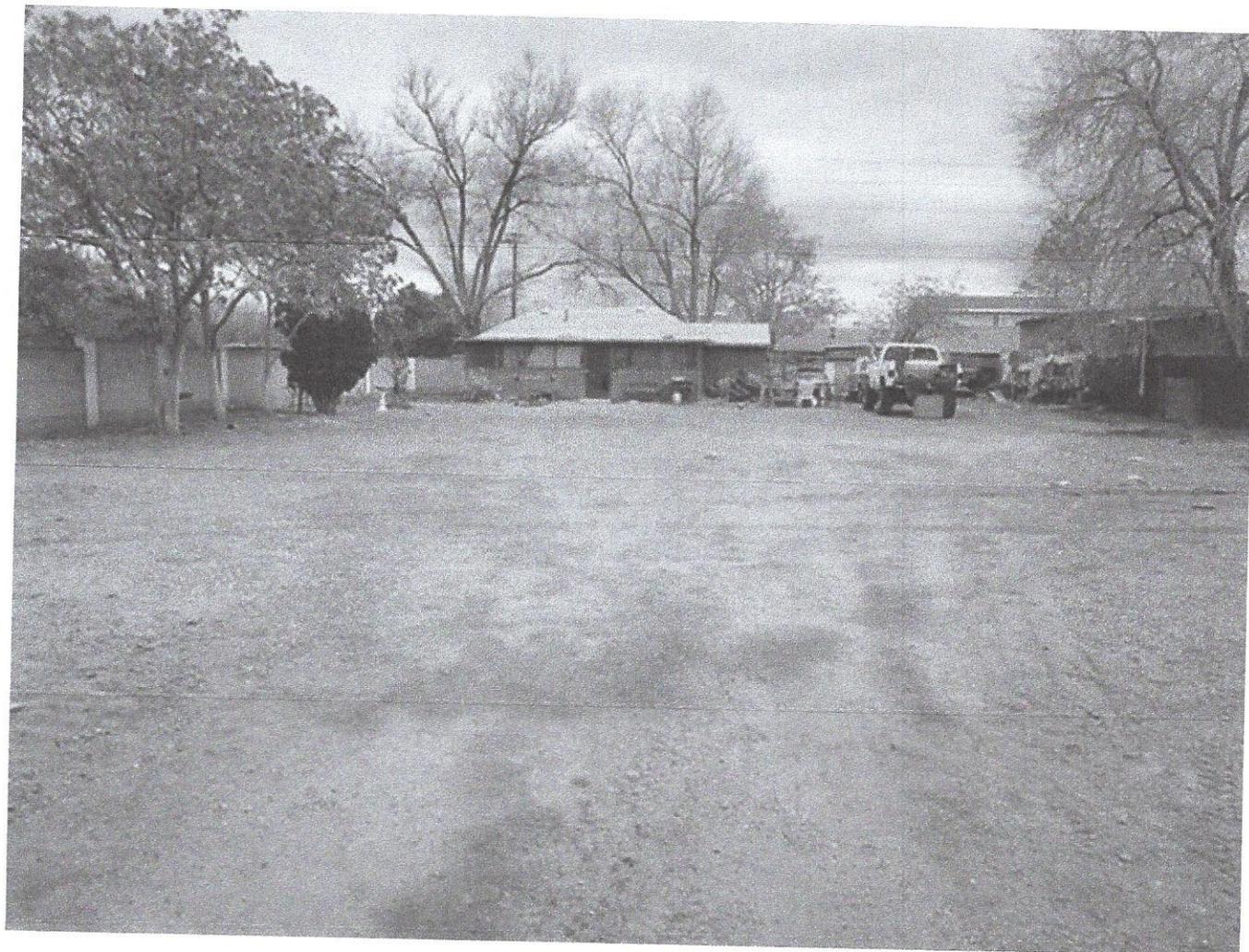


Bernco Property Records
current Satellite View
11/26/2018





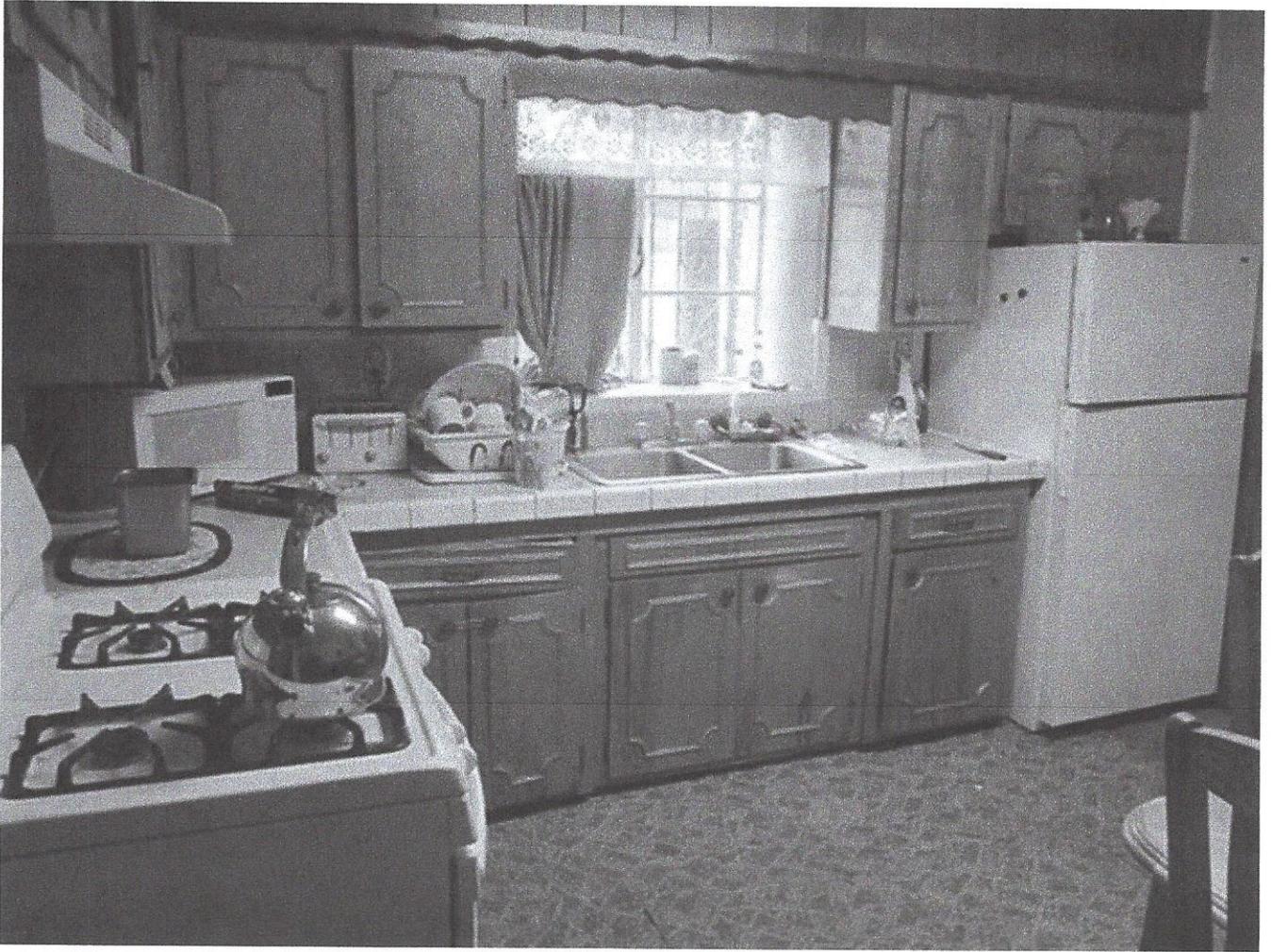








Listed for sale 2016







Sanchez, Suzanna A.

From: SBMTNA <sbmartineztown@gmail.com>
Sent: Thursday, July 09, 2020 2:07 PM
To: Sanchez, Suzanna A.; Patten-Quintana, Lorena
Subject: Fwd: Fw: FYI - 1718 Broadway NE, VA#2020-00140, PR#2020-003906, Conditional Use for Self Storage
Attachments: BERNILLOCOUNTYASSESSORPROPERTYOWNERSHIPHISTORY.pdf;
APPEALPROTESTTOCITYCOUNCILONVOLUNTARYZONECONVERSION1162019 (1).docx;
Martinez HIA.pdf

Attached is the HIA Study for Martineztown, Appeal Protest to City Council, 1959 AERIAL, BERNCO Property Owner assessment,

The Santa Barbara Martineztown Neighborhood Association (SBMTNA) Board of Directors has attached a letter with Attachments and Exhibits to the Zoning Hearing Examiner (ZHE) in regards to case VA#2020-00140, PR#2020-003906, Conditional Use for Self Storage for 1718 Broadway NE.

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Thank you.

Loretta Naranjo Lopez, President
SBMTNA
1420 Edith NE
Albuquerque, NM 87102
(505)270-7716
sbmartineztown@gmail.com

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IMPACTS OF HIGH DENSITY DEVELOPMENTS ON TRAFFIC AND HEALTH

Written and Researched by the
Bernalillo County Place Matters Team
June 2013

*This Report is in
Response to a
Request for
Assistance by
Martineztown Work
Group*

Introduction

Land-use plans play a significant role in the look, feel and vitality of a neighborhood and can strongly influence neighborhood conditions such as clean air, access to safe places to play and work, and the availability of quality schools and employment. Researchers are discovering that the availability of neighborhood conditions such as these profoundly influence residents' overall health, particularly among childrenⁱ. Conversely, residents living in neighborhoods characterized by poor quality schools, few job opportunities, and a polluted environment have poor overall health and a shorter life expectancy. In fact, in Bernalillo County there is a dramatic difference in life expectancy depending on where one lives – with residents residing in higher income, predominantly non-Hispanic white, and amenity rich neighborhoods living up to 22 years longerⁱⁱ.

Planners can create land-use plans that encourage healthy neighborhoods for all by considering how the plan will positively, or negatively, impact the health and welfare of the residents who live there. A tool called Health Impact Assessment, or HIA, enables planners to consider the health impacts of a proposed plan prior to decision making by gathering health related data.

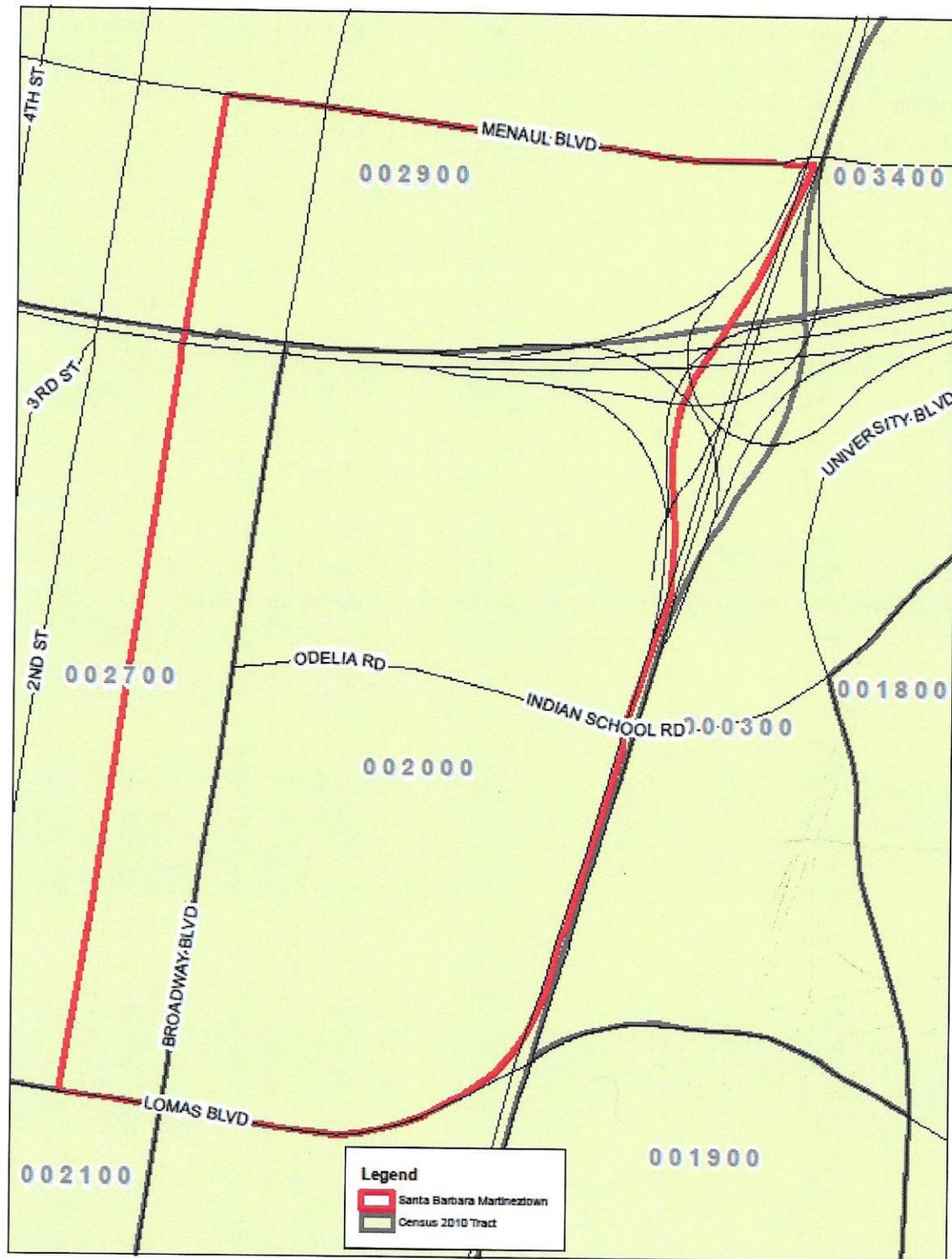
Because of the Bernalillo County Place Matters Team's (Team) experience with HIAs, representatives of the Martineztown Work Group (MWG) asked the Team to conduct a HIA on the proposed 2012 Santa Barbara Martineztown (SBMZ) Sector Development Plan (Plan). Specifically, neighborhood residents were concerned that the Plan's implementation would result in higher density developments, which in turn, would increase vehicle volumes within their neighborhood and negatively impact: 1) road safety resulting in increased crash related fatalities/injuries; 2) air quality resulting in increased respiratory illness, cancer, and cardiovascular disease, and; 3) noise levels resulting in increased learning disabilities among children. Unfortunately, given time constraints, the Team could not conduct a full blown HIA and instead offered to develop a report for the City Councilors of the City of Albuquerque consisting of data on current neighborhood conditions as they relate to vehicle volumes and health and a summary of research on the impact of increased vehicle volumes on health.

The Santa Barbara-Martineztown Community

The two census tracts underlying SB-MZ are tracts 20 and 29 (map 1) with a total 2010 population of 6,321, comprised of 57.6% (census tract 20) and 58.5% (census tract 29) Hispanics. Comparatively, Bernalillo County is comprised of 48.1 percent Hispanics. Twenty-five percent (tract 20) and 14.9% (tract 29) of SB-MZ residents live below the Federal Poverty Level (\$23,550 annually for a family of four), compared to 16.6% of Bernalillo County residents.

SB-MZ geographically sits at the cross-roads of two major Interstates, I-25 and I-40, and is bordered by two major roadways, Lomas Blvd. and Menaul Blvd. to the north and south, respectively, with the BN&SF railroad nearby, to the west.

Map 1. 2010 census tract boundaries underlying Santa Barbara-Martineztown



Source: 2010 U.S. Census Bureau

Vehicle Volume

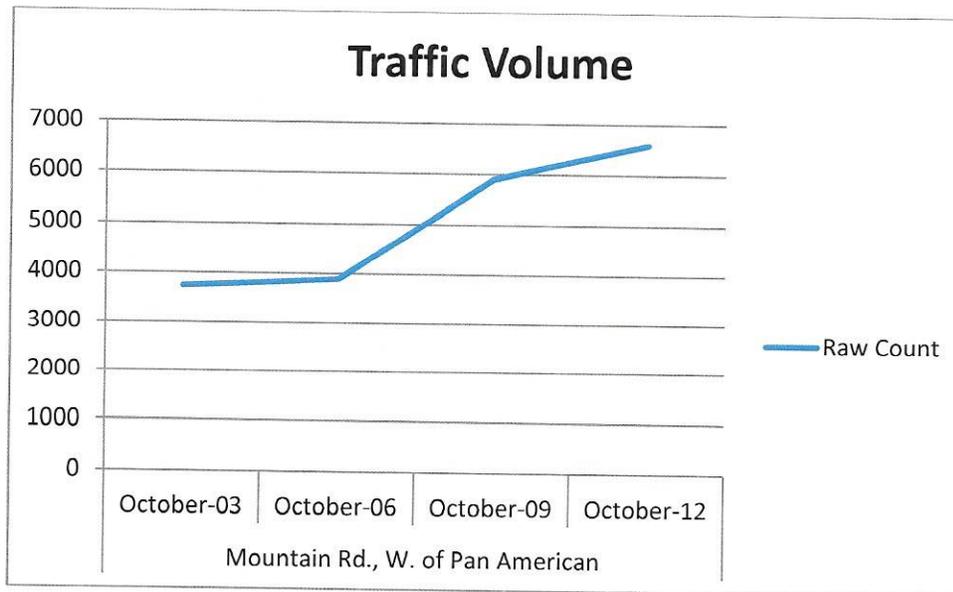
The Association between Vehicle Volume and Health

Public health and transportation safety research demonstrates that vehicle volumes are an independent environmental predictor of pedestrian injuries^{iii iv}. The magnitude of the effect from vehicle volume on injuries is significant. For example, in a study of nine intersections in Boston's Chinatown, researchers calculated an increase in 3 to 5 injuries per year for each increase in 1,000 vehicles^v. High traffic also contributes to increased respiratory and cardiovascular disease from increased air pollution and to increased stress levels among adults and learning disabilities among children due to traffic-related noise.

Current Vehicle Volumes in SB-MZ

Attachment 1 illustrates the time trend of vehicle volumes (in years) in the study area by raw vehicle counts and locations^{vi}. Vehicle counts for Mountain Rd., West of Pan American, have significantly increased, undoubtedly due to the construction of the large Embassy Suites hotel and Tri Core Laboratory (figure 1). Vehicle counts in the area of the I-25 and I-40 interchange have also continued to increase with a 2011 average weekly vehicle count on I-40 west of I-25 of 136,200, and east of I-25 of 180,000. Additionally, the 2011 average weekly vehicle count on I-25 north of I-40 was 193,300, and south of I-40, 166,100. Elsewhere, vehicle counts have remained stable or declined.

Figure 1. Time trend of traffic volume by raw count of vehicles and year, Mountain Rd.



Figures 2 - 4 show the types of vehicles (the majority of which are automobiles) traveling on the following road links within the boundaries of SB-MZ: 2nd Street, South of I-40 South Frontage Rd.; Indian School, East of Broadway; and Broadway, South of Menaul^{vii}.

Figure 2. Number of vehicles by vehicle type – Broadway – November 2006

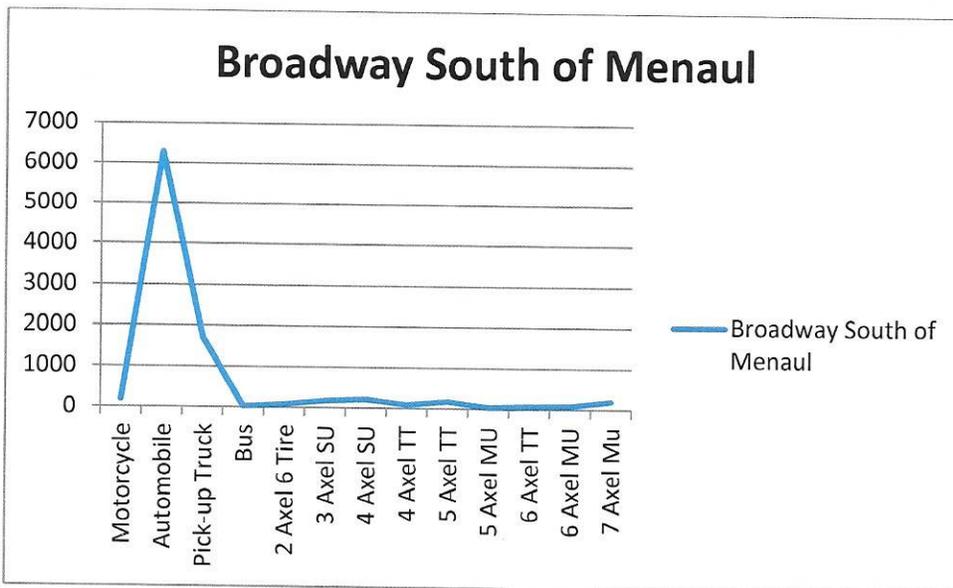


Figure 3. Number of vehicles by vehicle type – 2nd Street – October 2002

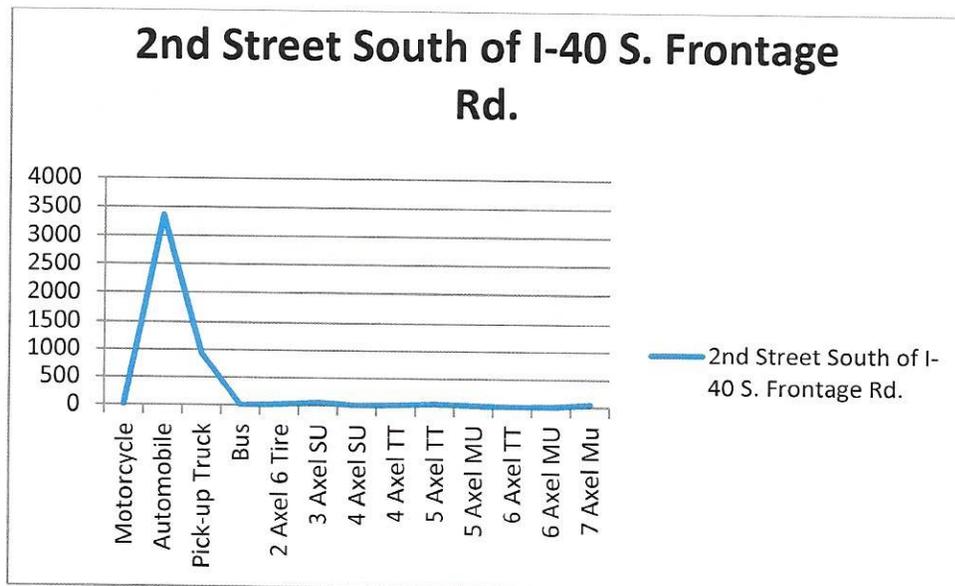
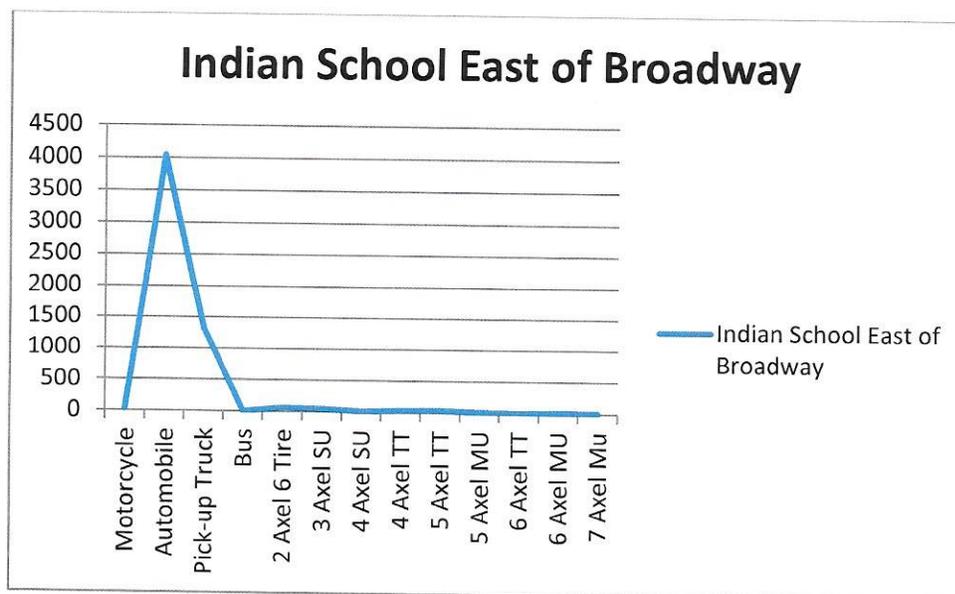


Figure 4. Number of vehicles by vehicle type – Indian School – October 2007



Roadway Safety

The Association between Roadway Safety and Crash Related Injuries and Fatalities

Road safety is a particularly relevant topic in New Mexico; the 2009 pedestrian fatality rate was 1.94 deaths per 100,000 people, compared to the national pedestrian fatality rate of 1.33^{viii}. In addition to the tragic loss of human life, the Centers for Disease Control and Prevention estimate that crash related deaths cost New Mexico \$435 million per year^{ix}.

Older adults suffer disproportionately from both risk and impact of pedestrian-vehicle crashes. Older adults walk slower and have slower reaction times that put them at greater risk. In the event of a crash, older adults are also more likely to have serious injuries or die due to their frail physical conditions^x.

Research also shows that pedestrian crashes occur more frequently in low-income communities. Using data from four California communities, researchers found that pedestrian injuries were greater in areas characterized by higher unemployment, lower median household incomes, and younger populations^{xi}. Similarly, a King County, Washington study found that pedestrian injuries and fatalities were greater in communities having lower median home values, regardless of the level of pedestrian activity or population density^{xii}.

Traffic speed is the primary determinant of crash severity^{xiii}. An overwhelming proportion of traffic related injuries/fatalities occur along roadways that have been engineered for cars, with little consideration given to people who walk, are wheelchair bound, who bicycle, or who push strollers. High operating speeds give drivers less time to react to unforeseen hazards. A study in

the UK showed that a pedestrian struck by a vehicle traveling 40 mph has an 85% chance of being killed. This fatality rate drops to 45% at 30 mph, and to 5% at 20 mph or less^{xiv}.

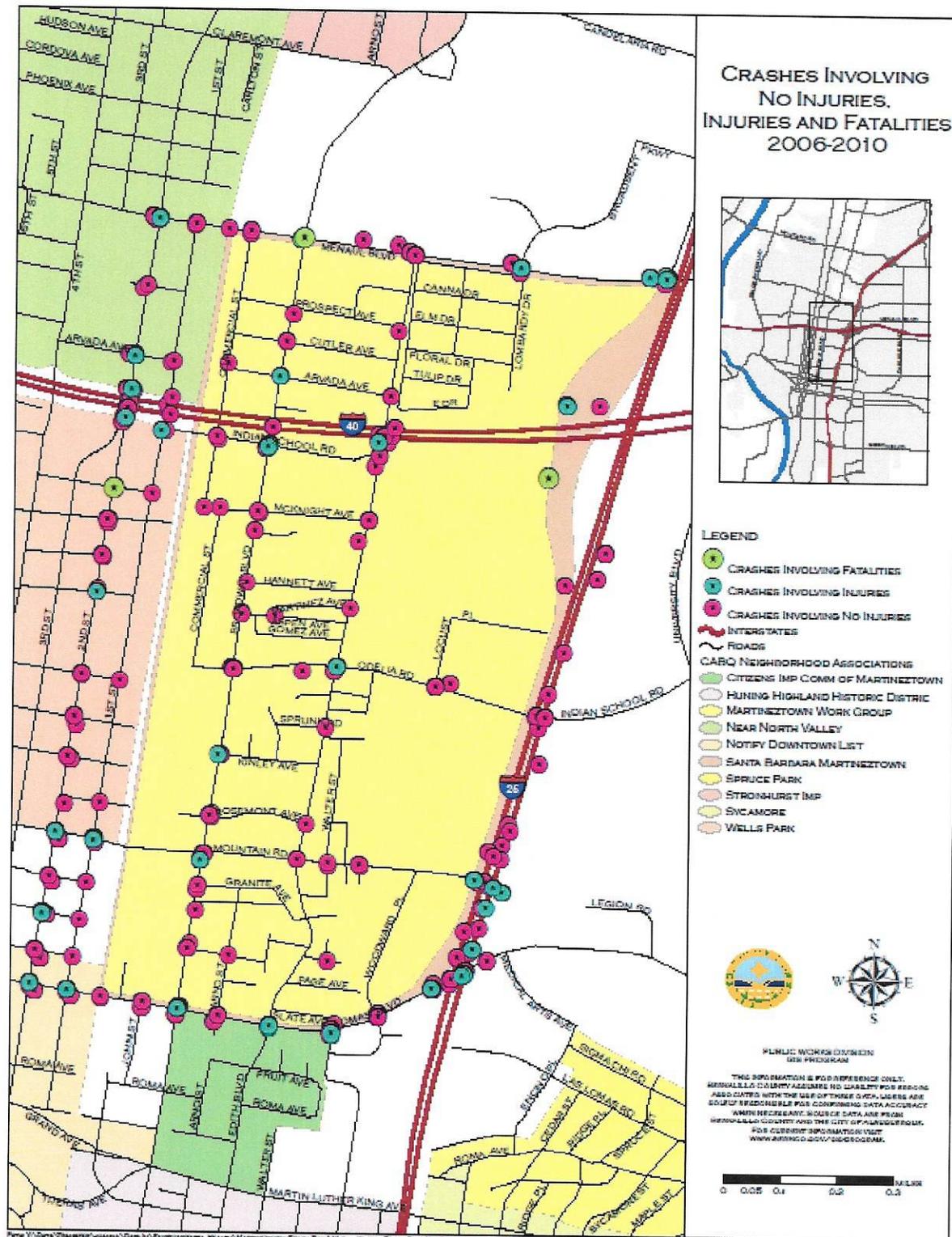
Lower speeds achieved through traffic calming measures can profoundly impact safety. A detailed analysis of 33 studies found that area wide traffic calming programs reduced injury accidents by 15%, with a smaller reduction of 10% on main roads^{xv}.

Current Crash Related Injuries and Fatalities in SB-MZ

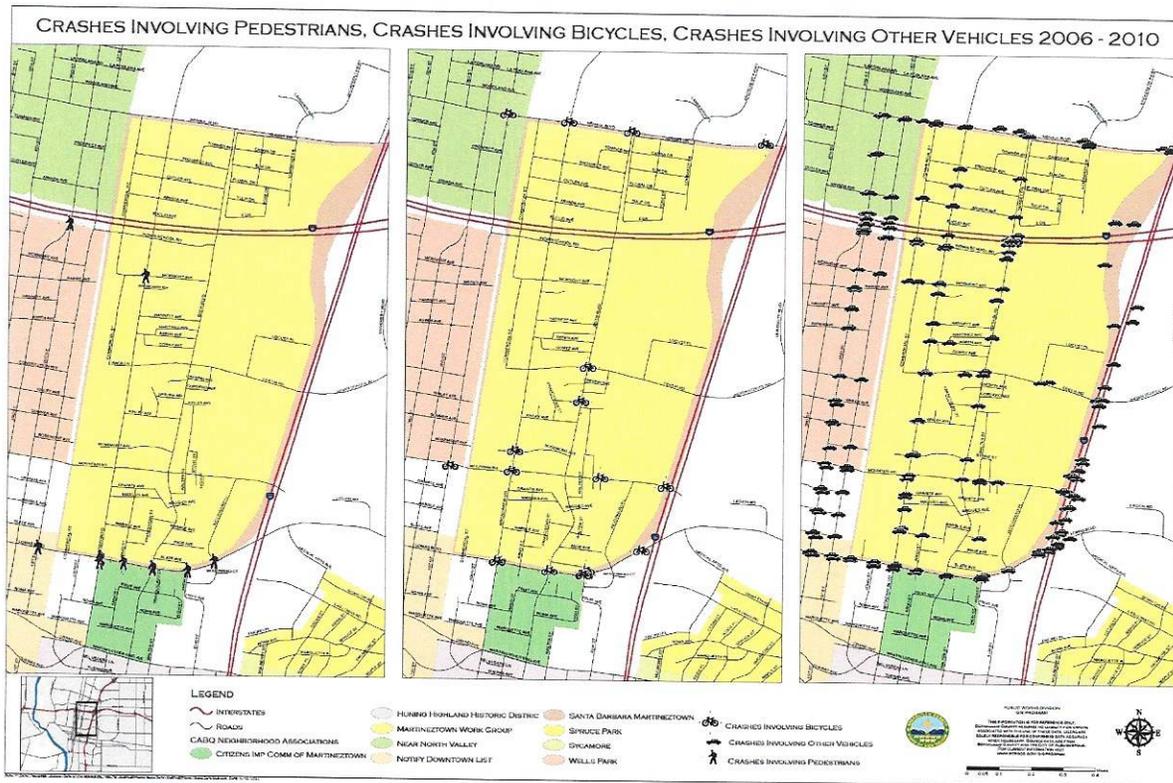
Map 2 shows the occurrence of crash related injuries and fatalities within the SB-MZ neighborhood boundaries for the time period of 2006 – 2010. Map 3 provides additional information on whether the crash involved a pedestrian, bicycle, or another vehicle.

The Mountain Rd.-3rd St. and Mountain Rd.-Broadway intersections ranked 6th and 15th among the top 20 intersections in Bernalillo County having the highest fatal and injury crash rates for 2005-2009. Further, the Mountain Rd.-4th St. intersection ranked 8th among the top 10 intersections having crash rates involving pedestrians^{xvi}, while the Mountain Rd.-3rd St. intersection ranked 2nd among the top 10 intersections having crash rates involving bicyclists.

Map 2: Location of crashes occurring within the boundaries of Santa Barbara-Martineztown



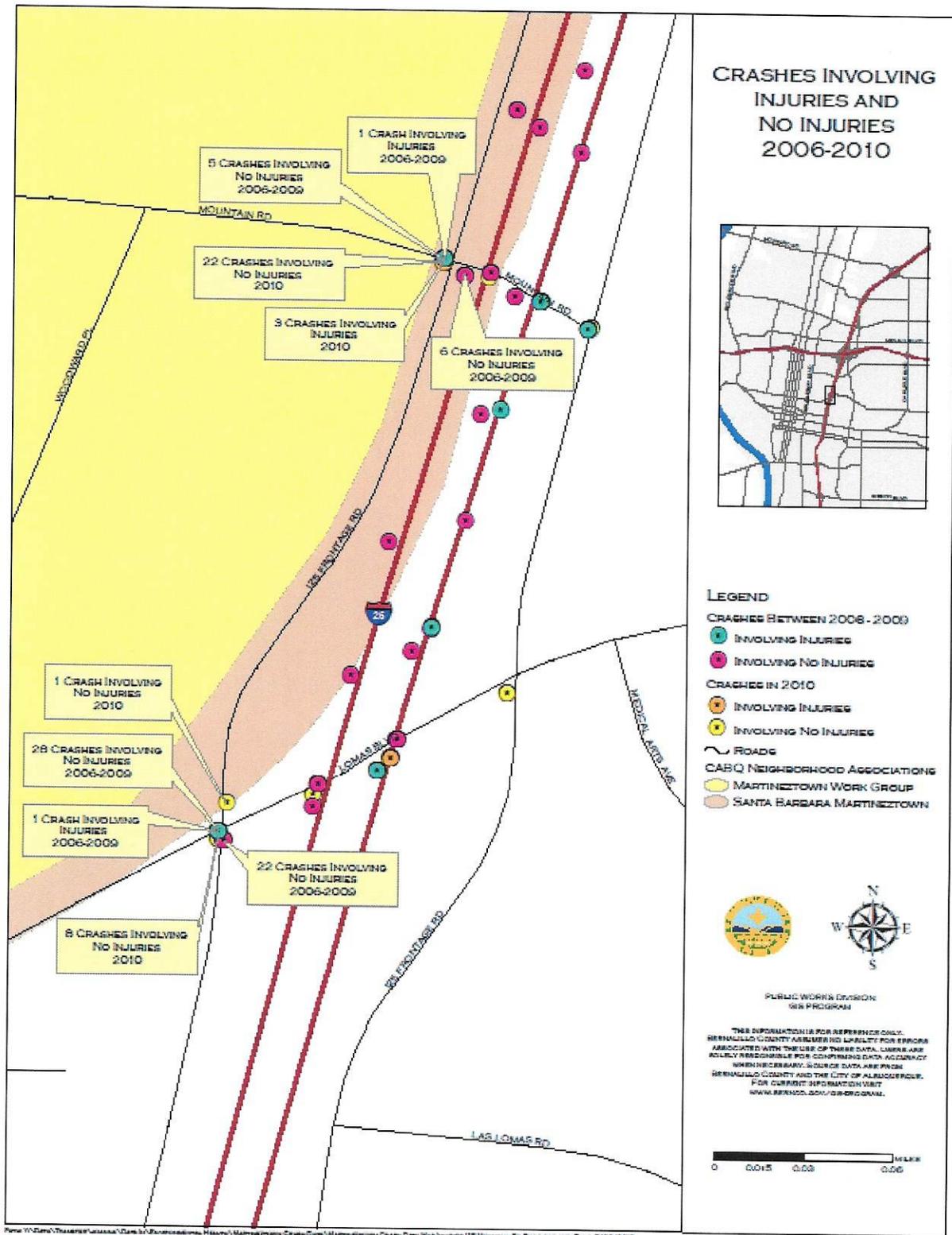
Map 3. Crashes involving pedestrians, bicyclists and other vehicles



Source: Mid-Region Council of Governments, data provided via email request, May 2013

Map 4 shows the occurrence of crashes resulting in injuries and no injuries for 2006-2009 and for 2010 for the west frontage road (north of Mountain Rd. to Lomas Blvd.), an area of concern to the residents living in SB-MZ, and for I-25.

Map 4. Crashes involving injuries and no injuries for residents' area of concern



Research shows that negative health outcomes, including injuries and fatalities from crashes, are linked to living in close proximity to busy roadways and railroads. Children and the elderly are particularly vulnerable to these negative health consequences.

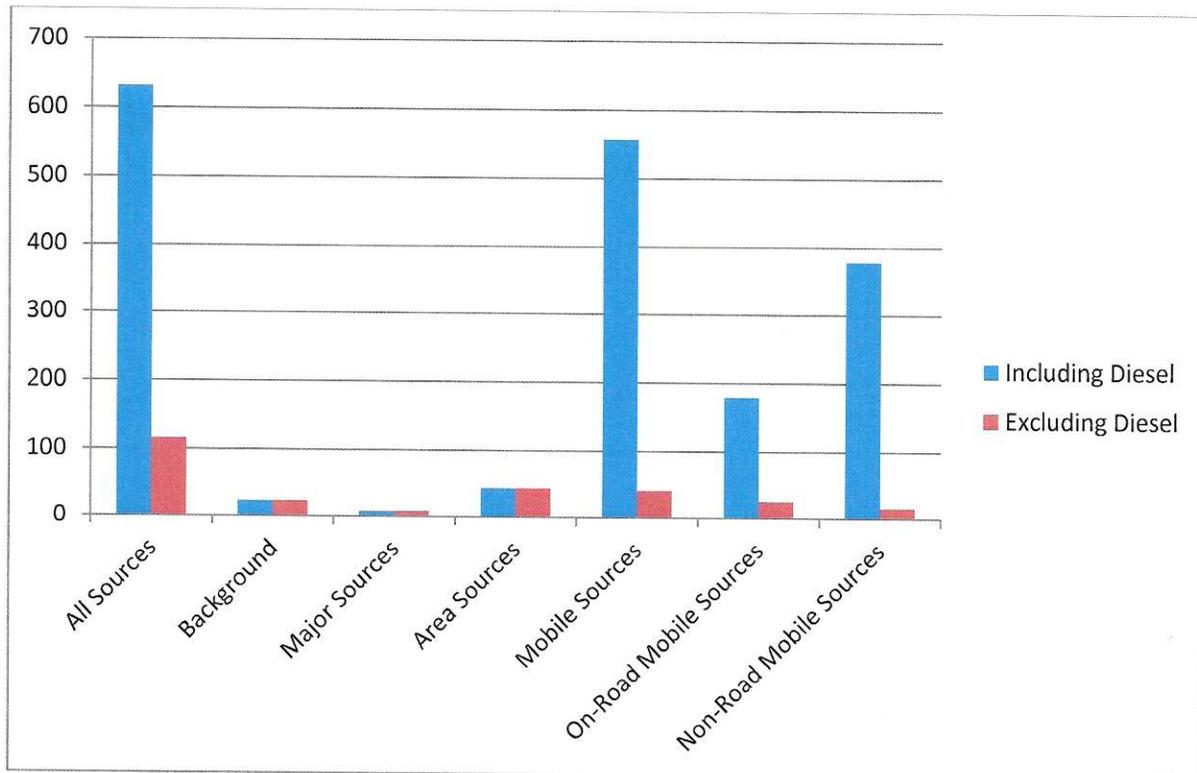
Air Quality

The Association between Traffic Related Air Pollution and Respiratory Illness, Cancer and Cardiovascular Disease

Exposures to sources of traffic pollution can impact the health of a community. Adverse health outcomes associated with vehicle and train related air pollution, include respiratory diseases, such as asthma and chronic obstructive pulmonary disease, cancer and cardiovascular disease^{xvii}
xviii xix xx

Diesel emissions coming from trains and large trucks are one of the most toxic sources of emissions. In addition to carbon monoxide and nitrogen oxides, diesel exhaust is composed of fine particles that contain more than 40 cancer-causing substances, such as benzene, arsenic and formaldehyde^{xxi}. Diesel exhaust is emitted at ground level, where one can breathe it, making it more harmful. Illness and deaths related to diesel exhaust is high. Approximately 21,000 people die prematurely each year from exposure to particulate matter from diesel engines. Every year, over 400,000 asthma attacks and 27,000 heart attacks are attributed to fine particles from diesel vehicles^{xxii}. These illnesses lead to increased emergency room visits, hospitalizations and lost school and work days. Figure 5 shows the contribution of diesel emissions to cancer risks in the metropolitan areas of the U.S. Diesel emitted from off-road vehicles and on-road vehicles, such as large trucks, contribute to a vast majority of the cancer risks.

Figure 5. Distribution of estimated cancer risks in US metropolitan areas, per million



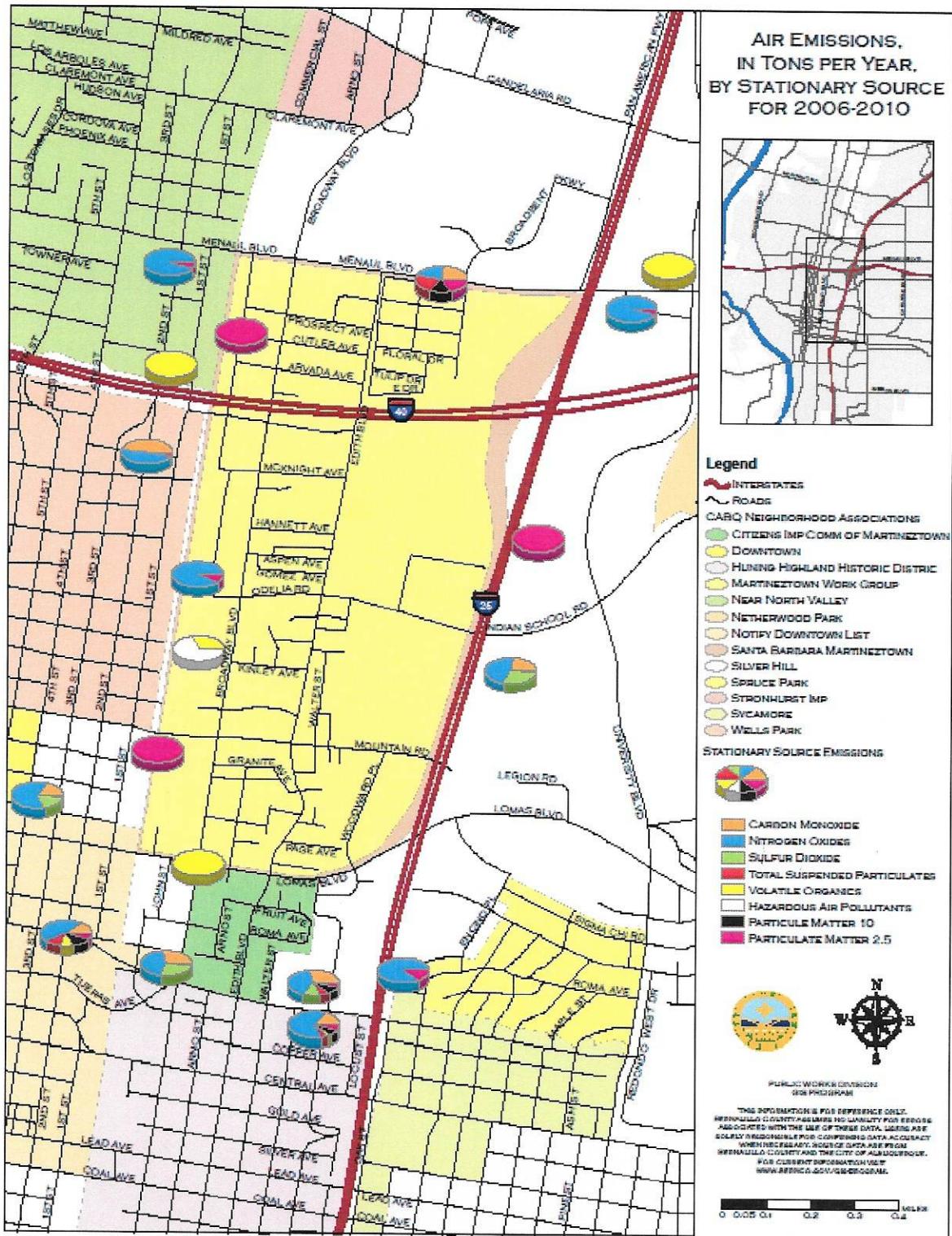
Source: Morello-Frosch R, Jesdle B. (2006) Separate and unequal: residential segregation and estimated cancer risks associated with ambient air toxics in US metropolitan areas.

Current Air Quality Conditions in SB-MZ

Because there is no air quality monitoring station near or in the SB-MZ neighborhood, data on ambient air quality for the six Environmental Protection Agency criteria air pollutants (lead, carbon monoxide, sulfur dioxide, particulate matter, nitrogen oxides, and ozone) are unavailable. Therefore, it is difficult to estimate the contribution of emissions coming from vehicles travelling on the roadways intersecting or bordering SB-MZ, namely I-25, I-40, Lomas, and Menaul. Further, it is also difficult to estimate the diesel emissions from trains travelling on rail, located on the western border of the neighborhood.

In spite of these limitations, data do exist for facilities that have permits to emit air pollution in the neighborhood. Map 5 shows the locations of these facilities, by the specific pollutants emitted, in tons per year.

Map 5. Locations of facilities emitting air pollutants by tons per year



Source: Stationary Source Data File, City of Albuquerque, 2006-2010.

Current Health Status for Diseases that are Associated with Poor Air Quality: Heart Disease, Chronic Respiratory Disease, and All Cancers in SB-MZ

Table 1 shows the age adjusted death rates for heart disease, chronic lower respiratory disease, and cancers for the time period of 2005 to 2009 for the Department of Health’s small area 8, which most closely approximates the boundaries of the SB-MZ neighborhood. When compared with Bernalillo County, the death rates for heart disease and all cancers are higher in SB-MZ, 190.2 deaths per 100,000 people and 197.6 deaths per 100,000 people, respectively. Conversely, the death rates for chronic lower respiratory disease are higher in Bernalillo County at 45.6 deaths per 100,000 people.

Table 1. Age-adjusted death rates for heart disease, chronic lower respiratory disease, and all cancers combined, 2005-2009, small area 8-Bernalillo County, Lomas Broadway and Bernalillo County

Age-Adjusted Death Rate for Heart Disease, 2005-2009*			
	Number of Deaths	Number in the Population	Deaths Per 100,000 Population
Small Area 8-Bernalillo County, Lomas Broadway	199	103,289	190.2
Bernalillo County	5,134	3,156,640	162

*Circulatory, Heart Disease (ICD10: I00-I09, I11, I13, I20-I51)

Age-Adjusted Death Rate for Chronic Lower Respiratory Disease, 2005-2009*			
	Number of Deaths	Number in the Population	Deaths Per 100,000 Population
Small Area 8-Bernalillo County, Lomas Broadway	43	103,289	41.6
Bernalillo County	1,413	3,156,640	45.6

*Respiratory, Chronic Lower Respiratory Disease (ICD10: J40-J47)

Age-Adjusted Death Rate for All Cancers Combined, 2005-2009			
	Number of Deaths	Number in the Population	Deaths Per 100,000 Population
Small Area 8-Bernalillo County, Lomas Broadway	206	103,289	197.6
Bernalillo County	4,936	3,156,640	155.5

*Neoplasm, Malignant (ICD10: C00-C97)

Source: New Mexico Indicator-Based Information System (NMIBIS)

Noise Levels

The Association between Traffic Related Noise Levels and Learning Disabilities among Children

Traffic noise has been linked to many adverse health outcomes, including general quality of life, induced hearing loss, increases in blood pressure and cardiovascular diseases, and psychosocial disorders such as noise induced sleep disturbances^{xxiii}. There is a dose response relationship for all of these. As persistent noise levels increase, adverse health outcomes also increase^{xxiv}.

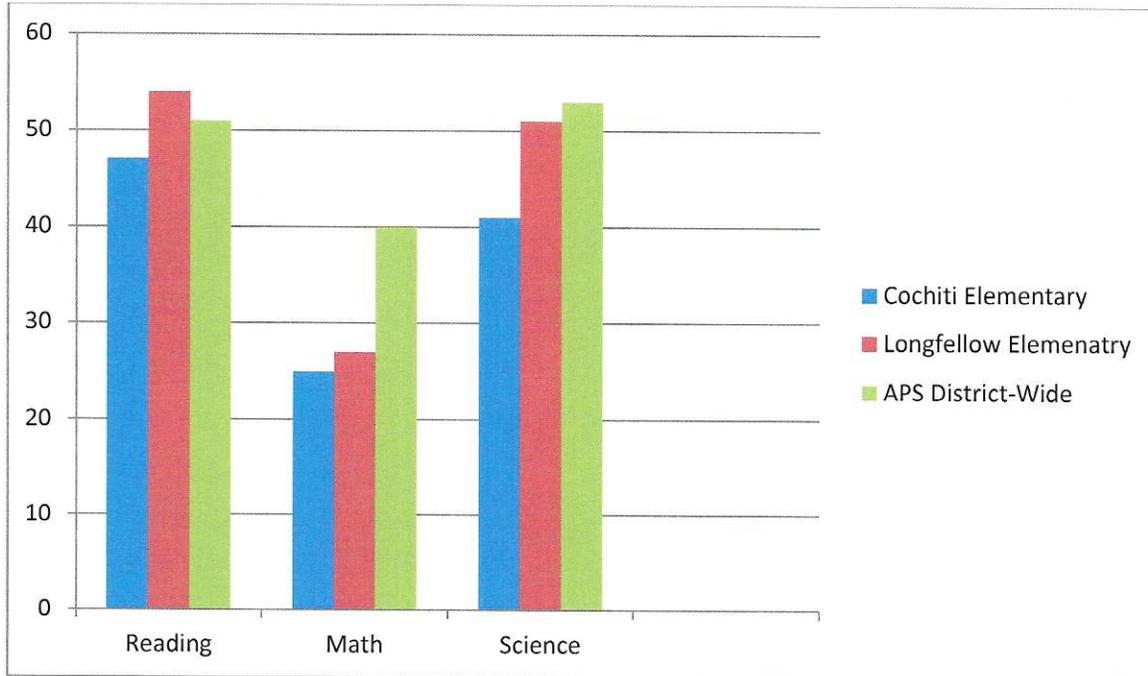
These adverse health outcomes are particularly pronounced in children who have less well-developed immune, cardiovascular and neurological systems. Therefore, children have an additional risk from excessive ambient noise exposure^{xxv}. Evans et al. examined children exposed to moderate road traffic noise (outside daytime level $L_m > 60\text{dB(A)}$). Their night time urine contained increased concentrations of free cortisol and cortisol metabolites when compared to those of children living in quieter areas (outside daytime level $< 50\text{dB(A)}$)^{xxvi}. Studies have also found that children exposed to intense ambient noise from traffic and aircraft at school may have lower reading and math scores than children who attend quieter schools.

4th Grade Reading, Math and Science Scores among Children Attending Schools in SB-MZ

Residents of SB-MZ suffer from traffic related noise because of their close proximity to two large interstates, I-25 and I-40 and the BN&SF railroad. High noise levels can impact children's stress levels and reading and math scores.

There are two elementary schools located in the SB-MZ neighborhood, Longfellow and Cochiti. According to New Mexico Standards Base Assessment for the 2007-2008 school year; 47%, 25%, and 41% of 4th graders attending Cochiti Elementary were at or above proficiency levels for reading, math and science, respectively. Reading, math, and science proficiency scores for 4th grade students attending Longfellow Elementary School were 54%, 27%, and 51%, respectively. Albuquerque Public School district-wide scores for 4th grade students at or above proficiency levels for reading, math and science were 51%, 40%, and 53%, respectively (figure 6).

Figure 6: Percent 4th grade students at or above proficiency level for the 2007-2008 school year

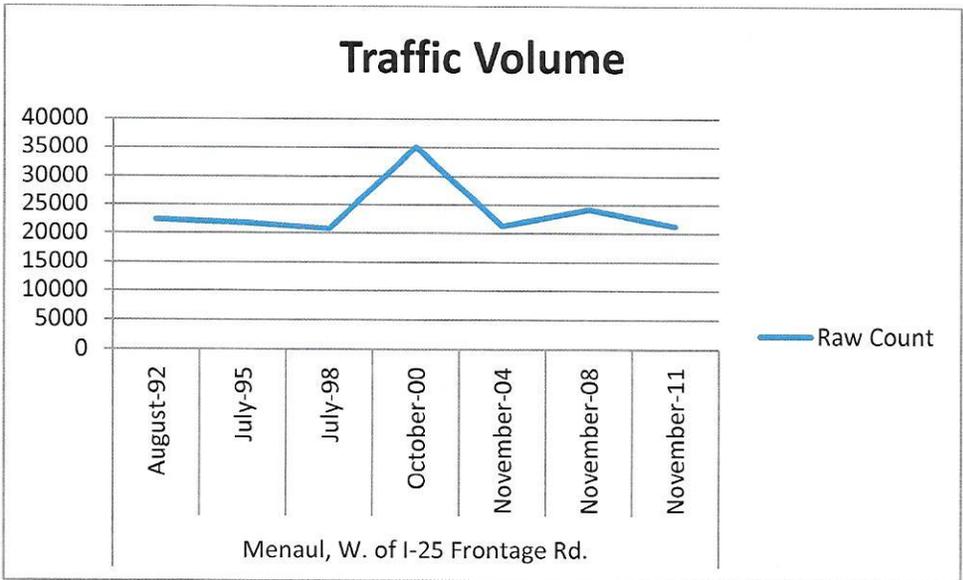
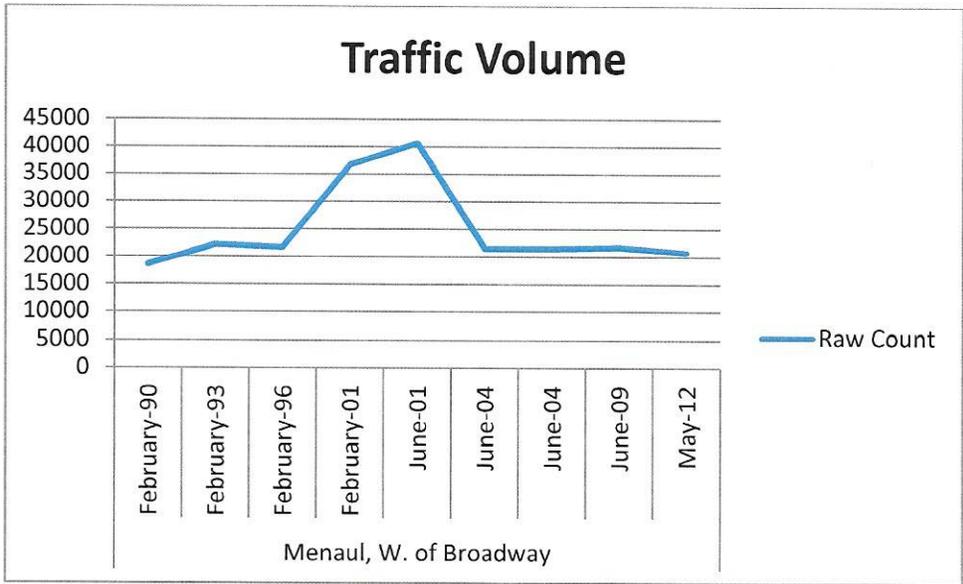


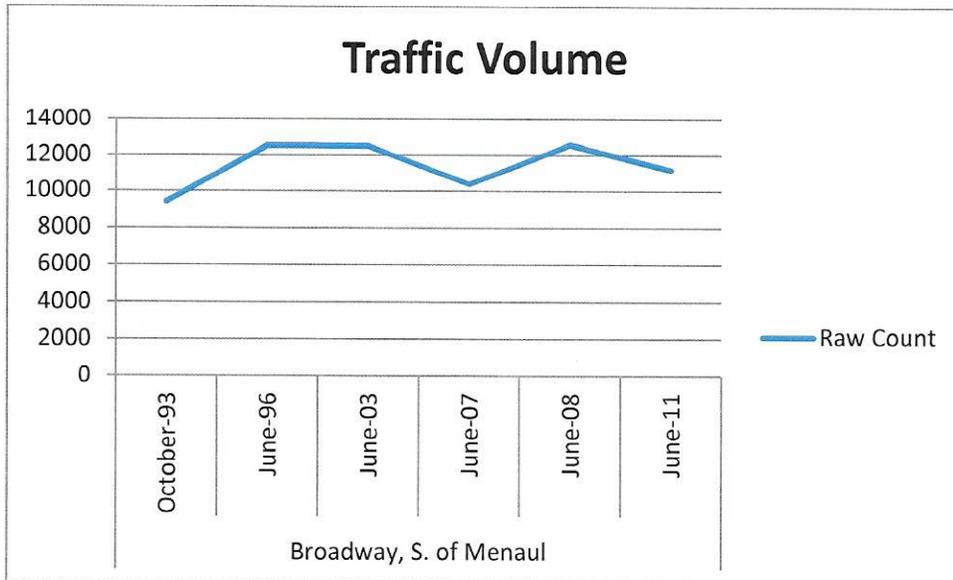
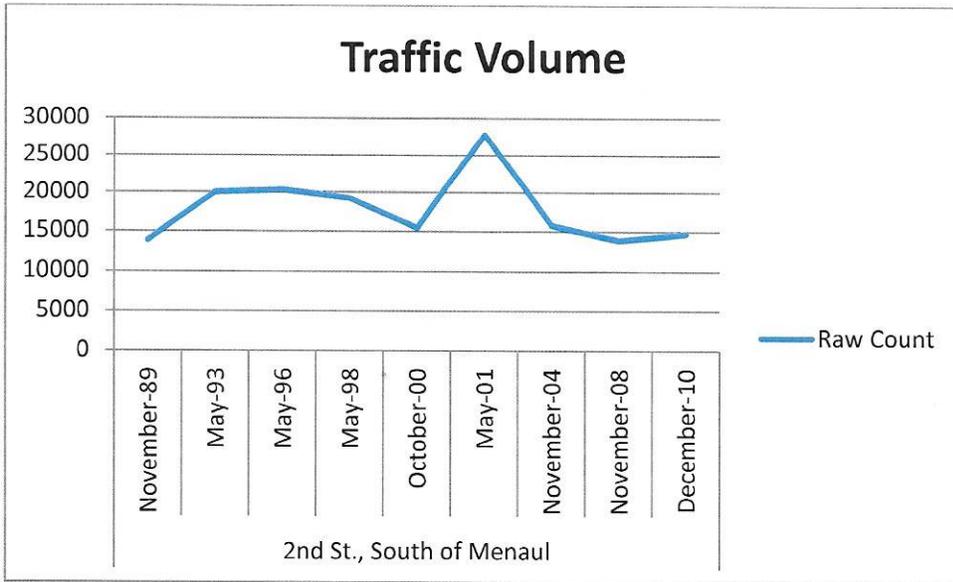
Source: Albuquerque Public Schools, New Mexico Standards Base Assessment

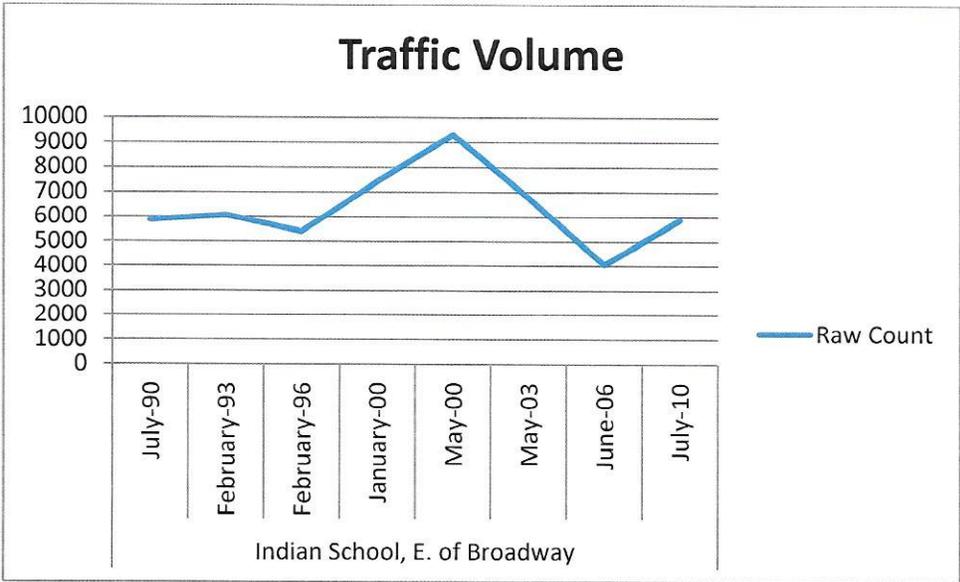
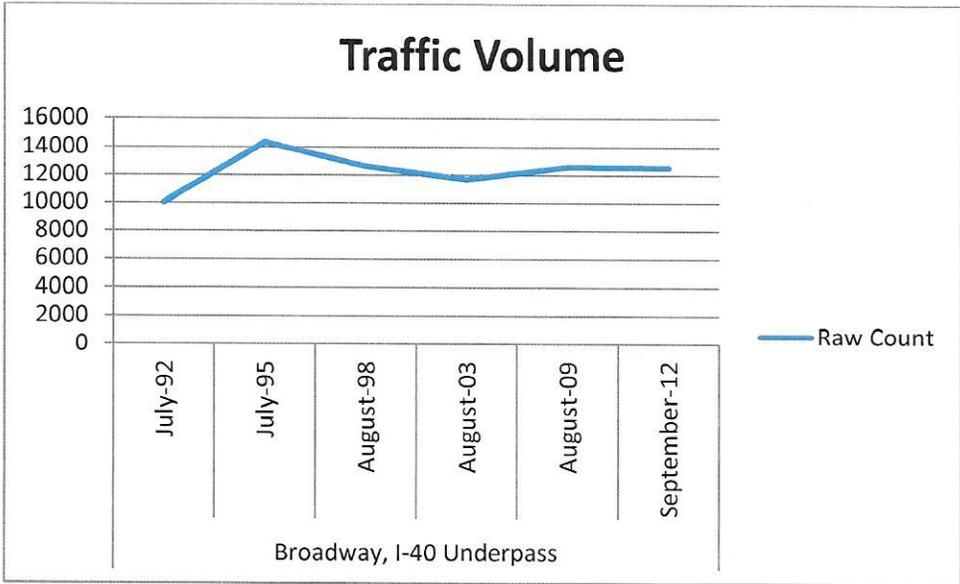
Conclusion

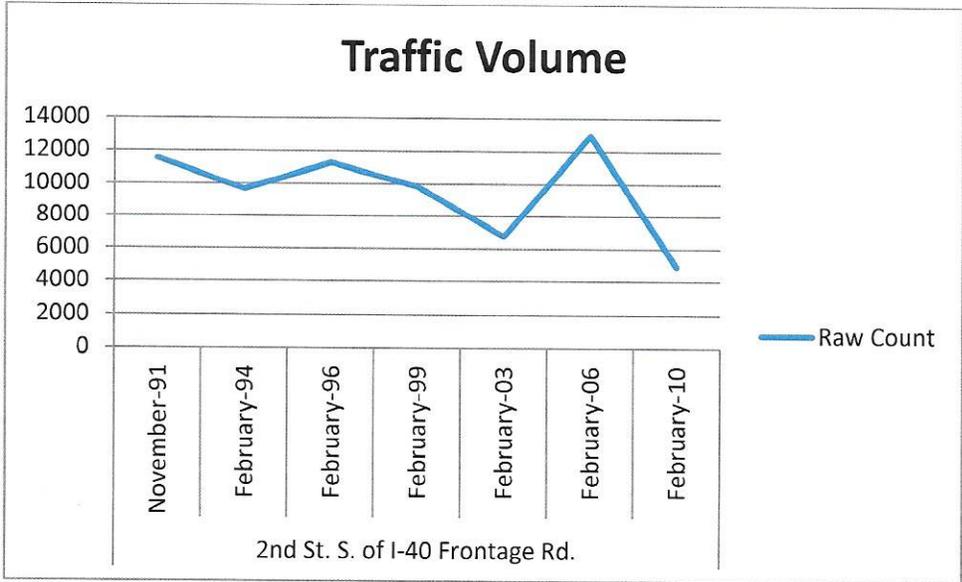
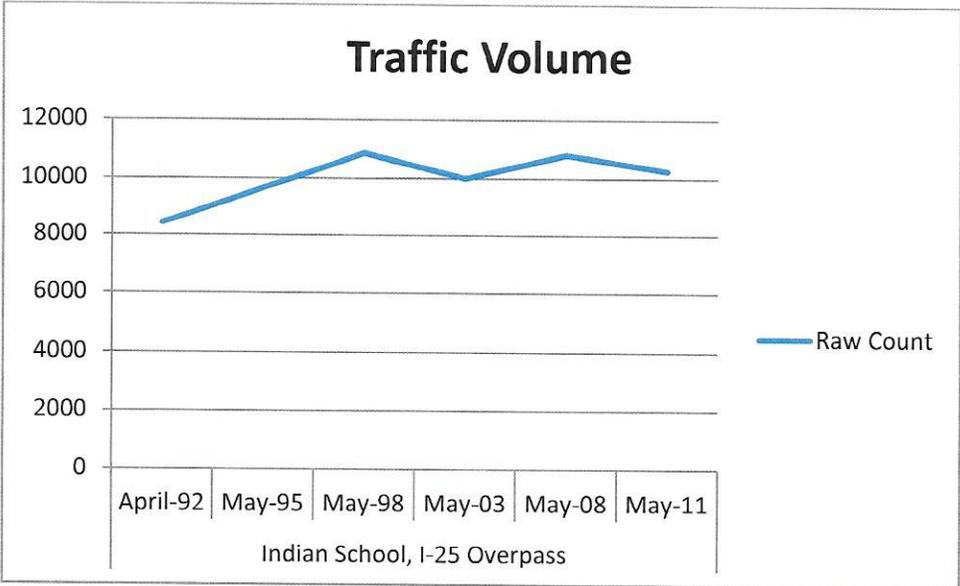
Given the data provided above we urge you to consider the ways that increased traffic, a potential result of 2012 Plan implementation, may negatively impact the health of residents living in the SB-MZ neighborhood.

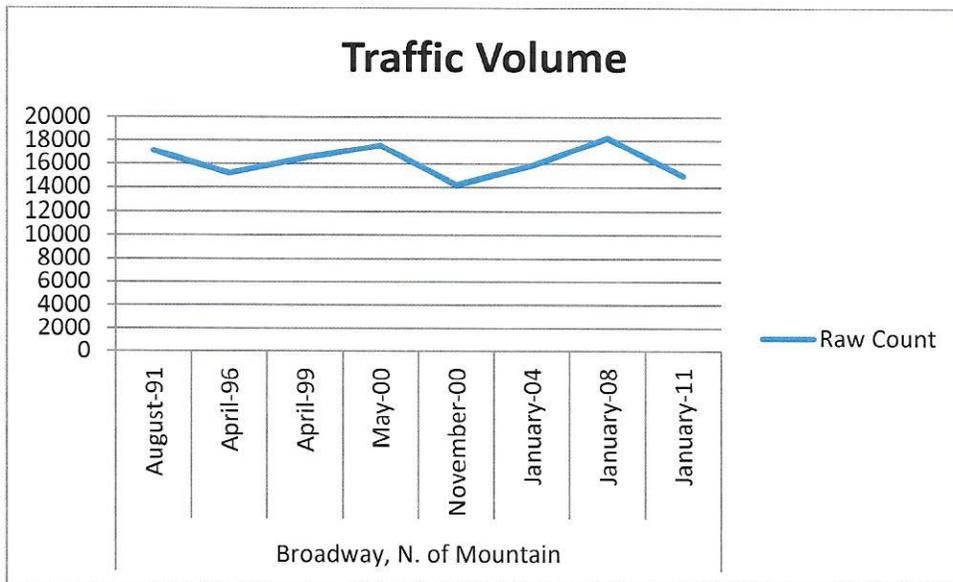
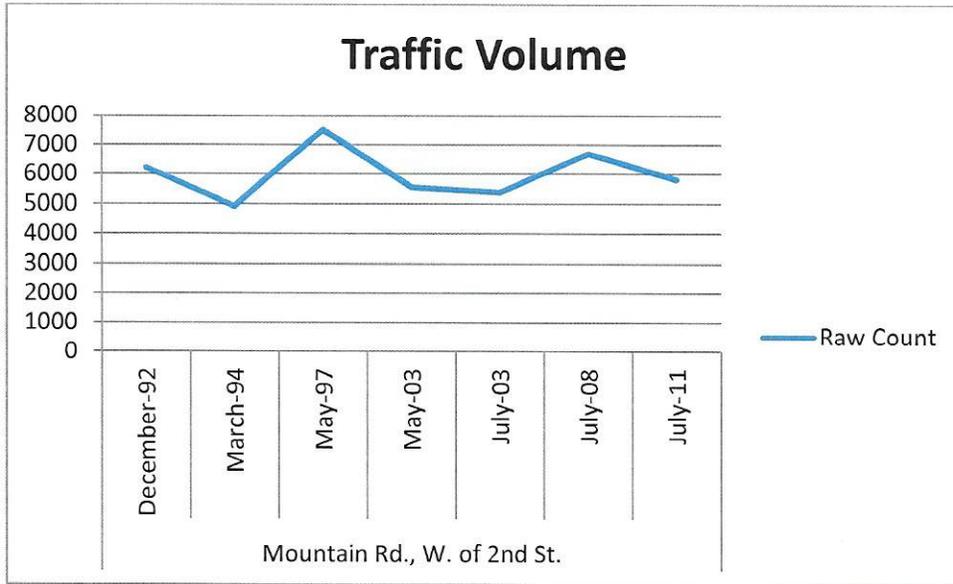
Attachment 1: Traffic Volumes by Number of Vehicles, Date and Location

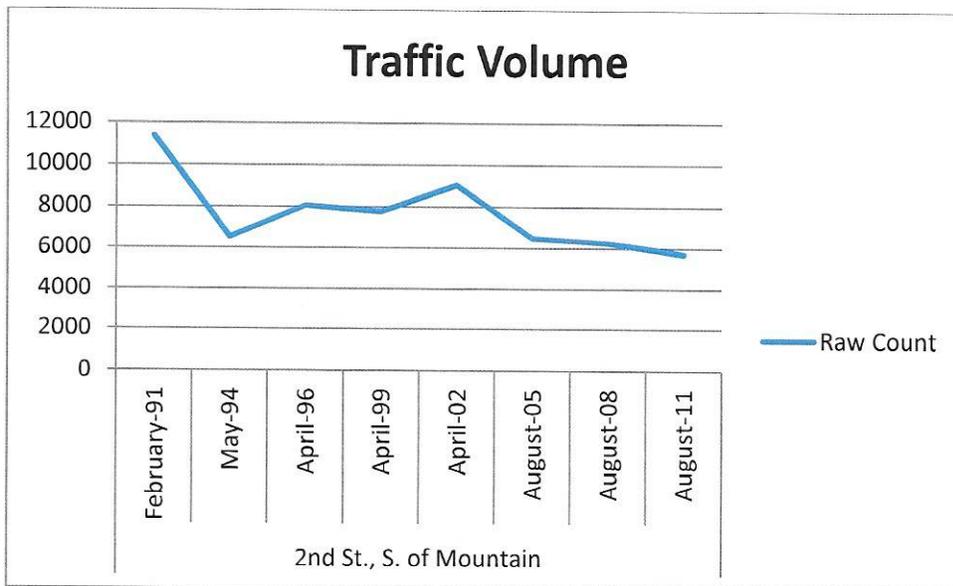
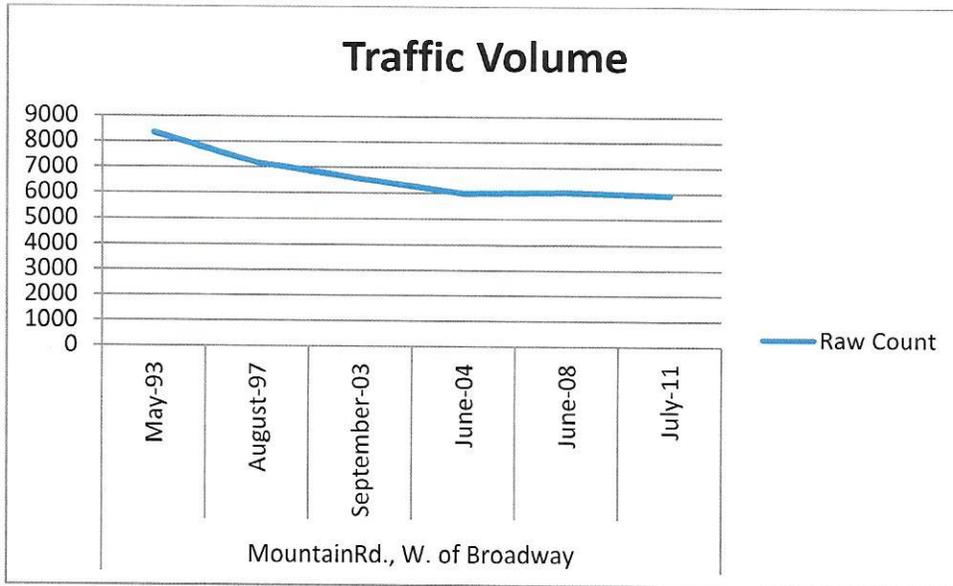


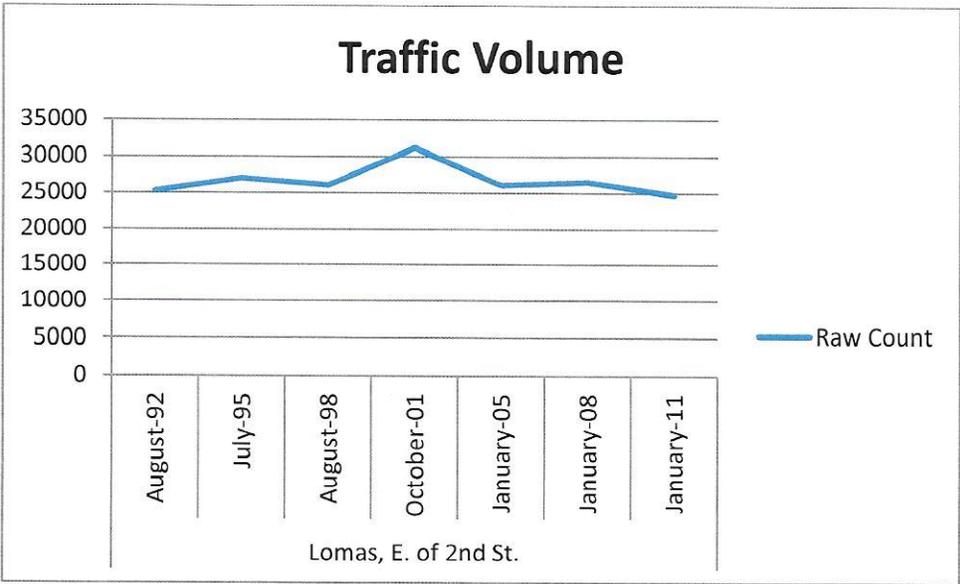
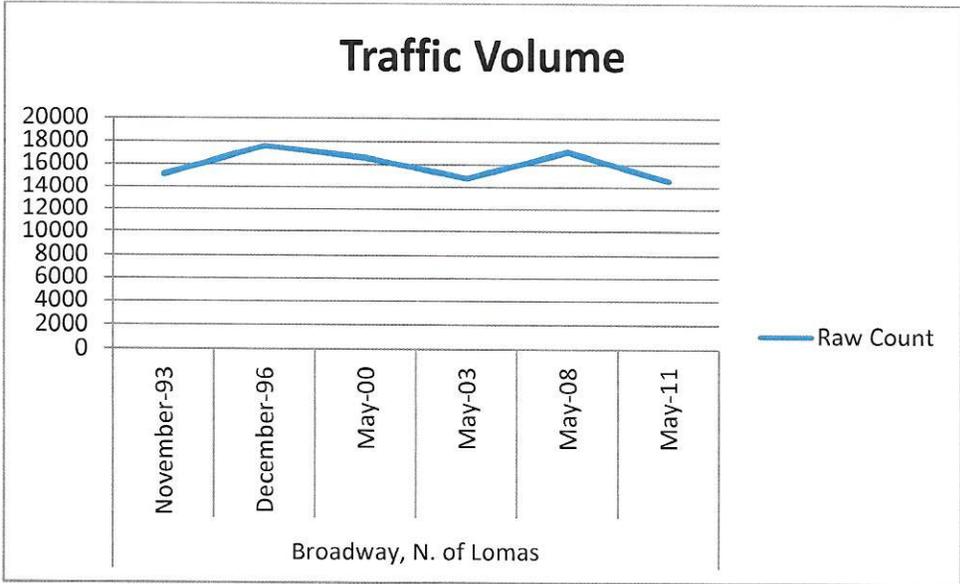




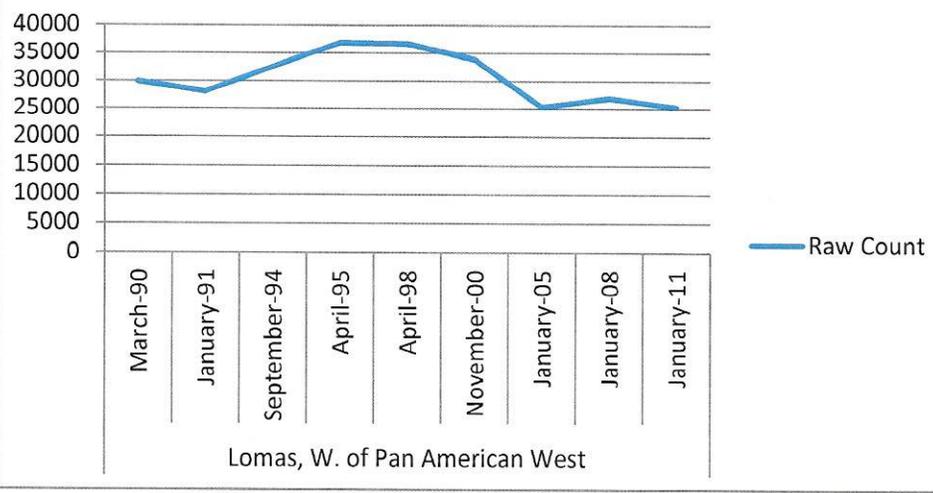








Traffic Volume



Endnotes

- ⁱ Acevedo-Garcia D, Osypuk T, McArdle N, Williams D. Toward a policy relevant analysis of geographic and racial/ethnic disparities in child health. *Health Affairs* 2008; 27:321-333.
- ⁱⁱ Joint Center for Political and Economic Studies. Place matters for health in Bernalillo County: ensuring opportunities for good health for all. Retrieved from www.bcplacematters.com.
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- ^{vi} Email correspondence by E. Webster, Mid-Region Council of Governments, May 2013.
- ^{vii} Email correspondence by E. Webster, Mid-Region Council of Governments, May 2013.
- ^{viii} Mid-Region Council of Governments, "Safety Doesn't Happen by Accident" 2011.
- ^{ix} Mid-Region Council of Governments, "Safety Doesn't Happen by Accident" 2011.
- ^x Koespell T, McCloskey L, Wolf M, Moudon AV, Buchner D, Kraus J, Patterson M. Crosswalk markings and the risk of pedestrian motor vehicle collisions in older pedestrians. *JAMA*. 2002; 288: 2136-43.
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- ^{xiv} Ewing R, Dumbaugh E. The built environment and traffic safety: a review of empirical evidence. *J of Planning Literature* 2009; 23:347-367.
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- ^{xvi} Mid-Region Council of Governments, "Safety Doesn't Happen by Accident" 2011.
- ^{xvii} Brauer M, Hoek G, Van Vilet P, et al. Air pollution from traffic and the development of respiratory infections and asthmatic and allergic symptoms in children. *Am J Resp Crit Care* 2002; 166:1092-1098.
- ^{xviii} Brunekreef B, et al. Air pollution from trucks and lung function in children living near motorways. *Epidemiology* 1997; 8:298-303.
- ^{xix} Miller K, Siscovick M, Sheppard L, Sheher K, Sullivan J, Anderson G, Kaufman J. Long-term exposure to air pollution and incidence of cardiovascular events in women. *New England J. of Medicine* 2007; 356:447-458.
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- ^{xxi} Clean Air Task Force. Diesel and health in America: the lingering threat. 2005.
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January 24 , 2019

Isaac Benton, President
Land Use, Planning, and Zoning Committee
City Council Office
One Civic Plaza, 9th Floor
Albuquerque, NM 87103

RE: Project #: 2018-001843, RZ-2018-00057 – properties #4 and #19 in the Martineztown-Santa Barbara Neighborhood Boundaries

Dear City Councilor Benton,

The Santa Barbara Martineztown Neighborhood Association (SBMTNA) appeals/protest the approval of the voluntary zoning conversion first batch of properties labeled #4 and #19. These cases were heard at the EPC January 10, 2019 hearing. The properties include the following information:

#4 According to the Assessor's office the property owner is Jesus Apodaca. The address is 1718 Broadway NE, Albuquerque, NM 87102. The current zone is MX-M and the recommended conversion is NR-C. The historical predominant land use in this area is residential single family. There is no evidence that illustrates this property was historically commercial. The property has always been historically residential in a historical predominant residential area and is right across from the City public park. The SBMTNA recommends that the property is zoned residential R-1B single family dwelling.

#19 The property owner Jerry Mitchell at 2420 Broadway NE, Albuquerque, NM 87102 has a single family dwelling zoned R-1B. The area has been historically predominant residential. The property has on record as paying residential property taxes. The SBMTNA recommends that the request is denied and the property remain R-1B. (See City of Albuquerque Comprehensive Plan, Chapter 4.1 Character, 4.1.2, 4.3.1, Chapter 5 - 5.7.5 Public Engagement

The SBMTNA recommends denial of the above mentioned cases based on the Environment Planning Commission, Section 14-16-6-3 (F)(1) was not properly followed. The City Planning Department under IDO Section 14-16-6-3(F) (2) did not follow procedures for (a), (b) (c). The General Procedures Section 14-16-6-4 (B) (1) (3) the pre-application and discussion is not included in the record. Where is the official understanding on the significant impacts on surrounding areas? Section 6-4(C)(1) Table 6-1-1 requires a meeting to all Neighborhood Associations whose boundaries include or are adjacent to the subject project site before filing the application. In such cases, project applications will not be accepted until

a neighborhood meeting has been held, or the requirements for a reasonable attempt in Subsection (3) below have been met. Section 14-16-6-4(C) (3) states a meeting request shall be sent to the 2 representatives on file at the Office Neighborhood Coordination. This information is not provided within the online records for both properties. The question is did applicants provide hard copies for the official record to EPC? Based on 14-16-6-4(C) (4), (5) (6), the SBMTNA was not allotted these discussions by the applicant. The applicant never followed neighborhood notification per EPC public process. Under Section 14-16-6-4(C) (7), the neighborhood meeting was never held and the association did not waive their right to hear the case.

The SBMTNA requested that a facilitated meeting with the applicant is held per Section 14-16-6-4(D) (1), (2), and (3).

This request for legislative adoption of zoning conversion rules for #4 and #19 property owners located in Martineztown Santa Barbara Neighborhood who have voluntarily opted into the Phase 2 Zoning Conversion established by Council Resolution 18-29 (Enactment No. R-2018-019) was not thoroughly followed. The City Planning Department did not follow IDO Section 14-16-6-7(D) (2) (a), (b). Per the IDO, Section 14-16-6-7(D) (2) (c), the Environmental Planning Commission made recommendations without the full record. The EPC did not follow Section 14-16-6-4 of General Procedures.

The property owner at #4 1718 Broadway NE, Albuquerque NM 87102 purchased this property in 2015 according to the Bernalillo County property tax records. The online aerials provide a record that the properties are historical single family dwelling land use. The 1959 aerial as part of the record also shows this property to be residential. The new property owner was very much aware of the land use requirements and intentionally created a use that was not allowed under the IDO or the zoning in 1959 or any sector development plans.

The property located at #19 at 2420 Broadway NE is in the approved residential subdivision in 1939. There is no floating line since this subdivision clearly was established for single family dwelling use. The residential boundary was created with the approval of the Franciscan Acres Subdivision, but the City arbitrarily zoned these residential lots as currently zoned MX-M. The historical predominate land has been residential for single family dwelling use. Martineztown Santa Barbara Neighborhood continues to deal with incompatible and discriminating factors.

Under the City Comprehensive Plan, Goal 4-1 Character enhances, protect, and preserve distinct communities - Martineztown Santa Barbara is a historical neighborhood and the City continues to fail and follow this goal. Under Policy 4.1.4-Neighborhoods, the City violates this policy by not enforcing the historical protection to enhance, protect and preserve the neighborhood and traditional communities as key to our long term health and vitality of the Martineztown Santa Barbara neighborhood which has historically been designated single family land use.

(Goal 4-2 and Goal 4.2.2 Process) The City of Albuquerque Comprehensive Plan and Integrated Development Ordinance was approved without participation from the whole

community. SBMTNA has a lawsuit pending and a Civil Rights Complaint because of the continued discrimination and the failure to properly notify of property owners, neighborhood association, and other members of the community. The residents have had to endure living next to incompatible uses (development) by the City of Albuquerque that impact the health, safety and welfare of the residents.

Chapter 4 – Community Identity (4.1.1-Distinct Communities) – Martneztown Santa Barbara Neighborhood is a historical residential area that has been neglected by the City of Albuquerque and this is a misrepresentation of the quality development which is not consistent with the distinct character of this community.

Policy 4.1.2-Identity and Design – The request does not promote the protection and enhancement of the Martineztown Santa Barbara neighborhood character by establishing a zoning conversion that is not appropriate and not contextual to the current land uses. The proposed zoning conversion are not compatible with surround land uses and zoning patterns as stated numerous times Martineztown is historical single family dwelling use. These requested zoning conversion counter act the distinct character of this community.

Under Goal 5-2, the zoning conversions are detrimental to the residential neighborhood and do not protect residents and more specifically children who live in and around these areas and utilize the City Martineztown Park on Hannett NE. These uses do not provide a service and is hazardous development and impact the residential area.

Under Policy 5.2.1 Land Use – the MX-T is not compatible with the residential single family area. The NR-C is detrimental to the health, safety and welfare of the residents and those visiting the park and the community. These uses bring in unwanted traffic with heavy commercial equipment on a residential street. The SBMTNA recommends a traffic study and environmental impact study to provide evidence that these uses are incompatible. A major concern is how the storage of the diesel or motor oil for commercial vehicles and disposal. This use is detrimental and hazardous to the health, safety and welfare to the residents and surrounding community.

Under Goal 5.6 (5.6.2 Areas of Change) - City Development Areas – these properties are not in Areas of Change or adjacent to it and this comment is erroneous.

Policy 5.6-3 – These properties are in Areas of Consistency and are not protected and the proposed applications counter acts the protection and enhancement to preserve the character and health, safety and welfare of the existing single family dwelling neighborhoods.

The Goal 5-7 Implementation Processes - As stated above, the applicants nor the City has followed any of the approved rules and procedures.

The City Planning Department has not provided information regarding these issues for Policy 5.7.2 – Regulatory Alignment. An IPRA request for further information of the record and additional information was submitted. As of this date, the record is not available.

Under 5.72.16 and 5.7.2.17 – There has been no outreach so far from the applicants or the City for the recommended zone change conversions. There was no regulatory alignment required for high intense use. The regulatory alignment needed to address the error the City created by not zoning the residential land use R-1 and by recommending that the current R-1b remain a historical land use of single-family dwelling.

The property owners' applications do not meet the criteria. There was no outreach on the specific properties and the EPC public process outlined in the IDO was not followed by City Planning Department.

The SBMTNA spoke with Russell Brito in December 2018 and the association was specifically told there was no application received for Martineztown Santa Barbara Neighborhood. The City never approached association to meet on these specific applications.

SBMTNA recommends denial for #4 and #19 applications based on the above reasons.

Sincerely,

Loretta Naranjo Lopez, President
SBMTNA
1420 Edith NE
Albuquerque, NM 87102
(505)270-7716

Pc: LUPZ Committee Members
Mayor Tim Keller
Senator Jerry Ortiz y Pino
Representative Javier Martinez
Angela Salazar, Attorney, Cuddy & McCarthy, LLC

parcel id	tax year	owner	address	foreign adc	city	state	zip code	school dist	country	property d	unit	agric. land
1.01E+17	2009	SEDILLO M.1718	BRO		ALBUQUER	NM	87102			MRGCD M/		0
1.01E+17	2017	APODACA J		P O BOX 25	ALBUQUER	NM	87125			MRGCD M/		0
1.01E+17	2008	SEDILLO M.1718	BRO		ALBUQUER	NM	87102			MRGCD M/		0
1.01E+17	2016	APODACA J		P O BOX 25	ALBUQUER	NM	87125			MRGCD M/		0
1.01E+17	2018	APODACA J		P O BOX 25	ALBUQUER	NM	87125			MRGCD M/		0
1.01E+17	2010	SEDILLO M.1718	BRO		ALBUQUER	NM	87102			MRGCD M/		0
1.01E+17	2011	SEDILLO M.1718	BRO		ALBUQUER	NM	87102			MRGCD M/		0
1.01E+17	2013	SEDILLO M.1718	BRO		ALBUQUER	NM	87102			MRGCD M/		0
1.01E+17	2012	SEDILLO M.1718	BRO		ALBUQUER	NM	87102			MRGCD M/		0
1.01E+17	2014	SEDILLO M.1718	BRO		ALBUQUER	NM	87102			MRGCD M/		0
1.01E+17	2015	APODACA J		P O BOX 25	ALBUQUER	NM	87125			MRGCD M/		0

full impv. v head of far full land va veteran				taxable (1/	net taxable other 4000	
81473	2000	35123	0	38862	36862	0
86726	0	53560	0	46758	46758	0
79100	2000	34100	0	37730	35730	0
84200	0	52000	0	45396	45396	0
89327	0	55166	0	48160	48160	0
83917	2000	36176	0	40027	38027	0
83917	2000	36176	0	40027	38027	0
83917	2000	36176	0	40027	38027	0
83917	2000	36176	0	40027	38027	0
86434	2000	37261	0	41227	39227	0
89027	2000	38378	0	42464	40464	0

From: [SBMTNA](#)
To: [Sanchez, Suzanna A.](#); [Patten-Quintana, Lorena](#)
Subject: Fwd: Fw: FYI - 1718 Broadway NE, VA#2020-00140, PR#2020-003906, Conditional Use for Self Storage
Date: Thursday, July 09, 2020 2:11:43 PM
Attachments: [18-5344.MartineztownSantaBarbara_1959aerials.pdf](#)
[FranciscanAcres1940.pdf](#)
[PHOTOSMAY2020.pdf](#)
[lettertozhe1718BroadwayNE620.docx](#)

Attached 1959 Aerial, 2020 photos, letter to ZHE, 1940 Franciscan Acres

The Santa Barbara Martineztown Neighborhood Association (SBMTNA) Board of Directors has attached a letter with Attachments and Exhibits to the Zoning Hearing Examiner (ZHE) in regards to case VA#2020-00140, PR#2020-003906, Conditional Use for Self Storage for 1718 Broadway NE.

The SBMTNA requests a meeting notice and zoom access to allow for comments on this case.

If you have any questions, please email or call me at (505)270-7716.

Thank you.

Loretta Naranjo Lopez, President
SBMTNA
1420 Edith NE
Albuquerque, NM 87102
(505)270-7716
sbmartineztown@gmail.com

=====
This message has been analyzed by Deep Discovery Email Inspector.



Martineztown-Santa Barbara
 Aerial photography was collected in Spring of 1959

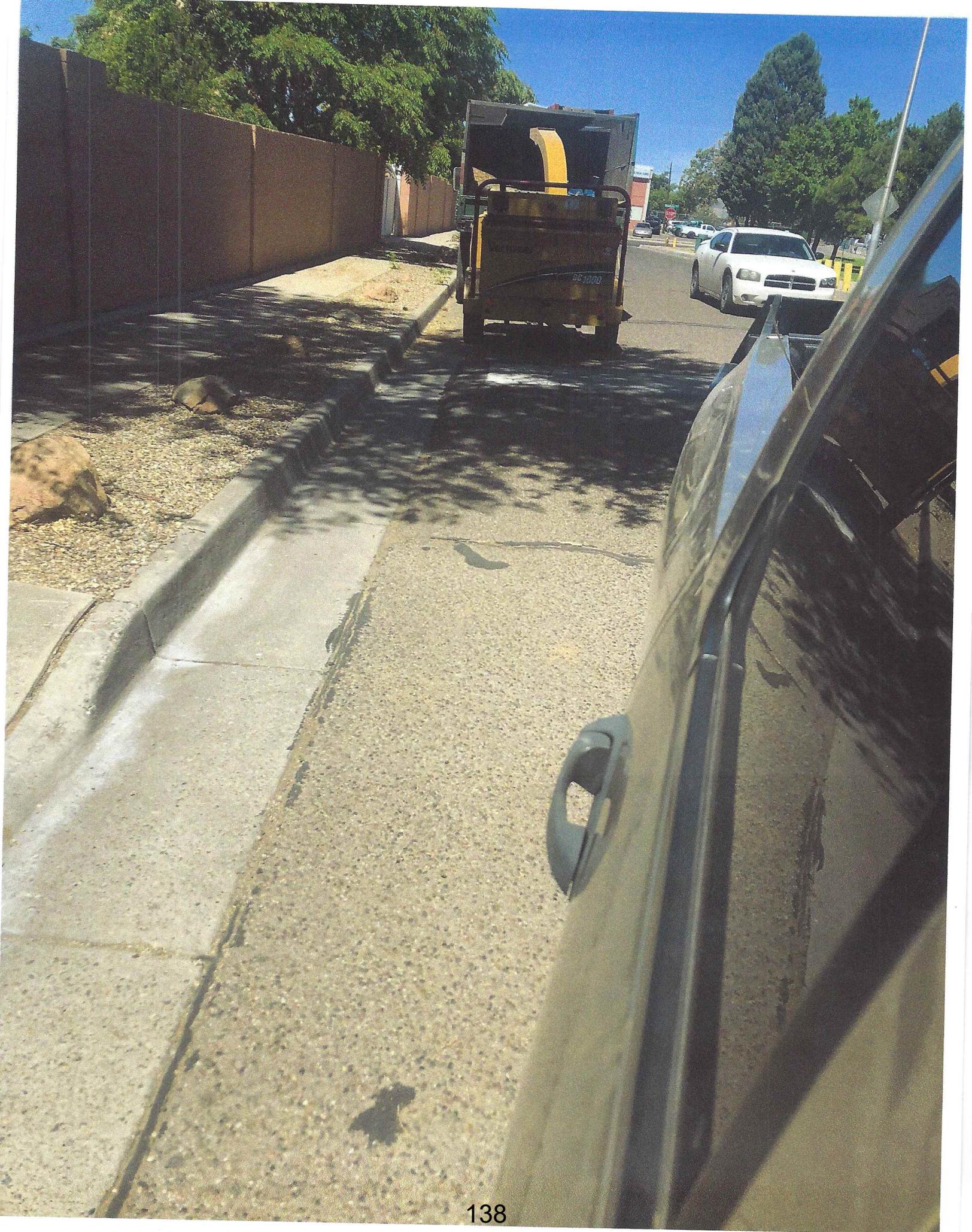
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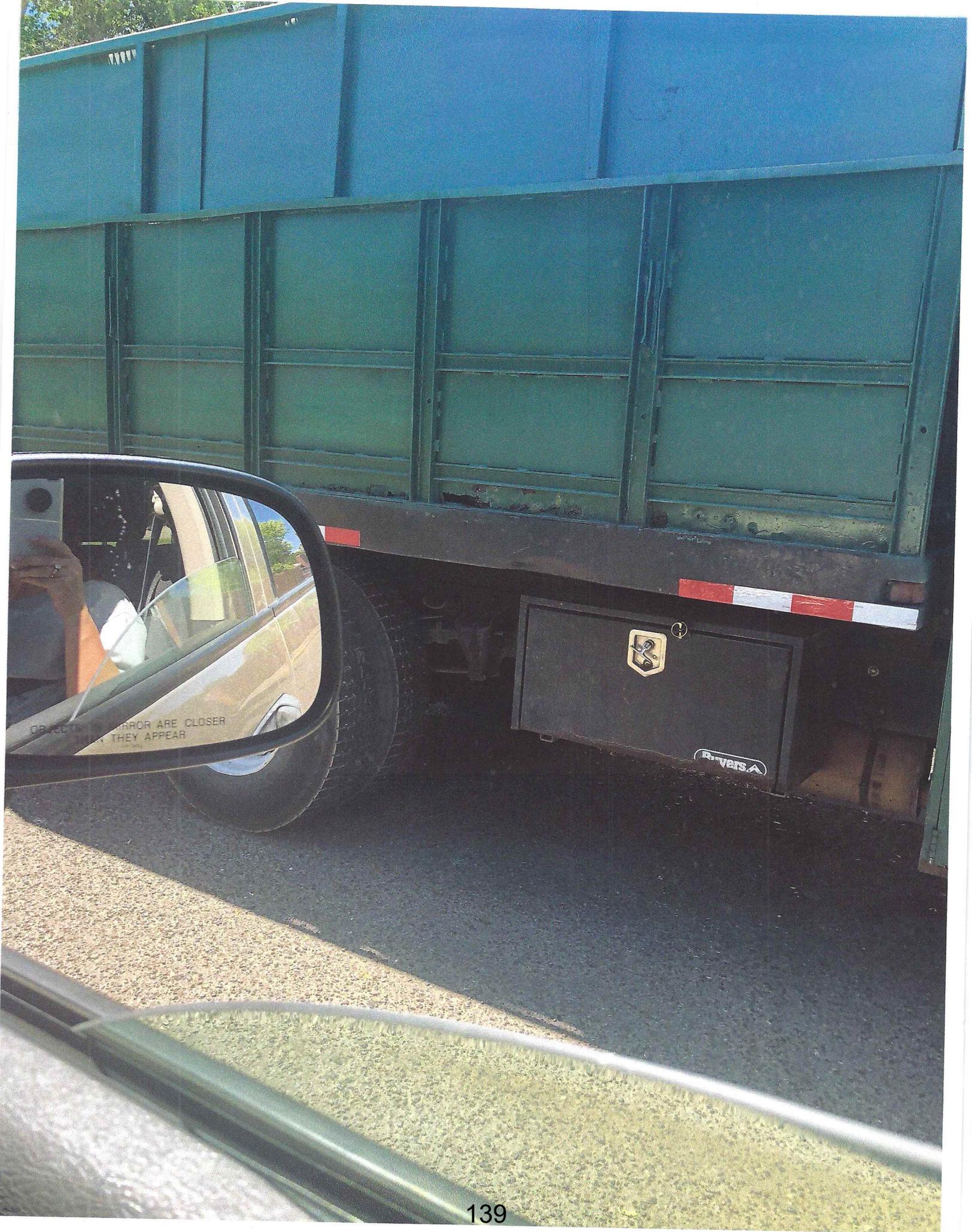
Printed: 9/20/2018




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June 15, 2020

Robert Lucero
Zoning Hear Examiner
City of Albuquerque Planning Department
600 Second Street NE
Albuquerque, NM 87102

RE: Conditional Use for Self-Storage for Tract 1-D, MRGCD Map 37, containing .41 acres, located at 1718 Broadway Blvd NE and zoned MX-M

Dear Mr. Lucero,

The Santa Barbara Martineztown Neighborhood Association (SBMTNA) met with the applicant's agent on Thursday May 21, 2020 at 5:30 pm to listen and understand what the conditional use for 1718 Broadway NE entailed. The SBMTNA board agreed to a facilitated meeting in order to better understand the application for this location of a self-storage for a construction yard in an Area of Consistency that is zoned in the Integrated Development Ordinance (IDO) MX-M. The board agreed that the more restrictive zoning is applied. A self-storage unit for contractor's yard is not allowed in the Integrated Development Ordinance (IDO), MX-M zone which allows for moderate-intensity commercial use.

After meeting with the applicant's agent, the SBMTNA board realized there are a lot of unanswered questions and voted to request denial of the applicants proposed conditional use to allow a self-storage building to store cement or other potential hazardous material(s) acquired from the State Highway systems (State of New Mexican Highway Department projects throughout New Mexico). The applicant has and continues to violate the current regulations of the IDO. The cement and materials will be stored on the property legally described as Tract 1-D, MRGCD Map 37, containing .41 acres, located at 1718 Broadway Blvd NE and zoned MX-M.

Up until the current owner purchased the subject property in 2015, the property was a historical single-family dwelling owned by the original families that settled in the neighborhood. When zoning was established, the City of Albuquerque failed to follow the State Statute and the City of Albuquerque Zoning Code to zone the historical dwelling as R-1.

Throughout the Martineztown Santa Barbara Sector Plan process in 1976 and 1990, and the draft 2010 MTSBSDP by Sites Southwest, the City of Albuquerque continued to zone Martineztown/Santa Barbara Neighborhood heavy commercial SU-2 C-3 (refers to the C-2 in the City Zone Code and R-2, See MTSDSDP). The SU-2/C-3 allowed permissively R-1. Under State Statute, the City Zoning Code, and the New IDO, the City of Albuquerque failed the Martineztown Santa Barbara residents to protect the health, safety and welfare of the neighborhood and zoned the property at 1718 Broadway NE as MX-M only allowing apartments and commercial. The single-family dwelling was made nonconforming. For this and many other reasons, the SBMTNA request that the City of Albuquerque Planning Department cease and desist the perpetuation of systemic racism against communities of color.

During the IDO process, the community requested deferral of the IDO until the recommendations outlined by the community were implemented calling for racial and ethnic equity in the planning and zoning of our communities. This request is a prime example of why the SBMTNA has filed a lawsuit. The subject property is a historical residential single-family dwelling.

The SBMTNA is concerned that the applicant has provided a one sheet 8 ½ by 11 architectural an incomplete site plan without meeting the requirements of the IDO. The site plan is very difficult to read. At the SBMTNA neighborhood meeting on May 18, 2020, the applicant's agent stated that they would be requesting a single-story self-storage structure of 20 feet high, but the Architectural site plan dated April 27, 2020 states 26" max height. The agent stated the self-storage structure is to store cement and other material(s). There is a potential of undetermined material(s) brought into the site by the applicant. The cement is hazardous material. What environmental permits under the Hazardous Product Act are required to store these and other types of material(s) that permit toxins in the air? The required streets on Hannett Avenue and Martinez Road do not allow 5-ton trucks. There is not adequate street connectivity and no mitigation of existing traffic. This request will increase vehicle miles traveled throughout the surrounding streets, and it will reduce emergency response time for residents of Martineztown Santa Barbara Neighborhood. Ingress and Egress is a concern in a narrow and small driveway. The parking spaces required are 9 spaces, but all that is shown is 8 spaces or 9 spaces is not legible. The location of the 8 spaces further narrows the driveway. Is the parking lot gravel or paved? The time of operation is a concern. Jesus Apodaca does not know when he will be coming into town or his employees to pick up, deliver, or store material(s).

For the above and attach reasons, the SBMTNA requests that this case be deferred in order to facilitate a meeting for clarity on the request. If a construction yard is not allowed on the site and the proposed self-storage is used to store construction material(s) and not vehicles, further explanation and information is needed.

According to Section 6-4(D) Facilitated Meetings. Anyone may request and the City may require the applicant to attend a City-sponsored facilitated meeting with the Neighborhood Associations, based on the complexity and potential impacts of a proposed project, a facilitated meeting is required.

If the ZHE requests that this case is heard the SBMTNA recommends denial of a construction yard to store hazardous material(s). (See attach reasons for denial)

Sincerely,

Loretta Naranjo Lopez, President

Ian Coburn, Secretary

Jesse Lopez, Treasurer

Rosalie Martinez, Board of Directors

Gilbert Speakman, Board of Directors

David Naranjo, Board of Directors

Melissa Naranjo, Board of Directors

Evelyn Bonilla, Board of Directors

ATTACHMENT 1

The reason for deferral:

The SBMTNA board is requesting deferral on the Zoning Hearing Examiner's hearing in July 21, 2020 and a facilitated meeting for the following reasons:

Based on the IDO, see Site Development Plan.

The subject property is in an Area of Consistency – the applicant is introducing a nonresidential use and incompatible use (not permitted use) in a predominant historical residential single-family property and surrounding area. The request violates 2018 NM State Statute 3-21-5 – Zoning; conformance to comprehensive plan. The statute takes precedence over the IDO. The request introduces an incompatible use that increases congestion in a residential street and public ways, does not provide safety from fire... and other dangers; does not promote the health and general welfare; increases the overcrowding of land; does not provide adequate light and air, allows the unsightly use of buildings and land. This is not the appropriate use of this land in a predominant historical residential area. This use brings other dangers to a family park and surrounding residential properties.

The Purpose of the IDO, 1-3(G) is to protect the health, safety, and general welfare of the public. According to 1-3(H) Provide for orderly and coordinated development patterns. 1-3(K) Provide reasonable protection from possible nuisances and hazards and to otherwise protect and improve public health. 1-3(L) Encourage efficient and connected transportation and circulation systems for motor vehicles, bicycles, and pedestrians. The request fails to meet these requirements.

The applicant will be setting a precedent in an Area of Consistency by changing the predominant historical residential land use of the property and creating harm to surrounding residents and their properties. Jesus and Victor Apodaca are well aware of the zoning use for at least a decade if not more. Jesus sister-in-law Christina Apodaca was a past President for SBMTNA and Robert Romero, a former Zoning Manager was also on the board. In fact, the consultants Juanita Garcia and Andrew Garcia are former employees of Robert Romero during his time as Zoning Manager. The Apodaca's are well aware and informed of what the zoning category allowed under SU-2/C-3 and have been operating illegally since the purchase of this property. SU-2/C-3 did not allow a construction yard self-storage facility in an historical residential area.

There has been no direct communication from the property owner – Jesus Apodaca. The only communication has been with the applicant's consultant. The SBMTNA board of directors were not clear on whom is the property owner and the business owner.

According to 6-4 (C)(5) at the neighborhood meeting, the applicant's agent failed to provide a complete site plan and did not provide the scope of the uses, approximate square footages for different uses, general site layout, design guidelines, architectural style, conceptual elevations, and conceptual landscaping plan.

The incomplete site plan sent in the mail is less than 8" ½ by 11" and is not legible. The agent provides the requirements of the height of building structure of 26 feet, but the agent does not provide the proposed height of 20 feet. There is not a conceptual landscaping plans, what design guidelines are provided, architectural styles, (how is it in character with the area residential garages).

The request does not provide an Environment Impact Analysis. The Environmental Health Department has not verified the risk abatement measures. The material(s) mentioned by the applicant has not been identified. The toxin from the cement or paving material is hazardous to the residents abutting the property and throughout the neighborhood.

See Part 14-16-3. Overlay Zones. CP0-7

See 14-16-4-2 A self-storage for a construction yard is not allowed. The property owner proposes to store hazardous construction yard material in an area that is surrounded with single family dwellings.

See 5-3 Access and Connectivity. A traffic analysis has not been provided. There is currently no adequate street connectivity. 5-ton trucks are not allowed on Hannett Avenue or Martinez Drive and other surrounding streets. There is no mitigation of existing traffic. This will increase vehicle miles traveled in an already congested area. The proposal will reduce emergency response time.

See 5-3(A)(7). The request doesn't have a fire and emergency analysis – there is only one exit. All other ingress or egress are historical residential streets that do not allow 5-ton trucks and cannot handle any more traffic.

See 5-3 (A)(3) and 5-3 (A)(5) Due to lack of communication from property owner or consultant– the number of vehicles were never reported (Note 5-ton trucks are not allowed along Hannett Avenue or Martinez Drive.) All vehicles need to be in an enclosed building. Hannet is next to a neighborhood park and is used by families and children, consistently.

What type of permits are required for dust suppression? There was no explanation of what type of cement or other potential hazardous material would be stored in the storage facility. Will cement be hauled on site or manufactured within the storage facility?

There is not enough property to support the use requested. The entrance from Broadway NE is extremely narrow with only one exit. The .41 acre property is not conducive for a self-storage facility for a construction yard is not allowed.

See 5-3 (D)(2) Sidewalks – The existing sidewalks do not meet the requirements.

See 5-3(C) General access and circulation. The property does not meet the Americans with Disability Act. There is no comfortable convenience circulation.

See 5-5 - How will this development be designed to protect the historical residential area?

ATTACHMENT 2

The reason for denial:

6-6(A)(1) Conditional Applicability 6-6(A)(1)(a) –During the City of Albuquerque’s pre application process, the consultant and the property owner should have been advised that a self-storage for a construction yards are not allowed in the IDO MX-M nor were they previously allowed in the old Zoning Code under SU-2/C-3. Staff’s review of the site should have immediately disqualified the site for a construction yard self- storage unit. The 0.41acre lot is not conducive for a construction yard. The review of the site would have shown illegal activity. Business vehicles allowed under the MX-M are to be stored in an enclosed building. Ingress and Egress is an issue due to the residential streets surrounding this site. The property is next to a family park. The required parking off of the driveway will narrow the driveway and it will be difficult to enter off of Broadway due to the high volume of traffic. The environmental impacts from the storage of construction material makes this use incompatible next to residential.

6-6(A)(3)(a) - *This conditional use for a self-storage to allow an illegal construction yard in an MX-M is not consistent with the adopted ABC Comp Plan as amended.* This property is located in an Area of Consistency. This is an historical residential area. The surrounding area is zoned residential R-1. As per the IDO MX-M zone, self-storage units for a construction yard are not allowed.

The proposed conditional use for a self-storage unit undermines the intent and purpose of the Albuquerque Bernalillo County Comprehensive Plan. As per the City Comprehensive Plan, Goal 4-1-the Goal is to enhance, protect and preserve distinct communities – Martineztown Santa Barbara Neighborhood is a historical residential neighborhood and the City continues to fail and follow this goal. Policy 4.1.4. – Neighborhoods, the City violates this policy by not enforcing the historical protection to enhance, protect and preserve the historical residential neighborhood and traditional communities as key to our long term. Based on this Goal, the more restrictive zoning is required to be applied.

The Albuquerque Comprehensive Plan Part 14-16-1 General Provisions Purpose 1-3(A-L), The purpose is to protect the quality and character of residential neighborhoods; 1-3(G) Protect the health, safety, and general welfare of the public; 1-3(J) Implement a connected system of parks , trails, and open spaces to promote improved outdoor activity and public health; 1-3(K) Provide reasonable protection from possible nuisances and hazards and to otherwise protect and improve public health; Provide reasonable protection possible nuisances and hazards and to otherwise protect and improve public health; Encourage efficient and connected transportation and circulation systems for motor vehicles, bicycles, and pedestrians. Attached is the Martineztown Santa Barbara Health Impact Study that shows how the City of Albuquerque continues to fail Part 14-6-1 General Provisions Purpose and also the history of the sector plans that continued to zone historical residential dwellings with heavy commercial and industrial zoning.

In the Comp Plan Introduction on Environmental justice: After making significant gains in protecting our natural environment, we will need to continue to develop and implement strategies

to address the environmental health hazards that affect vulnerable populations more severely in some areas of our community.

Part 1.4 Legal Purpose of the Comp Plan states the Comp Plan is the general plan for Albuquerque and Bernalillo County, ... Its statutory purpose, in NMSA 1978, Section 3-19-9(A), is “to guide and accomplish a coordinated, adjusted and harmonious development of the City, which will, in accordance with existing, and future needs, best promote health, safety, morals, other, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development.” Article IX of Albuquerque’s City Charter, adopted in 1971, requires that City officials “in the interest of the public in general shall protect and preserve environmental features such as water, air, and other natural endowments, ensure the proper use and development of land, and promote and maintain an aesthetic and humane urban environment.” The City of Albuquerque has failed in Martineztown Santa Barbara Neighborhood to follow these provisions.

The Albuquerque Comprehensive Plan, Chapter 5, Land Use, 5.1.1 Introduction states “In general, it is important to protect public health and safety by separating residential and industrial land uses and ensuring adequate buffering, separation distances, or mitigation measures between incompatible uses.” A storage unity for a contractor’s yard is an incompatible use; Policy 5.6.3 (a-j) “Areas of Consistency: Protect and enhance the character of existing single-family neighborhoods...”;

Chapter 13, Resilience & Sustainability, Section on Air Quality states that since Albuquerque is located in a river valley bounded by a high mountain range to the east, Albuquerque's geographic location, mile-high altitude, and meteorological conditions such as canyon winds affect Albuquerque’s air quality. Martineztown Santa Barbara Neighborhood is bounded by Interstate 25 to the east and Interstate 40 to the west. A Health Impact Study done for Martineztown Santa Barbara Neighborhood indicates that Martineztown Santa Barbara Neighborhood is an already vulnerable area and any more concentrated pollution such as storage facility for a contractor’s yard is detrimental to the health, safety, and welfare of the neighborhood.

There has also been study done on the ground level pollution that has travelled from Wells Park which is a grave concern because it has travelled down to Martineztown Santa Barbara Neighborhood and is near this area. There already is high level of concentrated air pollution without any accountability by the State of New Mexico and City of Albuquerque.

6-6(A)(3)(b) It does not comply with all applicable provisions of this IDO. The request was denied to change zone to nonresidential by City Council during the Zoning Conversion process. The nonresidential zone also does not allow a construction yard. The SBMTNA appealed the decision by EPC. See reasons for the appeal which is the same reasons for denial with this request. A self-storage unit for a construction yard is not allowed and is incompatible next to residential uses. The illegal commercial use for a construction yard and the request for a conditional use for a self-storage to continue the illegal construction yard will set precedent in an area that has continued to be predominantly historical R-1 single-family dwellings.

6-6(A)(3)(c) *It will create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.* The self-storage unit is unsightly. The noise and vibration of the trucks is not in harmony with the residential area and for the family and children enjoying the parks.

6-6(A)(3)(d) *It will create material adverse impacts on the land in the surrounding area through increases in traffic congestion, parking congestion, noise or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts.* The trucks will bring noise and vibration without sufficient mitigation at all hours of the night. The traffic congestion on Broadway exceeds the limits. The streets in Martineztown are already congested and companies that drive 5-ton trucks already violate the law. There is no enforcement. How are you going to protect the residents from an area that is exasperated with noise, air pollution that exceeds the limits in an area that is predominantly historical single-family dwelling.

An environmental impact study is required. What type of material will be stored in the building? The cement taken out of the highways or cement that is being made on the site? How many trucks and what type of trucks will be entering and leaving into property? Diesel trucks over 5 tons are not allowed on Hannett Avenue or Martinez Road NE.

6-6(a)(3)(e) *It will increase non-residential activity within 300 feet of a lot in any Residential zone district between the hours of 8:00 pm and 6:00 am.* The residents are sleeping at this time. There should not be any incompatible use activity near the residents during this time.

6-6(A)(3)(f) *It will negatively impact pedestrian or transit connectivity without appropriate mitigation. This request will negatively affect pedestrian connectivity.* The sidewalks are not wide enough along this area. The residential streets are narrow and not wide enough to accommodate this type of use. Also, it is illegal to use 5-ton trucks on Hannett Avenue and Martinez Road and all other surrounding this property. Along Broadway NE which is an arterial, the sidewalks need to be widened. There needs to be trees planted to give a barrier when pedestrians are walking along Broadway NE. It is my understanding that bus routes were proposed to go down Broadway NE. I will need to ask Transit what is future proposal for Broadway NE. If bus stops are at this site this will negatively affect transit rides from the sudden stops to enter the narrow driveway at 1718 Broadway NE.

A traffic study will be required since there is only one narrow entrance off Broadway NE in an arterial street that is already highly congested.

Attachment 3

Response to:

Section 14-16-4-3

Use-Specific Standards:

4-3(D)(28)(a) Self Storage. The self-storage unit for a construction yard is not allowed.

4-3(D)(28)(a) All storage shall be within a building. No outdoor storage of goods or vehicles is allowed. The property owner currently violates this requirement. What type of enforcement will be applied? There is currently no enforcement in our area. The other issues are how does this design of the structure keep in character with the residential area. The material that will be stored in the structure will be in violation of the IDO General Purpose to protect the health, safety and welfare of the neighborhood.

4-3(D)(28)(b). An opaque wall or fence at least 6 feet and no more than 8 feet high or a vegetated buffer at least 50 feet in width shall be provided along any lot line that abuts residential zone district or lot containing residential use in any mixed-use zone district. There is a fence that surrounds the property, but the site plan does not meet these requirements. There is no landscaping plan to review so this requirement has not been addressed.

4-3(D)(28)(c) Security fencing shall not include razor wire or barbed wire. Razor wire or barbed wire are unsightly and will be out of character with the residential area.

4-3(D)(28)(d) Public access to any storage units within 100 feet of any residential zone district or lot containing a residential use in any mixed-use zone district is not allowed between 10 pm and 7 am. This will be difficult to enforce since the property is surrounded by residential roads that do not allow 5-ton trucks. Jesus Apodaca has reported that he works on State Highways. He does not know when he will be coming in with hazardous material.

4-3(D)(28)(e). In the MX-L, MX-M, MX-H, and MX-FB zone districts, and on lots in the NR-C zone district with a UC-AC-MS-PT area, access to individual storage units shall be through interior corridors; direct access to individual units from outdoor areas is not allowed. How will this be enforced when there is an entrance off of Hannett Avenue NE and Martinez Road which are residential streets. The main entrance from Broadway NE is already narrow.

4-3(D)(28)(f) In the NR-C zone district outside of UC-MS-PT areas, exterior doors to individual storage units shall not face any abutting street frontage, or, if the site is located on a corner parcel, shall not face the primary street frontage. This criterion does not apply since it is in an MX-M zone. However, Hannett Avenue is a residential street and the applicant cannot enter into this side of the street with 5-ton trucks.

EXHIBITS

1. Letter to Isaac Benton, City Councilor, January 24, 2019
2. Bernalillo County Assessors Tax Information
3. Bernalillo County Assessors Satellite View from 2018, 2016, 2015, 2005
4. Neighborhood Aerial 1959
5. Photos from Zillowstatic.com, 2019 – inside and outside view of single-family dwelling
6. Photo taken May 22, 2020 at 11:09 am of 5-ton truck on Hannett Avenue a residential street.

Steps to apply for a Special Exception to the Integrated Development Ordinance,

<http://documents.cabq.gov/planning/zoning-hearing-examiner/2019/October/Application%20Instructions.pdf>

- 7.
8. Sections of the Albuquerque Comprehensive Plan to refer to:
 - a. Chapter 4 – Community Identity
 - b. Chapter 5 – Land Use
 - c. Chapter 13 – Resiliency and Sustainability
9. Sections of the IDO to refer to
 - a. Part 14-16-1 General Provision (pgs. 1-2)
 - b. Part 14-16-2 Zone Districts, 2-4(C) (pgs. 27-28)
 - c. Part 14-16-3 Overlay Zone, 304 (H) (pgs. 89-90)
 - d. Part 14-16-4 Use Regulations, 4-3(D)(28) Self Storage (pgs. 154-155)
 - e. Part 14-16-6 General Procedures, 6-4 General Procedures (pgs. 339-340)
 - f. Part 14-16-6 Administrative and Enforcement, 6-6(A) Conditional Use Approval (pgs. 385-386)
 - g. Part 14-16-7 Definitions and Acronyms,
 - i. Area of Change and Area of Consistency pg. 447
 - ii. Construction Contractor Facility Yard pg. 455
 - iii. Plat, pg. 484
 - iv. Self-Storage pg. 488
 - v. Site Plan pg. 493
10. Health Impact Study for Martineztown
11. Martineztown/Santa Barbara Neighborhood Sector Development Plan, SU-2/C-3, specific C-2 requirements and site plan requirements-
<http://documents.cabq.gov/planning/UDD/CompPlan2017/SectorPlans/Martineztown-SantaBarbaraSDP-REPEALED.pdf>

Sanchez, Suzanna A.

From: SBMTNA <sbmartineztown@gmail.com>
Sent: Thursday, July 09, 2020 2:26 PM
To: Sanchez, Suzanna A.; Patten-Quintana, Lorena
Cc: Ian Colburn; Jesse Lopez Member; Evelyn BonillaMontñez; Rosalie Martinez; gilbert speakman; David Naranjo; Melissa Murillo-Naranjo
Subject: Fwd: Fw: FYI - 1718 Broadway NE, VA#2020-00140, PR#2020-003906, Conditional Use for Self Storage
Attachments: PHOTOSMAY2020.pdf; 2018NMSTATUTESZONING.pdf; lettertothe1718BroadwayNE620.docx

1718 Broadway NE, VA#2020-00140, PR#2020-003906, Conditional Use for Self Storage

The Santa Barbara Martineztown Neighborhood Association (SBMTNA) Board of Directors has attached a letter to the ZHE dated July 9, 2020. The Attachments and Exhibits to the Zoning Hearing Examiner (ZHE) in regards to case VA#2020-00140, PR#2020-003906, Conditional Use for Self Storage for 1718 Broadway NE will be sent in separate emails. There are 11 attachments.

The SBMTNA requests a meeting notice and zoom access to allow for comments on this case.

If you have any questions, please email or call me at (505)270-7716.

Thank you.

Loretta Naranjo Lopez, President
SBMTNA
1420 Edith NE
Albuquerque, NM 87102
(505)270-7716
sbmartineztown@gmail.com

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This message has been analyzed by Deep Discovery Email Inspector.

Laws & Legal Resources.

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2018 New Mexico Statutes Chapter 3 - Municipalities Article 21 - Zoning Regulations Section 3-21-5 - Zoning; conformance to comprehensive plan.

Universal Citation: NM Stat § 3-21-5 (2018)

3-21-5. Zoning; conformance to comprehensive plan.

A. The regulations and restrictions of the county or municipal zoning authority are to be in accordance with a comprehensive plan and be designed to:

- (1) lessen congestion in the streets and public ways;
- (2) secure safety from fire, flood waters, panic and other dangers;
- (3) promote health and the general welfare;
- (4) provide adequate light and air;
- (5) prevent the overcrowding of land;
- (6) avoid undue concentration of population;

(7) facilitate adequate provision for transportation, water, sewerage, schools, parks and other public requirements; and

(8) control and abate the unsightly use of buildings or land.

B. The zoning authority in adopting regulations and restrictions shall give reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and to conserving the value of buildings and land and encouraging the most appropriate use of land throughout its jurisdiction.

History: 1953 Comp., § 14-20-3, enacted by Laws 1965, ch. 300; 1970, ch. 52, § 2.

ANNOTATIONS

Comprehensive planning. — A comprehensive plan need not be contained in one document. It may be comprised of several or no documents. It may be found within the ordinance itself where the zoning authority has not enacted a prior comprehensive plan and that absence of a formally adopted comprehensive plan does substantially weaken the presumption of regularity of any zoning ordinance enacted without it. *Watson v. Town Council of Town of Bernalillo*, 1991-NMCA-009, 111 N.M. 374, 805 P.2d 641.

Comprehensive plan may be found within zoning ordinance itself where the zoning authority has not enacted a prior comprehensive plan. *Board of Cnty. Comm'rs v. City of Las Vegas*, 1980-NMSC-137, 95 N.M. 387, 622 P.2d 695.

Major reason for requiring comprehensive plan is to ensure that there will not be loose determinations of land utilization of comparatively small sections of the community. *Board of Cnty. Comm'rs v. City of Las Vegas*, 1980-NMSC-137, 95 N.M. 387, 622 P.2d 695.

Advisory nature of master plan. — The phrase "in accordance with", in Subsection A, requires land use planning regulations to be guided by, and consistent with, a master plan, but it does not mean that the legislature intended city master plans to be strictly adhered to in the same manner as a statute, ordinance, or agency regulation. *West Bluff Neighborhood Ass'n v. City of Albuquerque*, 2002-NMCA-075, 132 N.M. 433, 50 P.3d 182, *overruled by Rio Grande Chapter of Sierra Club v. N.M. Mining Comm'n*, 2003-NMSC-005, 133 N.M. 97, 61 P.3d 806.

Absence of adopted plan weakens presumption of zoning regularity. — Absence of a formally adopted comprehensive plan does substantially weaken the presumption of

regularity of any zoning ordinance enacted without it. *Board of Cnty. Comm'rs v. City of Las Vegas*, 1980-NMSC-137, 95 N.M. 387, 622 P.2d 695.

Ordinance invalid absent evidence of plan. — Where there was no evidence before the trial court demonstrating that a county land fill ordinance included a comprehensive plan, but, to the contrary, both the express statements in the ordinance and the evidence before the trial court show that the disputed ordinance was not enacted in accordance with such a plan, the ordinance was struck down as invalid. *Board of County Comm'rs v. City of Las Vegas*, 1980-NMSC-137, 95 N.M. 387, 622 P.2d 695.

Comprehensive planning. — A county zoning ordinance was valid where the county had a comprehensive plan in substance if not form at the time the ordinance was enacted. *Bogan v. Sandoval Cnty. Planning and Zoning Comm'n*, 1994-NMCA-157, 119 N.M. 334, 890 P.2d 395, cert. denied, 119 N.M. 168, 889 P.2d 203.

Presumption of validity. — A zoning ordinance is attached with a presumption of validity. The burden is on a sign owner to overcome this presumption by proving that an ordinance is not reasonably related to its stated purpose. *Temple Baptist Church, Inc. v. City of Albuquerque*, 1982-NMSC-055, 98 N.M. 138, 646 P.2d 565.

Presumption of correctness regarding initial zoning. — There is a presumption that the initial determination of the type of zoning for a given property is the correct one. *Miller v. City of Albuquerque*, 1976-NMSC-052, 89 N.M. 503, 554 P.2d 665.

There is a substantial distinction between amendments to a zoning ordinance as contrasted to ordinances enacting comprehensive zoning; the fundamental justification for an amendatory or repealing zoning ordinance is a change of conditions making the amendment or repeal reasonably necessary to protect the public interest, with another function being the covering and perfecting of previous defective ordinances or correcting mistakes or injustices therein. *Miller v. City of Albuquerque*, 1976-NMSC-052, 89 N.M. 503, 554 P.2d 665.

Ordinance establishing exceptions. — A county ordinance which among other things establishes certain limited special exceptions is an integral part of the plan required under this section, and the main objectives of requiring that a special permit be obtained before a use of land is commenced are to protect adjoining property and to insure the orderly and efficient development of the community. *Burroughs v. Board of Cnty. Comm'rs*, 1975-NMSC-051, 88 N.M. 303, 540 P.2d 233.

Aesthetics justify exercise of police power. — Aesthetic considerations alone justify the exercise of the police power. Ordinances must still, however, be construed for their reasonableness in relation to aesthetic purposes. Moreover, if the ordinance in question impinges on a fundamental right, then the ordinance must "directly advance" the interests of aesthetics. *Temple Baptist Church, Inc. v. City of Albuquerque*, 1982-NMSC-055, 98 N.M. 138, 646 P.2d 565.

Sign ordinance held reasonably related to proper governmental goals. — A sign ordinance regulating the size, height and number of signs is reasonably related to the proper governmental goals of aesthetics and traffic safety. *Temple Baptist Church, Inc. v. City of Albuquerque*, 1982-NMSC-055, 98 N.M. 138, 646 P.2d 565 (1982).

Purpose of a municipal historical zoning ordinance was within the term "general welfare," as used in municipal zoning enabling legislation. *City of Santa Fe v. Gamble-Skogmo, Inc.*, 1964-NMSC-016, 73 N.M. 410, 389 P.2d 13.

Judicial review. — The district court may not substitute its judgment for that of the board of commissioners, but when it was made to appear by the affidavits and other matters in the record that the board may have improperly failed to consider the matters which it was required to consider in making the zoning change, then a question of fact was presented on the issue of the arbitrariness of the board in granting the special use permit, and it was improper for the court to grant summary judgment and thereby resolve this issue as a matter of law. *Cinelli v. Whitfield Transp., Inc.*, 1971-NMSC-103, 83 N.M. 205, 490 P.2d 463.

Law reviews. — For note, "County Regulation of Land Use and Development," see 9 Nat. Resources J. 266 (1969).

For article, "Existing Legislation and Proposed Model Flood Plain Ordinance for New Mexico Municipalities," see 9 Nat. Resources J. 629 (1969).

For note, "Subdivision Planning Through Water Regulation in New Mexico," see 12 Nat. Resources J. 286 (1972).

For article, "Solar Rights and Their Effect on Solar Heating and Cooling," see 16 Nat. Resources J. 363 (1976).

For article, "Survey of New Mexico Law, 1982-83: Land Use Planning/Zoning," see 14 N.M.L. Rev. 183 (1984).

Am. Jur. 2d, A.L.R. and C.J.S. references. — Requirement that zoning variances or exceptions be made in accordance with comprehensive plan, 40 A.L.R.3d 372.

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July 9, 2020

Robert Lucero
Zoning Hear Examiner
City of Albuquerque Planning Department
600 Second Street NE
Albuquerque, NM 87102

RE: Conditional Use for Self-Storage for Tract 1-D, MRGCD Map 37, containing .41 acres, located at 1718 Broadway Blvd NE and zoned MX-M

Dear Mr. Lucero,

The Santa Barbara Martineztown Neighborhood Association (SBMTNA) met with the applicant's agent on Thursday May 21, 2020 at 5:30 pm to listen and understand what the conditional use for 1718 Broadway NE entailed. The SBMTNA board agreed to a facilitated meeting in order to better understand the application for this location of a self-storage for a construction yard in an Area of Consistency that is zoned in the Integrated Development Ordinance (IDO) MX-M. The board understands that the more restrictive zoning code are applied to the land use. A self-storage unit for materials (hazardous) for contractor's yard is not allowed in the Integrated Development Ordinance (IDO), MX-M zone which allows for moderate-intensity commercial use.

After meeting with the applicant's agent, the SBMTNA board realized there are still a lot of unanswered questions and voted to request denial of the applicants proposed conditional use to allow a self-storage building to store cement or other potential hazardous material(s) acquired from the State Highway systems (State of New Mexican Highway Department projects throughout New Mexico). The applicant's agent has not provided the full scope of the development of this property. The applicant has and continues to violate the current regulations of the IDO. The cement and materials continue to be stored on the property legally described as Tract 1-D, MRGCD Map 37, containing .41 acres, located at 1718 Broadway Blvd NE and zoned MX-M.

Up until the current owner purchased the subject property in 2015, the property was a historical single-family dwelling owned by the original families that settled in the neighborhood. When zoning was established, the City of Albuquerque failed to follow the State Statute to protect the health, safety and welfare of residents and the City of Albuquerque Zoning Code to zone the historical dwelling as R-1.

Throughout the Martineztown Santa Barbara Sector Plan process in 1976 and 1990, and the draft 2010 MTSBBDP by Sites Southwest, the City of Albuquerque continued to zone Martineztown/Santa Barbara Neighborhood heavy commercial SU-2 C-3 (refers to the C-2 and the R-2 in the City of Albuquerque Zone Code, See MTSBBDP). The SU-2/C-3 allowed permissively R-1. Under State Statute, the City Zoning Code, and the New IDO, the City of Albuquerque failed the Martineztown Santa Barbara residents to protect the health, safety and welfare of the neighborhood and zoned the property at 1718 Broadway NE as MX-M only allowing apartments and commercial. The single-family dwelling was made nonconforming. For this and many other reasons, the SBMTNA request that the City of Albuquerque Planning Department cease and desist the perpetuation of systemic racism against communities of color.

During the IDO process, the community requested deferral of the IDO until the recommendations outlined by the community were implemented calling for racial and ethnic equity in the planning and

zoning of our communities. This request is a prime example of why the SBMTNA has filed a lawsuit. The subject property is in a predominantly historical residential single-family dwelling neighborhood.

The SBMTNA is concerned that the applicant has provided a one sheet 8 ½ by 11 an incomplete site plan without meeting the requirements of the IDO. The site plan is very difficult to read and is not scale as reflected by the Architectural site plan submitted by the applicant's agent. At the SBMTNA neighborhood meeting on May 18, 2020, the applicant's agent stated that they would be requesting a single-story self-storage structure of 20 feet high, but the Architectural site plan dated April 27, 2020 states 26"max height. The agent stated the self-storage structure is to store cement and other material(s). There is undetermined material(s) brought into the site by the applicant. The cement is hazardous material. What environmental permits under the Hazardous Product Act are required to store these and other types of material(s) that permit toxins in the air? The required streets on Hannett Avenue and Martinez Road do not allow 5-ton trucks. There is not adequate street connectivity and no mitigation of existing traffic. This request will increase vehicle miles traveled throughout the surrounding streets, and it will reduce emergency response time for residents of Martineztown Santa Barbara Neighborhood. Ingress and Egress is a concern in a narrow and small driveway. The parking spaces required are 9 spaces, but all that is shown is 8 spaces or 9 spaces is not legible. The location of the 8 spaces further narrows the driveway. Is the parking lot gravel or paved? The time of operation is a concern. Jesus Apodaca does not know when he will be coming into town or his employees to pick up, deliver, or store material(s).

For the above and attach reasons (exhibits to include definitions), the SBMTNA requests that this case be deferred in order to facilitate a meeting for clarity on the request. If a construction yard is not allowed on the site and the proposed self-storage is used to store construction material(s) and not vehicles, further explanation and information is needed.

According to Section 6-4(D) Facilitated Meetings. Anyone may request and the City may require the applicant to attend a City-sponsored facilitated meeting with the Neighborhood Associations, based on the complexity and potential impacts of a proposed project, a facilitated meeting is required.

The SBMTNA Board recommends denial of a construction yard to store hazardous material(s) and requests the ZHE to require a facilitated meeting for the neighborhood, the applicant, and his agent. (See Attachments 1, 2 and 3 and Exhibits for denial of the request.)

Sincerely,

Loretta Naranjo Lopez, President

Ian Coburn, Secretary

Jesse Lopez, Treasurer

Rosalie Martinez, Board of Directors

Gilbert Speakman, Board of Directors

David Naranjo, Board of Directors

Melissa Naranjo, Board of Directors

Evelyn Bonilla, Board of Directors

ATTACHMENT 1

The reason for deferral:

The SBMTNA board is requesting deferral on the Zoning Hearing Examiner's hearing in July 21, 2020 and a facilitated meeting for the following reasons:

Based on the IDO, see Site Development Plan.

The subject property is in an Area of Consistency – the applicant is introducing a nonresidential use an incompatible use (not permitted use) in a predominantly historical residential single-family property and surrounding area. The request violates 2018 NM State Statute 3-21-5 – Zoning; conformance to comprehensive plan. The Statute takes precedence over the IDO. The request introduces an incompatible use that increases congestion in a residential street and public ways, does not provide safety from fire... and other dangers; does not promote the health and general welfare; increases the overcrowding of land; does not provide adequate light and air, allows the unsightly use of buildings and land. This is self-storage for a construction yard not the appropriate use of this land in a predominant historical residential area. This use brings other dangers to a family park and surrounding residential properties.

The Purpose of the IDO, 1-3(G) is to protect the health, safety, and general welfare of the public. According to 1-3(H) Provide for orderly and coordinated development patterns. 1-3(K) Provide reasonable protection from possible nuisances and hazards and to otherwise protect and improve public health. 1-3(L) Encourage efficient and connected transportation and circulation systems for motor vehicles, bicycles, and pedestrians. Traffic Engineering has not reviewed this circulation, ingress and egress of this property. Traffic Engineering does not allow for large vehicles over 5 tons on the residential streets of this area. The request fails to meet the IDO requirements.

The applicant will be setting a precedent in an Area of Consistency by changing the predominant historical residential land use of the property and creating harm to surrounding residents and their properties. Jesus and Victor Apodaca are well aware of the zoning use for at least a decade if not more. Jesus sister-in-law Christina Apodaca was a past President for SBMTNA and Robert Romero, a former Zoning Manager was also on the board. In fact, the consultants Juanita Garcia and Andrew Garcia are former employees of Robert Romero during his time as Zoning Manager. The Apodaca's are well aware and informed of what the zoning category allowed under SU-2/C-3 and have been operating illegally since the purchase of this property. SU-2/C-3 did not allow a construction yard self-storage facility in an historical residential area.

There has been no direct communication from the property owner – Jesus Apodaca. The only communication has been with the applicant's consultant. The SBMTNA board of directors were not clear on whom is the property owner and the business owner.

According to 6-4 (C)(5) at the neighborhood meeting, the applicant's agent failed to provide a complete site plan and did not provide the scope of the uses, approximate square footages for different uses, general site layout, design guidelines, architectural style, conceptual elevations, and conceptual landscaping plan.

The incomplete site plan sent in the mail is less than 8" ½ by 11" and is not legible.

The agent provides the requirements of the height of building structure of 26 feet, but the agent does not provide the proposed height of 20 feet. There is not a conceptual landscaping plans, what design guidelines are provided, architectural styles, (how is it in character with the area residential garages).

The request does not provide an Environment Impact Analysis. The Environmental Health Department has not verified the risk abatement measures. The material(s) mentioned by the applicant has not been identified. The toxin from the cement or paving material is hazardous to the residents abutting the property and throughout the neighborhood.

See Part 14-16-3. Overlay Zones. CP0-7

See 14-16-4-2 A self-storage for a construction yard is not allowed. The property owner proposes to store hazardous construction yard material in an area that is surrounded with single family dwellings.

See 5-3 Access and Connectivity. A traffic analysis has not been provided. There is currently no adequate street connectivity. 5-ton trucks are not allowed on Hannett Avenue or Martinez Drive and other surrounding streets. There is no mitigation of existing traffic. This will increase vehicle miles traveled in an already congested area. The proposal will reduce emergency response time.

See 5-3(A)(7). The request doesn't have a fire and emergency analysis – there is only one exit. All other ingress or egress are historical residential streets that do not allow 5-ton trucks and cannot handle any more traffic.

See 5-3 (A)(3) and 5-3 (A)(5) Due to lack of communication from property owner or consultant– the number of vehicles were never reported (Note 5-ton trucks are not allowed along Hannett Avenue or Martinez Drive.) All vehicles need to be in an enclosed building. Hannet is next to a neighborhood park and is used by families and children, consistently.

What type of permits are required for dust suppression? There was no explanation of what type of cement or other potential hazardous material would be stored in the storage facility. Will cement be hauled on site or manufactured within the storage facility?

There is not enough property to support the use requested. The entrance from Broadway NE is extremely narrow with only one exit. The .41acre property is not conducive for a self-storage facility for a construction yard is not allowed.

See 5-3 (D)(2) Sidewalks – The existing sidewalks do not meet the requirements.

See 5-3(C) General access and circulation. The property does not meet the Americans with Disability Act. There is no comfortable convenience circulation.

See 5-5 - How will this development be designed and developed to protect the historical residential area?

ATTACHMENT 2

The reason for denial:

6-6(A)(1) Conditional Applicability 6-6(A)(1)(a) –During the City of Albuquerque’s pre-application process, the consultant and the property owner should have been advised that a self-storage for a construction yard are not allowed in the IDO MX-M nor were they previously allowed in the old Zoning Code under SU-2/C-3. Staff’s review of the site should have immediately disqualified the site for a construction yard self- storage unit. The 0.41acre lot is not conducive for a construction yard. The review of the site would have shown illegal activity. Business vehicles allowed under the MX-M are to be stored in an enclosed building. Ingress and Egress is an issue due to the residential streets surrounding this site. The property is next to a family park. The required parking off of the driveway will narrow the driveway and it will be difficult to enter off of Broadway due to the high volume of traffic. The environmental impacts from the storage of construction material makes this use incompatible next to residential.

6-6(A)(3)(a) - *This conditional use for a self-storage to allow an illegal construction yard in an MX-M is not consistent with the adopted ABC Comp Plan as amended.* This property is located in an Area of Consistency. This is an historical residential area. The surrounding area is zoned residential R-1. As per the IDO MX-M zone, self-storage units for a construction yard are not allowed.

The proposed conditional use for a self-storage unit undermines the intent and purpose of the Albuquerque Bernalillo County Comprehensive Plan. As per the City Comprehensive Plan, Goal 4-1-the Goal is to enhance, protect and preserve distinct communities – Martineztown Santa Barbara Neighborhood is a historical residential neighborhood and the City continues to fail and follow this goal. Policy 4.1.4. – Neighborhoods, the City violates this policy by not enforcing the historical protection to enhance, protect and preserve the historical residential neighborhood and traditional communities as key to our long term. Based on this Goal, the more restrictive zoning is required to be applied.

The Albuquerque Comprehensive Plan Part 14-16-1 General Provisions Purpose 1-3(A-L), The purpose is to protect the quality and character of residential neighborhoods; 1-3(G) Protect the health, safety, and general welfare of the public; 1-3(J) Implement a connected system of parks , trails, and open spaces to promote improved outdoor activity and public health; 1-3(K) Provide reasonable protection from possible nuisances and hazards and to otherwise protect and improve public health; Provide reasonable protection possible nuisances and hazards and to otherwise protect and improve public health; Encourage efficient and connected transportation and circulation systems for motor vehicles, bicycles, and pedestrians. Attached is the Martineztown Santa Barbara Health Impact Study that shows how the City of Albuquerque continues to fail Part 14-6-1 General Provisions Purpose and also the history of the sector plans that continued to zone historical residential dwellings with heavy commercial and industrial zoning.

In the Comp Plan Introduction on Environmental justice: After making significant gains in protecting our natural environment, we will need to continue to develop and implement strategies to address the environmental health hazards that affect vulnerable populations more severely in some areas of our community.

Part 1.4 Legal Purpose of the Comp Plan states the Comp Plan is the general plan for Albuquerque and Bernalillo County, ... Its statutory purpose, in NMSA 1978, Section 3-19-9(A), is “to guide and accomplish a coordinated, adjusted and harmonious development of the City, which will, in accordance with existing, and future needs, best promote health, safety, morals, other, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development.” Article IX of Albuquerque’s City Charter, adopted in 1971, requires that City officials “in the interest of the public in general shall protect and preserve environmental features such as water, air, and other natural

endowments, ensure the proper use and development of land, and promote and maintain an aesthetic and humane urban environment.” The City of Albuquerque has failed in Martineztown Santa Barbara Neighborhood to follow these provisions.

The Albuquerque Comprehensive Plan, Chapter 5, Land Use, 5.1.1 Introduction states “In general, it is important to protect public health and safety by separating residential and industrial land uses and ensuring adequate buffering, separation distances, or mitigation measures between incompatible uses.” A storage unit for a contractor’s yard is an incompatible use; Policy 5.6.3 (a-j) “Areas of Consistency: Protect and enhance the character of existing single-family neighborhoods...”;

Chapter 13, Resilience & Sustainability, Section on Air Quality states that since Albuquerque is located in a river valley bounded by a high mountain range to the east, Albuquerque's geographic location, mile-high altitude, and meteorological conditions such as canyon winds affect Albuquerque’s air quality. Martineztown Santa Barbara Neighborhood is bounded by Interstate 25 to the east and Interstate 40 to the west. A Health Impact Study done for Martineztown Santa Barbara Neighborhood indicates that Martineztown Santa Barbara Neighborhood is an already vulnerable area and any more concentrated pollution such as storage facility for a contractor’s yard is detrimental to the health, safety, and welfare of the neighborhood.

There has also been study done on the ground level pollution that has travelled from Wells Park which is a grave concern because it has travelled down to Martineztown Santa Barbara Neighborhood and is near this area. There already is high level of concentrated air pollution without any accountability by the State of New Mexico and City of Albuquerque.

6-6(A)(3)(b) It does not comply with all applicable provisions of this IDO. The request was denied to change zone to nonresidential by City Council during the Zoning Conversion process. The nonresidential zone also does not allow a construction yard. The SBMTNA appealed the decision by EPC. See reasons for the appeal which is the same reasons for denial with this request. A self-storage unit for a construction yard is not allowed and is incompatible next to residential uses. The illegal commercial use for a construction yard and the request for a conditional use for a self-storage to continue the illegal construction yard will set precedent in an area that has continued to be predominantly historical R-1 single-family dwellings.

6-6(A)(3)(c) It will create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. The self-storage unit is unsightly. The noise and vibration of the trucks is not in harmony with the residential area and for the family and children enjoying the parks.

6-6(A)(3)(d) It will create material adverse impacts on the land in the surrounding area through increases in traffic congestion, parking congestion, noise or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts. The trucks will bring noise and vibration without sufficient mitigation at all hours of the night. The traffic congestion on Broadway exceeds the limits. The streets in Martineztown are already congested and companies that drive 5-ton trucks already violate the law. There is no enforcement. How are you going to protect the residents from an area that is exasperated with noise, air pollution that exceeds the limits in an area that is predominantly historical single-family dwelling.

An environmental impact study is required. What type of material will be stored in the building? The cement taken out of the highways or cement that is being made on the site? How many trucks and what type of trucks will be entering and leaving into property? Diesel trucks over 5 tons are not allowed on Hannett Avenue or Martinez Road NE.

6-6(a)(3)(e) It will increase non-residential activity within 300 feet of a lot in any Residential zone district between the hours of 8:00 pm and 6:00 am. The residents are sleeping at this time. There should not be any incompatible use activity near the residents during this time.

6-6(A)(3)(f) It will negatively impact pedestrian or transit connectivity without appropriate mitigation. This request will negatively affect pedestrian connectivity. The sidewalks are not wide enough along this area. The residential streets are narrow and not wide enough to accommodate this type of use. Also, it is illegal to use 5-ton trucks on Hallet Avenue and Martinez Road and all other surrounding this property. Along Broadway NE which is an arterial, the sidewalks need to be widened. There needs to be trees planted to give a barrier when pedestrians are walking along Broadway NE. It is my understanding that bus routes were proposed to go down Broadway NE. I will need to ask Transit what is future proposal for Broadway NE. If bus stops are at this site this will negatively affect transit rides from the sudden stops to enter the narrow driveway at 1718 Broadway NE.

A traffic study will be required since there is only one narrow entrance off Broadway NE in an arterial street that is already highly congested.

ATTACHMENT 3

Response to:

Section 14-16-4-3

Use-Specific Standards:

4-3(D)(28)(a) Self Storage. The self-storage unit for a construction yard is not allowed.

4-3(D)(28)(a) All storage shall be within a building. No outdoor storage of goods or vehicles is allowed. The property owner currently violates this requirement. What type of enforcement will be applied? There is currently no enforcement in our area. The other issues are how does this design of the structure keep in character with the residential area. The material that will be stored in the structure will be in violation of the IDO General Purpose to protect the health, safety and welfare of the neighborhood.

4-3(D)(28)(b). An opaque wall or fence at least 6 feet and no more than 8 feet high or a vegetated buffer at least 50 feet in width shall be provided along any lot line that abuts residential zone district or lot containing residential use in any mixed-use zone district. There is a fence that surrounds the property, but the site plan does not meet these requirements. There is no landscaping plan to review so this requirement has not been addressed.

4-3(D)(28)(c) Security fencing shall not include razor wire or barbed wire. Razor wire or barbed wire are unsightly and will be out of character with the residential area.

4-3(D)(28)(d) Public access to any storage units within 100 feet of any residential zone district or lot containing a residential use in any mixed-use zone district is not allowed between 10 pm and 7 am. This will be difficult to enforce since the property is surrounded by residential roads that do not allow 5-ton trucks. Jesus Apodaca has reported that he works on State Highways. He does not know when he will be coming in with hazardous material.

4-3(D)(28)(e). In the MX-L, MX-M, MX-H, and MX-FB zone districts, and on lots in the NR-C zone district with a UC-AC-MS-PT area, access to individual storage units shall be through interior corridors; direct access to individual units from outdoor areas is not allowed. How will this be enforced when there is an entrance off of Hannett Avenue NE and Martinez Road which are residential streets. The main entrance from Broadway NE is already a narrow driveway to enter the property.

4-3(D)(28)(f) In the NR-C zone district outside of UC-MS-PT areas, exterior doors to individual storage units shall not face any abutting street frontage, or, if the site is located on a corner parcel, shall not face the primary street frontage. This criterion does not apply since it is in an MX-M zone. However, Hannett Avenue is a residential street and the applicant cannot enter into this side of the street with 5-ton trucks.

EXHIBITS

1. Letter to Isaac Benton, City Councilor, January 24, 2019
2. Bernalillo County Assessors Tax Information
3. Bernalillo County Assessors Satellite View from 2018, 2016, 2015, 2005
4. Neighborhood Aerial 1959
5. Photos from Zillowstatic.com, 2019 – interior and exterior view of single-family dwelling
6. Photo taken May 22, 2020 at 11:09 am of 5-ton truck on Hannett Avenue a residential street.
7. Steps to apply for a Special Exception to the Integrated Development Ordinance, <http://documents.cabq.gov/planning/zoning-hearing-examiner/2019/October/Application%20Instructions.pdf>
8. 2018 NM Statutes Chapter 3 – Municipalities Article 21-Zoning Regulations, Section 3-21-5 – Zoning; conformance to comprehensive plan
9. Sections of the Albuquerque Comprehensive Plan to refer to:
 - a. Chapter 4 – Community Identity
 - b. Chapter 5 – Land Use
 - c. Chapter 13 – Resiliency and Sustainability
10. Sections of the IDO to refer to
 - a. Part 14-16-1 General Provision (pgs. 1-2)
 - b. Part 14-16-2 Zone Districts, 2-4(C) (pgs. 27-28)
 - c. Part 14-16-3 Overlay Zone, 304 (H) (pgs. 89-90)
 - d. Part 14-16-4 Use Regulations, 4-3(D)(28) Self Storage (pgs. 154-155)
 - e. Part 14-16-5 Development Standards (189-326)
 - f. Part 14-16-6 Administration and Enforcement 6-1 Procedures Summary Table (pg. 327)
 - g. Part 14-16-6 General Procedures, 6-4 General Procedures (pgs. 339-340)
 - h. Part 14-16-6 Administrative and Enforcement, 6-6(A) Conditional Use Approval (pgs. 385-386)
 - i. Part 14-16-7 Definitions and Acronyms,
 - i. Area of Change and Area of Consistency pg. 447
 - ii. Construction Contractor Facility Yard pg. 455
 - iii. Plat, pg. 484
 - iv. Self-Storage pg. 488
 - v. Site Plan pg. 493
11. Health Impact Study for Martineztown
12. Martineztown/Santa Barbara Neighborhood Sector Development Plan, SU-2/C-3, specific C-2 requirements and site plan requirements-
<http://documents.cabq.gov/planning/UDD/CompPlan2017/SectorPlans/Martineztown-SantaBarbaraSDP-REPEALED.pdf>

Sanchez, Suzanna A.

From: JAG JAG <jag@jagpandz.com>
Sent: Tuesday, July 21, 2020 2:45 PM
To: Sanchez, Suzanna A.
Cc: Patten-Quintana, Lorena
Subject: Re: Photos for VA-2020-00140
Attachments: 1718 Broadway SE - Looking West.jpg

Follow Up Flag: Follow up
Flag Status: Completed

Hello Suzie,

Here are the photos that were shown to Mr. Lucero at today's hearing. Can you please include them in the record?

Thank you.

Juanita and Andrew Garcia
Principals
JAG Planning & Zoning, LLC
P.O. Box 7857, Albuquerque, NM 87129
(505) 362-8903 and (505) 363-5613



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This message has been analyzed by Deep Discovery Email Inspector.



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MAX. GR. 29,900 KGS
TARE 2,100 KGS
NET 27,800 KGS
CU. CAP. 1,773 CU.M.







CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Jesus Apodaca or Victor Apodaca (Agent, Juanita Garcia, JAG Planning & Zoning, LLC) request a conditional use to allow self-storage for Lot 1D, MRGCD Map 37, located at 1718 Broadway Blvd NE, zoned MX-M [Section 14-16-4-3(D)(28)]

Special Exception No:..... **VA-2020-00140**
Project No: **Project#2020-003906**
Hearing Date: 07-21-20
Closing of Public Record: 07-21-20
Date of Decision: 08-05-20

On the 21st day of July, 2020, Juanita Garcia, JAG Planning & Zoning, LLC, agent (“Agent”) for property owner Jesus Apodaca or Victor Apodaca (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow self-storage (“Application”) upon the real property located at 1718 Broadway Blvd NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow self-storage on the Subject Property.
2. The City of Albuquerque Integrated Development Ordinance (“IDO”) Section 14-16-7-1 defines “self-storage” as “[a] use consisting of 3 or more individual, small, self-contained units in a building that are leased or owned for the indoor storage of business and household goods or contractors' supplies”
3. The Subject Property is currently zoned MX-M (Mixed Use - Moderate Intensity Zone District).
4. IDO Section 14-16-2-4(C)(1) states that the “purpose of the MX-M zone district is to provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Centers and Corridors. Allowable uses are shown in Table 4-2-1.”
5. Table 4-2-1 lists self-storage as a conditional primary use within the MX-M zone.
6. The Subject Property is designated as an Area of Consistency.
7. The applicable overlay zone of the Subject Property is CPO-7.
8. The City Traffic Engineering Division submitted a report stating no objection to the requested conditional use approval based on its analysis of clear sight triangle requirements.
9. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
10. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
11. Agent, on behalf of the Applicant, met with representatives of the Santa Barbara Martineztown Neighborhood Association, representatives of the Martineztown Work

Group, and other community members, via a virtual meeting on Thursday, May 21, 2020. Minutes of that meeting are in the ZHE record on this Application.

12. The Agent and community members discussed, both prior to and at the July 21, 2020 ZHE hearing, the possibility of a facilitated meeting. However, based on the testimony before the ZHE, it appeared that a facilitated would not be fruitful. Therefore the ZHE did not require a facilitated meeting.
13. IDO Section 14-16-6-6(A)(3) (Review and Decision Criteria– Conditional Use) reads: “*An application for a Conditional Use Approval shall be approved if it meets all of the following criteria:*
 - (a) *It is consistent with the ABC Comp. Plan, as amended;*
 - (b) *It complies with all applicable provisions of the IDO, including, but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property;*
 - (c) *It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community;*
 - (d) *It will not create material adverse impacts on other land in the surrounding area, through increases in traffic congestion, parking congestion noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts;*
 - (e) *It will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am;*
 - (f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation*
14. Pursuant to IDO Section 14-16-6-4(F)(2), the Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence.
15. Regarding whether the proposed conditional use would be consistent with the ABC Comp. Plan, as required by IDO Section 14-16-6-6(A)(3)(a), Applicant submitted the following evidence and arguments:

“The site is located within an Area of Consistency and those uses that are listed as permissive or conditional are expected to occur within Areas of Consistency. The proposed request will meet the standards of the IDO, such as off-street parking requirements, building setbacks, building height limitations and landscaping requirements, which are all intended to protect nearby existing development from new uses. The applicant is requesting a use that is identified as a conditional use within the subject site's zone category. Those uses listed as permissive or conditional uses are uses that are expected to occur within a particular zone. The applicant is not requesting a use that is outside of the site's designated zone category.”
16. However, Applicant cited to no Policy, Goal, or other provision of the ABC Comp. Plan with which the proposed conditional use would be consistent. Similarly, Applicant provided no authority or citation for Applicant's assertion that uses that are listed as conditional are expected to occur within Areas of Consistency, nor for how that assertion relates to consistency with the ABC Comp. Plan.

17. Regarding whether the proposed conditional use would be consistent with the ABC Comp. Plan, Opponent Santa Barbara Martineztown Neighborhood Association submitted the following evidence and arguments:
- a. Under ABC Comp. Plan “Goal 4-1-the Goal is to enhance, protect and preserve distinct communities – Martineztown Santa Barbara Neighborhood is a historical residential neighborhood”.
 - b. “Policy 4.1.4. – Neighborhoods” would be violated “by not enforcing the historical protection to enhance, protect and preserve the historical residential neighborhood and traditional communities as key to our long term. Based on this Goal, the more restrictive zoning is required to be applied.”
 - c. “The Albuquerque Comprehensive Plan Part 14-16-1 General Provisions Purpose 1-3(A-L), The purpose is to protect the quality and character of residential neighborhoods;1-3(G) Protect the health, safety, and general welfare of the public; 1-3(J) Implement a connected system of parks , trails, and open spaces to promote improved outdoor activity and public health; 1-3(K) Provide reasonable protection from possible nuisances and hazards and to otherwise protect and improve public health; Provide reasonable protection possible nuisances and hazards and to otherwise protect and improve public health; Encourage efficient and connected transportation and circulation systems for motor vehicles, bicycles, and pedestrians.” Opponent Santa Barbara Martineztown Neighborhood Association testified that the proposed use would bring increased large truck and other traffic to an already congested area, having a detrimental effect on health safety and welfare, particularly given the location of the Subject Property across Hannett Avenue NE.
 - d. “In the Comp Plan Introduction on Environmental justice: After making significant gains in protecting our natural environment, we will need to continue to develop and implement strategies to address the environmental health hazards that affect vulnerable populations more severely in some areas of our community.” Opponent Santa Barbara Martineztown Neighborhood Association testified that the negative effects are unfairly focused on a vulnerable population in an historic residential neighborhood.
 - e. “Part 1.4 Legal Purpose of the Comp Plan states the Comp Plan is the general plan for Albuquerque and Bernalillo County, . . . Its statutory purpose, in NMSA 1978, Section 3-19-9(A), is ‘to guide and accomplish a coordinated, adjusted and harmonious development of the City, which will, in accordance with existing, and future needs, best promote health, safety, morals, other, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development.” Opponent Santa Barbara Martineztown Neighborhood Association testified that the proposed use would be out of harmony with existing and future needs of the neighborhood, because of the negative impacts on environment, health, safety, and welfare.
 - f. “The Albuquerque Comprehensive Plan, Chapter 5, Land Use, 5.1.1 Introduction states “In general, it is important to protect public health and safety by separating residential and industrial land uses and ensuring adequate buffering, separation distances, or mitigation measures between incompatible uses.” . . . Policy 5.6.3 (a-j) “Areas of Consistency: Protect and enhance the character of existing single-

family neighborhoods....” Opponent Santa Barbara Martineztown Neighborhood Association testified that the proposed conditional use would be incompatible with the adjacent residential uses.

- g. “Chapter 13, Resilience & Sustainability, Section on Air Quality states that since Albuquerque is located in a river valley bounded by a high mountain range to the east, Albuquerque's geographic location, mile-high altitude, and meteorological conditions such as canyon winds affect Albuquerque’s air quality. Martineztown Santa Barbara Neighborhood is bounded by Interstate 25 to the east and Interstate 40 to the west. A Health Impact Study done for Martineztown Santa Barbara Neighborhood indicates that Martineztown Santa Barbara Neighborhood is an already vulnerable area and any more concentrated pollution such as storage facility for a contractor’s yard is detrimental to the health, safety, and welfare of the neighborhood.” A copy of this Health Impact Study was submitted into the public record in this matter.
18. On balance, substantial evidence exists in favor of a conclusion that the proposed conditional use would be inconsistent with the ABC Comp. Plan, while there is a lack of substantial evidence in favor of a conclusion that the proposed conditional use would be consistent with the ABC Comp. Plan.
19. Consequently, Applicant has failed to meet its burden of providing a sound justification, based on substantial evidence, for the requested decision that the requested Conditional Use approval would be consistent with the ABC Comp. Plan, as required by IDO Section 14-16-6-6(A)(3)(a).
20. Section 14-16-6-6(A)(3) requires Applicant to establish a sound justification for all the criteria stated in that Section – if one criterion fails, the entire application must fail. As stated, above, Applicant has failed to satisfy the criterion set forth in IDO Section 14-16-6-6(A)(3)(a). Therefore, the application must be denied. Given the denial on such grounds, the ZHE need not address the remaining criteria of IDO Section 14-16-6-6(A)(3) or any other applicable criterion of approval.

DECISION:

DENIAL of a conditional use to allow self-storage.

APPEAL:

If you wish to appeal this decision, you must do so by August 20, 2020 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional

use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Juanita Garcia, JAG Planning & Zoning, LLC, jag@jagpandz.com

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Agent, Juanita Garcia, JAG Planning & Zoning, LLC



**Hearing on Special Exceptions
to the Integrated Development Ordinance**

MINUTES

July 21, 2020

600 2nd St NW, Albuquerque, NM 87102

CITY STAFF PRESENT:

Robert Lucero – Zoning Hearing Examiner

Lorena Patten-Quintana – ZHE Planner, Planning Department

Suzie Sanchez – Hearing Monitor

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ZHE: All right everybody. Welcome back, this is Robert Lucero, Zoning Hearing Examiner, we're going back on the record on the July 21st, 2020 Zoning Hearing Examiner meeting. We are moving forward to agenda item 20. It's VA-2020-00140, project number, PR-2020-003906, Jesus Apodaca or Victor Apodaca, agent Juanita Garcia, JAG Planning and Zoning LLC request a conditional use to allow self-storage for Lot 1B, MRGCD Map 37, located at 1718 Broadway Boulevard NE and it's zoned MX-M. Is Ms. Garcia here?

JUANITA GARCIA, JAG: Hello Mr. Lucero!

ZHE: Hello! Good afternoon! Would you please state your full name and mailing address for the record?

JUANITA GARCIA, JAG: Yes, my name is Juanita Garcia and I'm with JAG Planning and Zoning and my address is P.O. Box 7857, Albuquerque, New Mexico, 87194.

ZHE: Thank you very much and please raise your right hand. Do you attest under penalty of perjury that your testimony will be true and complete?

JUANITA GARCIA, JAG: I do.

ZHE: Thank you. Well thank you Ms. Garcia please tell me about this application.

JUANITA GARCIA, JAG: Okay, Mr. Lucero, thank you for having us today and for conducting these hearings considering the pandemic that we're under. It's appreciated that these projects are able to continue given the circumstances that we are under.

ZHE: Sure, sure.

JUANITA GARCIA, JAG: So, we are representing Jose and Victor Apodaca and they're requesting approval of a conditional use to allow a self-storage building for the property at 1718 Broadway NE and it's zoned MX-M. The Applicant is proposing to construct a 3,000 square foot storage building to store construction material that is currently used for the Applicant's construction business. And the proposed height, according to the Applicant is not to exceed 20 feet in height. The Applicant has owned and operated the current business, JFQ Construction on the site for over 5 years. JFQ Construction provides general contracting business and mostly works on State of New Mexico Highway Department projects throughout New Mexico. The site was originally developed as residential with 2 single-family dwelling units, one in the front, and one in the back and a detached garage. However, over the years, the back-dwelling unit became dilapidated and ultimately became sub-standard. The Applicant intends to demolish the back-dwelling unit in order to construct the self-storage building. The front dwelling is currently being used as an office for the Applicant's business. The subject site is located on the Southwest corner of the intersection of Broadway and Hannett, South of I-40, North of Lomas Boulevard, so it's in Martineztown. If you're familiar with the area, there is the main post office on Broadway so it's a little bit North of that, just right by the park there. Prior to the adoption of the Integrated Development Ordinance, the IDO, the site was zoned SU-2, C3 and was part of the Santa

Barbara Martineztown Sector Development Plan. The Applicant was told by a previous code enforcement representative that a contractor's yard-office would be allowed on this site given the C3 zoning. However, what was not told to the Applicant was that the SU-2, C3 was actually a commercial zone category that would not allow a contractor's yard unless a conditional use approval had been granted. The Applicant was operating on the presumption that the site had the correct zone category to operate the current contractor's yard, until the Applicant received notice from code enforcement. The adoption of the IDO no longer allows a construction yard on the subject site through the conditional use application. The proposed self-storage building is intended to bring the property into compliance with the regulations of the IDO. The City of Albuquerque, IDO requires that this request meet certain criteria and I believe you, you may have read our letter for this proposed request and in our letter we've addressed all of the criteria for the conditional use. So, in addition to the criteria for a conditional use, there's added criteria for self-storage and that's under section 14-16-6-4-1 so there's a separate set of criteria that, that specifically addresses self-storage building and so we - - our letter also addresses each of the - - each of the criteria under self-storage, self-storage use. So, I just wanted to highlight a couple of criteria that we wanted to emphasize. Number 5 of the general conditional use criteria indicates that proposed conditional use will not increase non-residential activity within 300 feet of a lot in any residential zone between the hours of 8PM and 6AM. So, Mr., Mr. Apodaca, as I stated runs a construction business and mostly works throughout the state so, so Mr. Apodaca tends to stay out of town throughout the whole week. So, on Sunday afternoons, around 4 or 5 is when he'll go to this site and will pick any materials, any equipment that's needed for a particular job site and will head out, out of town to a particular job site. And then he'll return either Thursday afternoon, late afternoon or Friday afternoon depending on how quickly they get done with their work during the week so - - but none of it will happen in between the hours of 8PM and 6AM. Although, the criteria reads that there will not be an increase of non-residential activity as mentioned earlier, this - - Mr. Apodaca has been running a business on this site for the last 5 years and so has been conducting his business in this manner for the last 5 years. So there will not be an increase from what's been happening on the site for the last 5 years. In addition, the criteria under the self-storage regulation Section 4-3-D-28-D indicates also public access to any storage units within 100 feet of any residential zone district or lot containing any residential use and any mixed-use zone district is not allowed between 10PM and 7AM. So, you know, this language is written for self-storage assuming that the self-storage would be accessible to the public. In this case, this is a unique situation in that Mr. Apodaca is not gonna be using the storage units for public use. It would be only for his personal use related to his business so, there will be no public access at all, to this site. It's only for Mr. Apodaca's use related to a business that he's conducting on the site. So, I just wanted to emphasize those two criteria. So, in the record we also included a petition of signatures from the neighboring property owners, I'm not sure if you have seen that, have had the opportunity to look at that but I just wanted to emphasize that we did submit a petition which shows support from the immediate property owners, adjacent to the site. And so, we wanted to emphasize that. So, the, the request also required us to notify the affected neighborhood associations, we did do that and we also had a meeting with the

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Martineztown Santa Barbara Neighborhood Association back in May in regards to the request. We answered all the questions that we could to them and we also did respond to some other questions that they had that we did not have an answer to at the time. They- - when we met, it wasn't clear as to whether or not they would support our request. They indicated that they would need to meet amongst themselves and make that determination at a later date but since, since that time, I - - in reading the letter that they submitted, it appears as if they are opposed to the request. So, I just wanted to identify that we did meet that part of the ordinance and we did post signs as required at least 15 days before today's hearing and so with that I have nothing else to add.

ZHE: Okay, and I do see that Ms. Naranjo-Lopez is here but Ms. Garcia you mentioned that the - - you know, you were in receipt of this letter from the neighborhood association, was there any after that or any modification of what we received based on that letter, anything that needs to be added into the record on your client's behalf at this time?

JUANITA GARCIA, JAG: Mr. Lucero, no there wasn't a - - well we received actually the information after the deadline so, we could not provide any additional information unless we, you know, provide it today to you but we were only given the information that was provided by the neighborhood association, the day after the deadline, the deadline date for submittal of any documents.

ZHE: Okay, no - - well if you'd like to address that now and obviously the neighborhood association and anyone else in the public will have the opportunity to speak on this matter and then you know, you as the agent for the Applicant will have the opportunity to respond but if you know there's anything you want to add now, otherwise I'll open it to public comment.

JUANITA GARCIA, JAG: Mr. Lucero, thank you for that. I, I do have photographs that I could include in there that would help, may help describe or visualize the site a little bit more. I don't know if that's something that we could add. I can add it now or I could add it after the discussion from the neighborhood representative. And Mr. Lucero, I'm sorry to say that I, I forgot to mention that in this - - one of the participants is the Applicant, Mr. Victor Apodaca who is available to answer any questions, any direct questions that we may have. So, I just wanted to let you know that he is available if we need to ask him any specific questions.

ZHE: Okay well, why don't we - - if you'd like to submit those photos, you know that would be in keeping with prior precedent in terms of allowing submittal of documents at a publicly noticed hearing and we can allow a screen share...

JUANITA GARCIA, JAG: Okay.

ZHE: ... to have you share those so that everyone can see them and I think that'll inform the discussion as we proceed forward on this matter. And so, Suzie is there a way to allow Ms. Garcia to share her screen?

HEARING MONITOR: Yes, you can go ahead, I made you a co-host, Juanita.

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JUANITA GARCIA, JAG: Thank you.

HEARING MONITOR: Of course.

JUANITA GARCIA, JAG: Now, I'm not sure exactly how to do this. I've never done this before, so I'm gonna try. Can you see my screen?

HEARING MONITOR: Did you click share screen at the bottom?

JUANITA GARCIA, JAG: No, I didn't, hold on, let me see.

HEARING MONITOR: Okay.

JUANITA GARCIA, JAG: Share screen, okay. Here I am, okay.

ZHE: I think that you can select the window that you'd like to share.

JUANITA GARCIA, JAG: Okay. Let's see here. Is that one clear? Can you see?

ZHE: No.

JUANITA GARCIA, JAG: Okay. I might be clicking on the wrong window so, let me see here.

ZHE: I think you have to select it and then hit the share blue button.

JUANITA GARCIA, JAG: Okay. Okay. So, can you see that?

ZHE: Yes.

JUANITA GARCIA, JAG: Okay. So, okay, this is a photograph of the site from inside the site and this is looking East from the site.

ZHE: Okay.

JUANITA GARCIA, JAG: So, as mentioned earlier, Mr. Apodaca had been running this construction business on the site, was notified by code enforcement in regards to the violations. So, this is part of his, Mr. Apodaca's efforts to try to resolve the violations that are occurring on the site. So, this is a picture of the back house, which it's been, it's, it's really dilated, in poor condition and so the intention of Mr. Apodaca is to remove that back structure and then place the, the self-storage building back there. So, so just so you know, the RV, it's not there, it's at a job site, and then that to the left of it is also not there, it's at a job site as well. [Okay, so let me see, I don't know how to go back to that - - let me see here - - let me see if there's - -]. Okay, so this is looking at the site from the outside of it, it's the - - this is, this is on the North side of the site on Hannett Road and so this is the area where the proposed storage, self-storage building would be. So, it would be, it would be in this area, here.

ZHE: And so, this picture is taken standing in front of the park, right, like the park would be behind the photographer?

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JUANITA GARCIA, JAG: Correct. Yes, correct.

ZHE: Okay.

JUANITA GARCIA, JAG: Okay, so there - -

ZHE: And by the way, would you mind submitting these photos into the record, that way they're available to the public? You know if anyone wants to have a copy of them.

JUANITA GARCIA, JAG: Not at all.

ZHE: I mean after the hearing if you would email them to Suzie that would be great.

JUANITA GARCIA, JAG: Yes, we can definitely do that. Let me see here. Okay, so, this is the site, in the middle of the site looking West towards Broadway, so you'll see there's the - - toward the front there's the house, the front house that is usually - - that has been converted into an office and then this building to the left is the garage that was historically built there.

ZHE: And those, all those structures shown should remain? Is that right? Those are intended to remain?

JUANITA GARCIA, JAG: Correct. Let me see if - - I, I can't get to - - for some reason, I can't get to my other ones, I did have a couple of other photos that I wanted to show that I can't. One in particular is the front of, of the site but, but I am unable to get to that I apologize for that. So, so, with that I'll just leave it at that and then, and then I'll just, you know, just submit that for the record.

ZHE: Okay, okay so at this time then, we'll call for public comment and we'll begin with Ms. Naranjo-Lopez. Can you hear me Ms. Naranjo-Lopez? Oh, there you are.

LORETTA NARANJO-LOPEZ: Yes.

ZHE: Wonderful. Well would you please state your full name and mailing address for the record?

LORETTA NARANJO-LOPEZ: My name is Loretta Naranjo-Lopez and I am the president of the Santa Barbara Martineztown Neighborhood Association and I'm here representing the Board of Directors and also, I live at 1127 Walter Northeast, 87102.

ZHE: Thank you. Would you please raise your right hand? And do you attest under penalty of perjury that your testimony will be true and complete?

LORETTA NARANJO-LOPEZ: I do.

ZHE: Thank you and...

LORETTA NARANJO-LOPEZ: So, I submitted...

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ZHE: By the way, just before you start...for everyone's benefit and I know we said this before, but normally, you know, members of the public speaking get two minutes but neighborhood associations get 5 minutes. So, Ms. Naranjo-Lopez, you may proceed. Thank you.

LORETTA NARANJO-LOPEZ: Okay, I, I submitted a letter July 9th with attachments 1 through 3 and several exhibits and it's dated July 9th. So, the Santa Barbara Martineztown Neighborhood Association met with the Applicant's agent on Thursday, May 21st at 5:30PM to listen and understand what the conditional use for 1718 entailed. The Santa Barbara Martineztown Board agreed to a facilitated meeting in order to better understand the application for this location of a self-storage for a construction yard in an area of consistency, that is zoned in the Integrated Development Ordinance, MX-M. The Board understands that more restrictive zoning codes are applied to the land use. A self-storage unit for materials hazardous for a contractor's yard is not allowed in the Integrated Development Ordinance, MX zone which allows for the moderate intensity commercial use. The Applicant's agent did not provide a letter stating about this hearing, we've never received it. We did receive information from the Planning Department but the petition was not provided to us, nor these photos so because of this, I think it also needs to be deferred for these reasons. After meeting with the Applicant's agent, the Santa Barbara Martineztown Board realized there's still a lot of unanswered questions and voted to request denial of the Applicant's proposed conditional use to allow a self-storage building to store cement or other potential hazardous material acquired from the state highway system, State of New Mexico Highway Department Projects through New Mexico. The Applicant's agent has not provided the full scope of the development of this property. The Applicant was clear, the agent was clear that this was material and not supplies. She was very clear throughout all of her documents so if we go to the definition for a construction contractor's yard it specifically says, material. So, we're concerned that the Applicant was in violation from the beginning even though he was very much aware of the zoning and he - - so we, we, we do not trust that this is being developed just for supplies and not for the materials, of construction yard materials. It's concerning that these - - and as he is aware that all vehicles need to be stored inside also. So, there's a lot of violations that have been continued and I will continue to read my letter. The Applicant has not - - okay - - the Applicant continues to violate the current regulations of the IDO. Up until the current owner purchased the subject property in 2015, the property was a historical single-family dwelling when zoning was established, the City of Albuquerque failed to follow the state statute to protect the health, safety and welfare of the residents. And the City of Albuquerque zone code to zone the historical dwelling unit R-1. Throughout the Martineztown Santa Barbara Sector Plan process in 1976, 1990 and the draft 2010 by Site Southwest, the City of Albuquerque continues to zone Martineztown heavy commercial SU-2, C3 which refers to the C2 and the R-2 in the City of Albuquerque. The SU-2, C3 allowed permissively the R-1. Under state statute, the City zone code, in the new IDO, the City of Albuquerque failed the Martineztown Santa Barbara residents to protect the health, safety and welfare of the neighborhood and so zone the property at 1718 Broadway as MX-M only allowing apartments and commercial. The single-family dwelling was made non-conforming. For this and many other

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reasons, the Santa Barbara Martineztown Neighborhood Association requests that the City of Albuquerque Planning Department seize and desist the perpetuation of systemic racism against communities of color. During the IDO process, the community requested deferral of the IDO until the recommendations outlined by the community were implemented calling for racial and ethnic equity in the planning and zoning of our communities. This request is a prime example of why the Santa Barbara Martineztown has filed a lawsuit. The subject property is in a predominately historic residential single-family dwelling neighborhood. The neighborhood association is concerned that the Applicant has provided a one sheet, eight and a half by eleven, an incomplete site plan without meeting the requirements of the IDO. The site plan is very difficult to read, it's not scale, as reflected by the architectural site plans submitted by the Applicant's agent. At the, at the neighborhood meeting on May 18th, the Applicant's agent stated they would be requesting a single-story, self-story or 20 feet high but the architectural site plan dated April 22nd - - excuse me - - so I guess I'm up, coming up on time, but I just would like a - - this denied, of a construction yard to store hazardous material and request a facilitated meeting between the neighborhood, the Applicant and it's agent in order to understand better what this storage is going to be used but currently the site does not provide enough room for what Mr. Apodaca is proposing. The driveway is very narrow. So, I would recommend that you look at my attachments with photos and the, the, the photos that Ms. Garcia submitted is not the current photos. There's a gate that says ZHE Construction on Hannett, that's a residential street. There's no - - five-ton trucks are not allowed on those residential streets on Hannett and I, I further go in how this is detrimental to the neighbor and so, I would ask that you read all the documents I submitted, which is attachments 1, 2 and 3. And review the exhibits and then I also laid out exhibits on the one sheet, if you do not have all the documents, please let me know.

ZHE: Thank you Ms. Naranjo-Lopez. I appreciate you being so thorough with your submittal. I do have all of the, both the attachments and the exhibits. Just a question, I see that some of these pictures, there are some vehicles parked, it looks like they're parked along Hannett kind of across from the park, is that right?

LORETTA NARANJO-LOPEZ: Yes, that's the vehicle that they had there. And you could see how narrow that street is with those large trucks but those trucks are not allowed on a residential street. You'll see signs throughout the neighborhood that say no five-ton trucks and yet there's a lot of violations that go on and if you looked at the health impact study that I provided, we're already dealing with environmental impacts and this just contributes to it. These are diesel trucks that contribute to the air quality that is poor in our neighborhood and so the children are playing in these parks, they're fed every day in these parks. And so, I'm very concerned about what is gonna be established here. And so, we would like a facilitated meeting so that we can understand because as you know, the City Council voted against to make this non-residential and, during this zoning conversion and Mr. Apodaca has violated the zoning code and has violated the current IDO. And so, we're saying, how do we trust him? There would be a lot of restrictions that we would like to see. So, we want to discuss these with him so that he can understand that this is a residential area. It's surrounded by residential land use and this will clearly impact

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Broadway because he cannot go through Hannett, he cannot go through Martinez Road so he's going to impact that road and it's very congested at this time. So, we'd like a traffic study to understand what's gonna happen here because I've talked to even the - - you know where there's intersections that people are turning right into, it causes a lot of accidents. I've talked to the traffic people so, I'm understanding that these are going to be concerns for us, if they're going to cause a lot of traffic issues and accidents.

ZHE: Thank you. I appreciate your information, your submittal and testimony today. Thank you for that and at this time before we open it up to anyone else from the public we'll give the agent, Applicant's agent a chance to respond. Ms. Garcia? I think you're still muted, let's see if we can...

JUANITA GARCIA, JAG: Thank you Mr. Lucero. So, is it possible for you to display the photograph that was mentioned by Ms. Naranjo-Lopez?

ZHE: Yes, hold on one second, let me pull that up. My - - now it's my turn to try to share the screen.

LORETTA NARANJO-LOPEZ: I don't know if it's this one you're referring to? Can you see it? I don't know which side. This is from Hannett. Are you wanting to look at the...?

ZHE: It's in that collection but it's the one - - there's a vehicle parked along Hannett.

LORETTA NARANJO-LOPEZ: Yeah, it's this one here.

ZHE: Yes. It was - - let's see. That was the one I was looking at.

JUANITA GARCIA, JAG: Yeah.

ZHE: Can you see it?

LORETTA NARANJO-LOPEZ: And then here is the vehicle here.

ZHE: Yeah, those were the two, those were the photos I was looking at Ms. Garcia. Did you receive those?

JUANITA GARCIA, JAG: I may have received them in all the documents. I don't remember seeing that one in particular but that looks like a trailer with a tree shredder.

VICTOR APODACA: Ms. Garcia, this is Victor, could I, could I speak on behalf of those photos?

ZHE: Yes. Mr. Apodaca, let's get you sworn in.

VICTOR APODACA: Oh okay.

ZHE: Would you please state your full name and address for the record?

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VICTOR APODACA: Yes, my name is Victor Apodaca. My address is 412 Hannett Avenue Northeast.

ZHE: Please raise your right hand.

VICTOR APODACA: Yes, sir.

ZHE: Do you attest upon penalty of perjury that your testimony will be true and complete?

VICTOR APODACA: Yes, yes sir.

ZHE: Thank you. Please proceed Mr. Apodaca.

VICTOR APODACA: Okay, so the photos Ms. Naranjo is presenting, I think she was there when my neighbor, my next-door neighbor to my house and the property in question, she was getting a tree removed, so at the end of the day, that has nothing to do with my business. That was Hill Top removing my neighbors' tree at that time so I think Ms. Naranjo was there when that was happening so she took those photos. Now, there is - - on that street, no parking whatsoever. What I do know, is that there is a lot of traffic that we call APD on and what not. Which is - - that has nothing to do with us I mean it's, it's on a park right there on that side so that right there has nothing to do with us. So, I just kind of wanted to clear that up, you know, so that way there is no question, you know, whether that's JFQ Construction or somebody else.

ZHE: And just for the record, JFQ Construction, is that your company?

VICTOR APODACA: That is correct.

ZHE: That occupies - -

VICTOR APODACA: That is correct, Mr. Lucero. Excuse me?

ZHE: I said that is the company that occupies the subject property?

VICTOR APODACA: That, that is correct.

ZHE: Okay. Okay, well thank you for that clarification. And Ms. Garcia do you - -

VICTOR APODACA: I apologize, the driveway, the driveway also in question, that's has been an existing driveway since day one. That driveway was never put in. That has always been a driveway to the property so, just so that way we, we kind of clear that one up too. We did not put that driveway in. That driveway has always been there.

ZHE: Okay, and you're talking about the driveway onto Hannett Avenue?

VICTOR APODACA: That driveway, yes, with the gate on Hannett Avenue, that is correct. Yeah, the one with the JFQ Construction logo on it, yes sir. That is correct, that, that driveway has always been there.

ZHE: Okay, thank you for that information.

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VICTOR APODACA: Thank you, Mr. Lucero.

ZHE: Ms. Garcia, are you - - did you have more to add?

JUANITA GARCIA, JAG: Yes, yes, okay, so, thank you Mr. Apodaca. I did want to clarify that, that did not appear to be part of Mr. Apodaca's business. I wanted to make sure that that was clearly noted for the record. I also want to emphasize the fact that the property is zoned commercial. I understand that the neighborhood association has filed a lawsuit against the City. They are not happy with some of the zone categories that have been identified throughout the areas within the Martineztown. And so, you know that, that's a separate issue that we cannot address today and do not believe that our - - the Applicant should be penalized for, for that lawsuit. We need to treat it as what it's zoned, which is commercial. All be it may have been historically built as a residential use, it's no longer a residential zone. It still allows for a single-family dwelling if Mr. Apodaca wanted to have a single-family dwelling there but there are also other uses that, that would be allowed on the site permissively. That could generate a lot more traffic than a self-storage building and so we did emphasize that at the Zoom meeting. We identified all the potential other uses that could potentially be there as a permissive use and so we wanted to include that so I, you know I, I, I, don't understand why it's being said that this is not an allowed use when folks from your office, Ms. Lorena Patten has identified, has cleared us to submit the application. Code enforcement has also cleared us to submit the application. If it was not an allowed use, an allowed type of conditional use, the application would not have been allowed to be submitted in the first place. So, I do want to clarify that this is a commercial zone category and this is an allowed use. It was emphasized to the neighborhood association that the Applicant is proposing to store materials in the building knowing that, that is the limitation of what's allowed to be stored in the building. There is equipment. There is a difference between material and equipment and I think what Ms. Naranjo-Lopez is referring to is equipment and Mr. Apodaca is well aware that that is not allowed to be stored on the site and is currently pursuing other opportunities to remove that equipment from the site. Now, it was also referenced by Ms. Naranjo-Lopez that the site plan is not complete, we argued that it is complete. Again, if it had not been completed, code enforcement would have not allowed the application to proceed. What Ms. Naranjo-Lopez is requesting is a site development plan which is, you know, typically what is required for PD zoning or special use zone category that requires detailed information. This is a conditional use application and, and Mr. Apodaca would need to spend a lot of money to do all the other drawings that are necessary for a site development plan, if that's what's required. Now, if Mr. Apodaca is successful in obtaining this conditional use approval, he'd be more than happy to meet all of the requirements that are going to be set forth for the construction of the storage building. That includes landscaping, that includes parking, that includes grading and drainage, all of the elements that are necessary for a building permit and so you know, we, we provided as much information as we needed to, as we could just to clarify exactly what is being requested. Now, in regards to a facilitated meeting, I know that the neighborhood association indicated that they wanted to have a facilitated meeting and we are in favor of a facilitated meeting if it can resolve this matter. Now, when I asked Ms. Naranjo-Lopez as to whether or not a facilitated

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Jesus Apodaca or Victor Apodaca

Agent, Juanita Garcia, JAG Planning & Zoning, LLC

meeting would be helpful in terms of trying to come to a solution to allow this particular use, the response was, no. It was more for the purposes of, of really just trying to get an understanding of the project and - - but ultimately there would not be any support of this request so we are in support of a facilitated meeting if we believe that or if you believe that it would be fruitful to have such a meeting. And so, with that I stand for any other questions.

ZHE: Okay, thank you Ms. Garcia. Ms. Naranjo-Lopez, are you still there?

LORETTA NARANJO-LOPEZ: Mmhhmm.

ZHE: Oh good. So, I just wanted to ask you, do you think that a facilitated meeting would be helpful in coming to a resolution or are the parties just too far apart on this, in your view?

LORETTA NARANJO-LOPEZ: Well if - - I think it would be fruitful. You know, I am speaking - - I just would like to remind the Applicants' agent that I speak for the Board, I don't speak for myself and we spoke on this issue quite a bit and we're not informed of everything and Ms. - - the Applicant's agent stated that this was cement material. She was very clear on it. It's in our minutes. And so, cement material is very toxic, it's very hazardous and so we're concerned about that and so we want to know what's being stored and we feel that the City Planning Department needs to really understand that if it's starting to store cement material, it becomes a construction yard for, for - - and if we go to the definition, I will refer back to the definition, it becomes a construction yard which is not allowed under the MX-M, neither was it allowed in the C2 use under the Sector plan and - - so I think we need to get those clarifications corrected and speak about it and we would like restrictions until we can feel that Mr. Apodaca is willing to work with us and keep the residents nearby, safe because if you start storing cement, Hearing Officer Lucero, when does that be considered a land fill right? I'm just - - there's a lot of questions that come up. If they're storing cement from the state highway or asphalt, does that go into a zoning for land fill? So, there's a lot of things that aren't clear for us. We think a facilitated meeting is necessary.

ZHE: And if those items were clarified in the, in the, you know, limitations to appropriate items being stored were put there, do you think the neighborhood association could support it?

LORETTA NARANJO-LOPEZ: I also would like to discuss the area of consistency. That when they build this structure, that it doesn't look out of place in the neighborhood. We're really concerned about being in character. This is an area of consistency, how are they going to be in character because if you look up self-storage buildings, they're pretty unsightly. I mean, they're just not really nice looking. So, we would like to see - - the Applicant's agent is stating that she gave all of the site plan criteria and when I look at your one sheet that gives - - on your front page of the - - it's saying that a landscaping plan is required that the design of how this building is gonna look is required. We're not seeing that so we can't even comment on it, how it's gonna look. If I'm reading it wrong I would like to know and I don't get my questions answered. I would like Lorena to explain to me what that site plan, is required because it specifically states that a site plan is required under step 3 of your, of your steps to apply for a special exception. So,

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what does that require? It certainly has to show us that it's in character with the surrounding area. But also, that traffic engineering is showing us that, that you know, that this, this Applicant can just go in through the Broadway entrance and out through the Broadway entrance because he cannot go out through - - and I disagree with her being Hill Top because there was no, no emblems. I've seen Hilltop and they have their emblems on their vehicles. It's not Hill Top that was there. But you know, there's no, no - - if you're looking at this site - - again I will say, I don't think this site is large enough for what Mr. Apodaca needs and so I'm saying he can't go out through Hannett with those trucks. He, he only has one entrance in and one entrance out. So how - - we need comments from traffic engineer to understand that.

ZHE: And I'll note for the record that Traffic Engineer has reviewed the application and had no objections but I don't know if you heard my questions Ms. Naranjo-Lopez, I asked that if you know, these items were to be addressed, you know, would the association come out in support of the application? Or could they be resolved? Otherwise, there's no point in having a meeting, I guess is kind of where I'm going.

LORETTA NARANJO-LOPEZ: No, I think it could be resolved, we're just looking to make sure that everything is safe for the residents, right? Because the City has...

ZHE: Okay.

LORETTA NARANJO-LOPEZ: ...historically been providing these uses that are incompatible regardless of what we have to say. They're incompatible next to residential. Period. But if they're gonna show us that it's not gonna, you know, be detrimental to the residents. We'd like to see - - and we'd like to see the vehicles that he's putting inside because every thing has to be inside a building. You cannot have vehicles there, outside. I mean, there's a lot of requirements under the MX-M and I, I would just like to mention that the MX-M makes single-family dwellings non-conforming.

ZHE: Thank you Ms. Naranjo-Lopez. Ms. Garcia, given the thoroughness of Ms. Naranjo-Lopez's reply, I could give you one chance to kind of reply briefly if you would like to and if not, I'll call for other public comment.

JUANITA GARCIA, JAG: Okay, so we did explain to the neighborhood association what was proposed to be stored and Mr. Apodaca has - - so, let me just get out the list that we gave to the neighborhood association. So, they would be, expansion joints, concrete, curing compound, concrete color, braces, ties, concrete forming materials, lumber for forming, concrete materials stored in, in the self-storage building, so it's not recycled concrete or used concrete, it's not recycled asphalt, it's not any of that stuff. It's - - these are all new products, new materials that you can purchase at Lowe's or Home Depot, any of these home improvement stores. And they're not - - you know, there just mostly just related to the construction business that Mr. Apodaca runs, so. It's been mentioned again by Ms. Naranjo-Lopez that it's a contractor's yard, this is not a contractor's yard. The intent of this request is to try to move as much material as possible within the building to eliminate any visual impact this will have on the neighboring site. As

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Jesus Apodaca or Victor Apodaca

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mentioned before, the immediate neighborhood residents have signed a petition indicating that they are in support of this request. They have been talking with Mr. Apodaca, they are well aware of what is being proposed and they do not have any issues with what's being proposed. In regards to the design of the building, the design of the building will meet all of the standards that are identified within the IDO. Any design standards that are applicable within the IDO will be applied here and Mr. Apodaca would be willing to comply with those as well. And so, I, I don't really have much to add. I really don't think that a facilitated meeting would be fruitful in this case. I just think that the use itself is problematic for the neighborhood association and even if we described everything that was being proposed, I just think that we, we would need to again agree to disagree on this particular request.

ZHE: Okay, well I appreciate that information and let's see if that is anyone else who would like to speak on this matter. This is agenda item 20 and it's Jesus or Victor Apodaca through their agent Juanita Garcia, applying for a conditional use to allow self-storage at 1718 Broadway. Please raise your hand if you're here for agenda item 20. And I'm scrolling through the participant list. I'm not seeing anyone. Again, this is agenda item 20. Please hit the little blue hand raise if you're here to speak on agenda item 20. Okay, last call for 20. Well seeing no one additional that wants to submit evidence and having heard both the Applicant and neighborhood association representative, we'll go ahead and close the record and take this under advisement and we'll issue a written decision in 15 days.

JUANITA GARCIA, JAG: Okay, thank you.

ZHE: Thank you both.

VICTOR APODACA: Thank you, Mr. Lucero.

ZHE: Thank you, Mr. Apodaca.

LORETTA NARANJO-LOPEZ: Thank you.

ZHE: Thank you.

Planning Department
Brennon Williams, Interim Planning Director

Development Review Division

600 2nd Street NW – 3rd Floor
Albuquerque, NM 87102

NOTICE OF APPEAL

August 24, 2020

TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on August 20, 2020. You will receive a Notice of Hearing as to when the appeal will be heard by the **Land Use Hearing Officer**. If you have any questions regarding the appeal please contact Alfredo Salas, Planning Administrative Assistant at (505) 924-3370.

Please refer to the enclosed excerpt from the City Council Rules of Procedure for Land Use Hearing Officer Rules of Procedure and Qualifications for any questions you may have regarding the Land Use Hearing Officer rules of procedure.

Any questions you might have regarding Land Use Hearing Officer policy or procedures that are not answered in the enclosed rules can be answered by Crystal Ortega, Clerk to the Council, (505) 768-3100.

CITY COUNCIL APPEAL NUMBER: AC-20-9
PLANNING DEPARTMENT CASE FILE NUMBER:
PR-2020-003906, VA-2020-00275

APPLICANT: Jesus Apodaca
412 Hannett Ave. NE
Albuquerque NM, 87102

AGENT: JAG Junita & Andrew Garcia
P.O. Box 7857
Albuquerque NM 87194

cc: Crystal Ortega, City Council, City county bldg. 9th floor
Kevin Morrow/Legal Department, City Hall, 4th Floor-
ZHE file
Jesus Apodaca victor@jfqconstruction.com
JAG Juanita & Andrew Garcia jag@jagpandz.com



ZONING HEARING EXAMINER'S AGENDA

TUESDAY, July 21, 2020 9:00 A.M.

Join Zoom Meeting
<https://cabq.zoom.us/j/93420676806>
 Meeting ID: 934 2067 6806
 One tap mobile
 +12532158782,,93420676806# US (Tacoma)
 +13017158592,,93420676806# US (Germantown)
 Dial by your location
 +1 253 215 8782 US (Tacoma)
 +1 301 715 8592 US (Germantown)
 +1 312 626 6799 US (Chicago)
 +1 346 248 7799 US (Houston)
 +1 646 558 8656 US (New York)
 +1 669 900 6833 US (San Jose)
 Meeting ID: 934 2067 6806
 Find your local number:
<https://cabq.zoom.us/u/aeofWiuKaL>

*Robert Lucero, Esq., Zoning Hearing Examiner
 Lorena Patten-Quintana, ZHE Planner
 Suzie Sanchez, ZHE Administrative Assistant*

 For Inquiries Regarding This Agenda, Please Call The Planning Dept. at (505) 924-3894.

PLEASE ADDRESS ALL CORRESPONDENCE TO:

Robert Lucero, Esq., Zoning Hearing Examiner at suzannasanchez@cabq.gov

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***INTERPRETER NEEDED:**

- | | | |
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| 1. VA-2020-00122 | Project#
PR-2020-003825 | Ruben Perez and Graciela Silva request a conditional use to allow an accessory dwelling unit without a kitchen for Lot 42, Block 4B, Dennis - - W B, located at 338 Cutler Ave NE, zoned R-1B [Section 14-16-4-2] DEFERRED |
| 2. VA-2020-00130 | Project#
PR-2020-003856 | Claudia Erives requests a conditional use to allow a family home daycare for Lot 20A, Block 26, Anderson Heights Unit 5A, located at 10631 Groundstone Rd SW, zoned R-1A [Section 14-16-4-2] APPROVED |

3. VA-2020-00094 Project#
PR-2020-
003581 Tae Kunisawa requests a variance of 3 ft to the 3 ft maximum wall height for Lot 1, Block 3, College View Addn, located at 3803 Copper Ave NE, zoned R-T [Section 14-16-5-7(D)] **WITHDRAWN**

NEW BUSINESS:

4. VA-2020-00058 Project#
PR-2020-
003426 Billy Williams Jr requests a variance of 3 feet to the 3 foot maximum wall height for Lot 1, Block 1, Apodaca & Sedillo Addn, located at 1400 8TH ST SW, zoned MX-T [Section 14-16-5-7(D)] **APPROVED**
5. VA-2020-00060 Project#
PR-2020-
003438 Daniel Gaillour requests a variance of 3 feet to the 3 foot maximum wall height for Lot 2, Block 16, Santa Fe Addn, located at 917 8th ST SW, zoned R-1A [Section 14-16-5-7(D)] **APPROVED WITH CONDITIONS**
6. VA-2020-00102 Project#
PR-2020-
003715 Carolyn Drummond-Hay requests a variance of 3 feet to the 3 foot maximum wall height for Lot 14, Block H, Vista Encantada Replat, located at 2912 San Pedro DR NE, zoned R-1C [Section 14-16-5-7(D)] **DEFERRED**
7. VA-2020-00116 Project#
PR-2020-
003812 Luis Molina (Agent, Nicky Martinez) requests a variance of 3 ft to the 3 ft maximum wall height for Lot 2, Block 5, Lafayette Terrace, located at 3304 Delamar Ave NE, zoned R-1C [Section 14-16-5-7(D)] **DENIED**
8. VA-2020-00117 Project#
PR-2020-
003817 Guadalupe C. Corrales (Agent, Dolores Morales) requests a variance of 3 ft to the 3 ft maximum wall height for Lot 17, Block 64, Snow Heights Addn, located at 10217 Menaul Blvd NE, zoned R-1B [Section 14-16-5-7(D)] **APPROVED**
9. VA-2020-00120 Project#
PR-2020-
003819 Frank and Nadine Baca (Agent, Dolores Morales) requests a variance of 3 ft to the 3 ft maximum wall height for Lot 1, Baca - - R J Addn, located at 205 Ethel Ave SW, zoned R-1B [Section 14-16-5-7(D)] **APPROVED**
10. VA-2020-00121 Project#
PR-2020-
003820 Shannon Benavides (Agent, Dolores Morales) requests a variance of 3 ft to the 3 ft maximum wall height for Lot 40, Block 1, Academy Place Unit 2, located at 10109 Jiles Dr NE, zoned R-1C [Section 14-16-5-7(D)] **APPROVED**
11. VA-2020-00124 Project#
PR-2020-
003848 City Baptist Church of Albuquerque (Agent Tom Huffman) requests a variance of 3 ft to the 3 ft maximum wall height for Lot 4, Block 38, Eastern Addn, located at 432 Avenida Cesar Chavez SE, zoned MX-L [Section 14-16-5-7(D)] **APPROVED**
12. VA-2020-00129 Project#
PR-2020-
003855 Charles and Joey Kellenaers (Agent, Gilbert Austin) request a permit to allow a carport in the front yard setback for Lot 7, Block 7, La Reina De Los Altos Unit 1, located at 10516 Toltec RD NE, zoned R-1C [Section 14-16-5-5(F)(2)] **APPROVED**
13. VA-2020-00131 Project#
PR-2020-
003888 Gary Weadock requests a variance of 5 feet to the required 15 feet rear yard setback for Lot 100, Homestead Hills Addn, located at 4814 Butterfield TRL NW, zoned R-1C [Section 14-16-5-1(C)] **APPROVED**

14. VA-2020-00133 Project# PR-2020-003889 Justin Lial requests a variance of 3 ft to the 3 ft maximum wall height for Lot 1-P1, Block 1, Tompiro, located at 5920 Gran Quivira Rd NW, zoned R-1B [Section 14-16-5-7(D)] **DEFERRED**
15. VA-2020-00134 Project# PR-2020-003890 Justin Hawkinson requests a variance of 2 ft to the 3 ft maximum wall height for Lot 5, Block 121, Snow Heights Addn, located at 1816 Christine ST NE, zoned R-1B [Section 14-16-5-7(D)] **APPROVED**
16. VA-2020-00135 Project# PR-2020-003898 Michelle Renteria requests a variance of 3 ft to the 3 ft maximum wall height in the front yard for Lot 10, Block 59, Raynolds Addn, located at 620 Iron Ave SW, zoned R-1A, [Section 14-16-5-7(D)] **APPROVED**
17. VA-2020-00136 Project# PR-2020-003904 Sonata Trails, LLC / JL Murtagh (Agent, Consensus Planning, Jim Strozier) requests a conditional use to allow multi-family residential dwelling units on the ground floor of a building in the Volcano Heights Urban Center for Lot 1, The Trails Unit 4, located at 99999 Avenida De Jaimito NW, zoned MX-M [Section 14-16-4-3(B)(7)(d)] **APPROVED**
18. VA-2020-00137 Project# PR-2020-003904 Sonata Trails, LLC / JL Murtagh (Agent, Consensus Planning, Jim Strozier) requests a conditional Use to allow multi-family residential dwelling units on the ground floor of a building in the Volcano Heights Urban Center for Lot 2, The Trails Unit 4, located at 99999 Avenida De Jaimito NW, zoned MX-M [Section 14-16-4-3(B)(7)(d)] **APPROVED**
19. VA-2020-00138 Project# PR-2020-003904 Sonata Trails, LLC / JL Murtagh (Agent, Consensus Planning, Jim Strozier) requests a conditional Use to allow multi-family residential dwelling units on the ground floor of a building in the Volcano Heights Urban Center Center for Lot 3, The Trails Unit 4, located at 99999 Avenida De Jaimito NW, zoned MX-M [Section 14-16-4-3(B)(7)(d)] **APPROVED**
20. VA-2020-00140 Project# PR-2020-003906 Jesus Apodaca or Victor Apodaca (Agent, Juanita Garcia, JAG Planning & Zoning, LLC) request a conditional use to allow self-storage for Lot 1D, MRGCD Map 37, located at 1718 Broadway Blvd NE, zoned MX-M [Section 14-16-4-3(D)(28)] **DENIED**
21. VA-2020-00142 Project# PR-2020-003909 Red Shamrock 21, LLC (Agent, Modulus Architects) requests a variance of 8 feet to the 15-foot maximum setback in the MX-H zone for Lot A-1, Bellemahs Central, located at 10415 Central Ave NE, zoned MX-H [Section 14-16-4-3(D)(17)(k)] **DEFERRED**
22. VA-2020-00143 Project# PR-2020-003911 Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for a light vehicle fueling station adjacent to a residential zone district for Commercial Tract, Block 5, Los Altos, located at 99999 Bridge Blvd SW, zoned MX-M [Section 14-16-4-3(D)(17)(i)] **DEFERRED**
23. VA-2020-00144 Project# 003911 Jose Alfredo and Ailda Martinez (Agent, Modulus Architects) requests a conditional use to allow for liquor sale within 500 feet of residential for Lot B, Block 5, Los Altos, located at 1021 Old Coors Dr SW, zoned MX-M [Section 14-16-4-3(D)(36)(c)] **DEFERRED**

24. VA-2020-00151 Project#
PR-2020-003922 Evangelina Marcum requests a variance of 3 ft to the 3 ft maximum wall height for Lot 7, Block 25, Eastern Addn, located at 706 Lewis Ave SE, zoned R-1A [Section 14-16-5-7(D)] **DEFERRED**
25. VA-2020-00152 Project#
PR-2020-003923 Richard Archuleta (Agent, Gilbert Austin) requests a permit to allow a carport within a front or side setback for Lot 15, Block P, Hoffman Town Addn, located at 2511 General Bradley ST NE, zoned R-1C [Section 14-16-5-5-F-2] **APPROVED**
26. VA-2020-00153 Project#
PR-2019-003138 Jeremy Oswald requests a variance of 3 ft to the 3 ft maximum wall height for Lot 6, Block 1, Santa Fe Addn, located at 707 Santa Fe Ave SW, zoned R-1 [Section 14-16-5-7(D)] **APPROVED**



ZONING HEARING EXAMINER'S AGENDA

TUESDAY, July 21, 2020 9:00 A.M.

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 One tap mobile
 +12532158782,,93420676806# US (Tacoma)
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 Dial by your location
 +1 253 215 8782 US (Tacoma)
 +1 301 715 8592 US (Germantown)
 +1 312 626 6799 US (Chicago)
 +1 346 248 7799 US (Houston)
 +1 646 558 8656 US (New York)
 +1 669 900 6833 US (San Jose)
 Meeting ID: 934 2067 6806
 Find your local number:
<https://cabq.zoom.us/u/aeofWiuKaL>

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 Lorena Patten-Quintana, ZHE Planner
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