Councillor Yntema moved that the Committee Reports (Exhibits 20-21) be accepted. Seconded. The motion carried by the following vote:

For: 7 - Council Members: Winter, Hundley, Armijo, Griego, Kline, Yntema and Brasher
Against: 0
Excused: 2 - Council Members: McEntee and Payne

AC-01-11 Perry Wilkes, Agent for Downtown Neighborhoods Association, Appeals the EPC's Approval of a Site Development Plan for Building Permit. Located on the Northeast Corner of Tijeras Avenue and 13th Street

Councillor Yntema moved that this matter be Accepted with a recommendation Be Withdrawn. Seconded. The motion carried by the following vote:

For: 7 - Council Members: Winter, Hundley, Armijo, Griego, Kline, Yntema and Brasher
Against: 0
Excused: 2 - Council Members: McEntee and Payne

Councillor Yntema moved that the Committee Report (Exhibit 22) be accepted. Seconded. The motion carried by the following vote:

For: 7 - Council Members: Winter, Hundley, Armijo, Griego, Kline, Yntema and Brasher
Against: 0
Excused: 2 - Council Members: McEntee and Payne

R-01-303 Approving the Los Candelarias Village Center and Metropolitan Redevelopment Plan (Griego)

Councillor Yntema moved that this matter be Accepted with a recommendation Do Pass, As Amended. Seconded. The motion carried by the following vote:

For: 7 - Council Members: Winter, Hundley, Armijo, Griego, Kline, Yntema and Brasher
Against: 0
Excused: 2 - Council Members: McEntee and Payne

O-01-124 Amending ROA 1994 of Food And Beverages Ordinance to Revise the Hours During which Ice Cream Vendors May Not Conduct Business (Yntema)

Councillor Yntema moved that this matter be Accepted with a Recommendation Do Pass. Seconded. The motion carried by the following vote:

For: 7 - Council Members: Winter, Hundley, Armijo, Griego, Kline, Yntema and Brasher
Against: 0
Excused: 2 - Council Members: McEntee and Payne

Councillor Yntema moved that the Committee Reports (Exhibits 23-24) be accepted. Seconded. The motion carried by the following vote:

For: 7 - Council Members: Winter, Hundley, Armijo, Griego, Kline, Yntema and Brasher
Against: 0
Excused: 2 - Council Members: McEntee and Payne

City of Albuquerque
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

NOTICE OF HEARING

May 15, 2001

Downtown Neighborhoods Assoc.
718 Mountain Rd. NW
Albuquerque, NM 87102

AC-01-11/00110-00000-01500/00138-00000-01501/00128-00000-01502/Project #1000892
Perry Wilkes, Agent for Downtown Neighborhoods Association, Appeal the EPC's Approval of a Site Development Plan for Building Permit, Located on the Northeast Corner of Tijeras Avenue and 13th Street. Simon Shima, Staff Planner

The above appealed case will be heard by the Land Use, Planning and Zoning Committee (LUPZ) on **Wednesday, May 30, 2001.** The hearing begins at 5:00 p.m. and will be held in the Council/Committee Room, 9th Floor, City/County Government Center, One Civic Plaza, NW.

Please note that any information submitted after the final EPC hearing (other than the appeal application and related materials) is NOT part of the EPC record and is therefore not included in the record submitted to City Council. Submittal of new information should be directed to Council Services, c/o Karen Baca, 1 Civic Plaza NW, Albuquerque, NM 87102.

If you have any questions or if I can be of further assistance, you can contact me at (505) 924-3889.

Sincerely,

Crystal Ortega
Administrative Assistant

cc: Charles Benzaquen, 1223 Tijeras Ave. NW, Albuq. NM 87102
Garcia/Kraemer, 200Lomas NW, Ste. 1111, Albuq. NM 87102
Perry Wilkes, Downtown Neigh. Assoc., 718 Mountain Rd. NW, Albuq. NM 87102
Jim Barr, Downtown Neigh. Assoc., 407 12th St. NW, Albuq. NM 87102
Joe Sackett, 905 Fruit NW, Albuq. NM 87102
Stephen Lawless, 1323 Marquette NW, Albuq. NM 87102
HR Blackhurst, 1331 Park Ave. SW, #504, Albuq. NM 87102
Mary Lebeck, 415 11th St. NW, Albuq. NM 87102
Nicholas Gentry, 414 11th St NW, Albuq. NM 87102
Barb Lebeck, 916 Lomas NW, Albuq. NM 87102
John Myers, 1401 Central Ave. NW, Albuq. NM 87104

THE CITY OF ALBUQUERQUE IS AN EQUAL OPPORTUNITY/REASONABLE ACCOMMODATION EMPLOYER

CITY OF ALBUQUERQUE
Albuquerque, New Mexico

May 1, 2001

INTER-OFFICE CORRESPONDENCE

TO: Brad Winter, President, City Council

FROM: Robert R. McCabe, AIA, APA, Planning Director

SUBJECT: **AC-01-11**/00110-00000-01500/00138-00000-01501/00128-00000-01502/Project #1000892 Perry Wilkes, Agent for Downtown Neighborhoods Association, Appeal the EPC's Approval of a Site Development Plan for Building Permit, Located on the Northeast Corner of Tijeras Avenue and 13th Street. Simon Shima, Staff Planner

This is an **appeal** of a March 22, 2001 Environmental Planning Commission (the "EPC") approval of a Site Development Plan for Building Permit for Lots 47 & 48, Perea Addition located on the northeast corner of Tijeras Avenue and 13th Street, to accommodate a combined single family residence and small restaurant at the existing single family residence. The Downtown Neighborhoods Association has also filed a **protest** to the associated EPC recommendation for approval to the City Council of amendments to the Downtown Neighborhoods Area Sector Development Plan (00123 00000 01501), and a Zone Map amendment from SU-2/TH (Townhouse) to SU-2/SU-1 for SF (Single Family residential) and Restaurant with Beer and Wine (00110 0000 01500), respectively.

Despite the fact that this is an appeal procedure of the EPC approval of the Site Development Plan, a companion measure for Project #1000892, the principal reason for the appeal is not for the Site Development Plan per se, but for the EPC recommended amendments to the above Sector Development Plan and the Zone Map. Therefore, should the City Council deny the companion measures, i.e., amendments to the Sector Development Plan and the Zone Map, the subject appeal would become immaterial.

The owner/resident of the above property is requesting the above approval in order to open a small restaurant serving dinner with beer and wine and to maintain his residence at the property. None of the existing zoning designations of the Downtown Neighborhood Area Sector Development Plan covering the subject property permits a **combined** residence and small restaurant serving dinner with beer and wine, as requested. Therefore, the EPC recommended approval of amendments to the Downtown Neighborhood Area Sector Development Plan that would provide: 1) a new zoning designation of SU-2/SU-1 for SF (Single Family residential) & Restaurant with Beer & Wine; and 2) certain language to the text that describes the Special Use (SU-1) land use , and an associated Zone Map amendment for the subject property from SU-2/TH to SU-2/SU-1 for SF and Restaurant with Beer and Wine.

At the March 22, 2001 public hearing, the EPC found the Site Development Plan acceptable with certain conditions. In addition, the EPC found that the above amendments would allow a combined single family residence and restaurant serving dinner with beer and wine, and that certain applicable goals and policies of the Comprehensive Plan and Downtown Neighborhood Area Sector Development Plan are supportive of the Zone Map Amendment.

Further, the EPC found that although the Board of the Downtown Neighborhood Association had taken action not to support the Downtown Neighborhood Area Sector Development Plan amendments, the associated Zone Map amendment and Site Development Plan for Building Permit, there is substantial property owner support for the subject amendments. This support comes from both residents and commercial property owners within the immediate and adjoining neighborhoods.

On April 5, 2001, Perry Wilkes, Agent for the Downtown Neighborhoods Association, filed an appeal to the March 22, 2001 EPC approval of the subject Site Development Plan.

APPROVED:

Richard Dineen, Division Manager
Development Services Division
Planning Department

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(00110-00000-01500/00138-00000-01501/00128-00000-01502/
Project #1000892)

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AC-01-11

City of Albuquerque

DEVELOPMENT REVIEW APPLICATION

Supplemental form

SUBDIVISION S
- ___ Major Subdivision action
- ___ Minor Subdivision action
- ___ Vacation V
- ___ Variance (Non-Zoning)

SITE DEVELOPMENT PLAN P
- ___ ...for Subdivision Purposes
- ___ ...for Building Permit
- ___ IP Master Development Plan
- ___ Cert. of Appropriateness (LUCC) L

Supplemental form

ZONING Z
- ___ Annexation & Zone Establishment
- ___ Sector Plan
- ___ Zone Change
- ___ Text Amendment
- ___ Special Exception E

APPEAL / PROTEST of... A
- X Decision by: DRB, (EPC), LUCC, Planning Director or Staff, ZHE, Zoning Board of Appeals

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2nd Street NW, Albuquerque, NM 87102. Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICANT INFORMATION:

NAME: DOWNTOWN NEIGHBORHOODS ASSOC. PHONE: 842-8626
ADDRESS: 718 MOUNTAIN RD. NW FAX: ___
CITY: ALBUQ. STATE NM ZIP 87102 E-MAIL: ___
Proprietary interest in site: LOCAL RECOGNIZED NEIGHBORHOOD ASSOCIATION
AGENT (if any): PERRY R. WILKES PHONE: 842-8626
ADDRESS: 718 MOUNTAIN RD. NW FAX: ___
CITY: ALBUQ. STATE NM ZIP 87102 E-MAIL: ___

DESCRIPTION OF REQUEST: APPEAL OF SDP AMENDMENT, ZONE MAP AMENDMENT AND SITE DEVELOPMENT PLAN APPROVAL

___ Is the applicant seeking incentives pursuant to the Family Housing Development Program? ___ Yes. X No.

SITE INFORMATION: ACCURACY OF THE LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.

Lot or Tract No. LOTS 47 + 48 Block: ___ Unit: ___
Subdiv. / Addn. PEREA ADDITION
Current Zoning: SU-2/TH Proposed zoning: SU-2/SU-1 S.F.R. RESTAURANT
Zone Atlas page(s): J-13 No. of **existing** lots: 1 No. of **proposed** lots: 1
Total area of site (acres): ___ Density if applicable: dwellings per gross acre: ___ dwellings per net acre: ___
Within city limits? X Yes. No___, but site is within 5 miles of the city limits (DRB jurisdiction.) Within 1000FT of a landfill? NO
UPC No. ___ MRGCD Map No. ___
LOCATION OF PROPERTY BY STREETS: On or Near: TIJERAS NW
Between: 12TH ST. NW and 13TH ST. NW

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX_, Z_, V_, S_, etc.): 00110-00000-01500 / 00138-00000-01501 / 00128 00000 01502

Check-off if project was previously reviewed by Sketch Plat/Plan ☐, or Pre-application Review Team ☐. Date of review: ___

SIGNATURE [signature] DATE 4-5-01
(Print) Perry Robert Wilkes ___ Applicant ___ Agent

FOR OFFICIAL USE ONLY Form revised December 2000

INTERNAL ROUTING
- ☑ All checklists are complete
- ☑ All fees have been collected
- ☑ All case #s are assigned
- ☑ AGIS copy has been sent
- ☑ Case history #s are listed
- ☐ Site is within 1000ft of a landfill
- ☐ F.H.D.P. density bonus
- ☐ F.H.D.P. fee rebate

Application case numbers	Action	S.F.	Fees
01218 - 00000 - 00477	APPEAL TOCL	A	$ 50.00
___ - ___ - ___	___	___	$ ___
___ - ___ - ___	___	___	$ ___
___ - ___ - ___	___	___	$ ___
___ - ___ - ___	___	___	$ ___
			Total $ 50.00

Hearing date TBA

Bradenbert 4/06/01
Planner signature / date

Project # 1000892

FORM A: APPEAL

Appeal to the Zoning Board of Appeals regarding:

- ☐ DECISION OF THE ZONING HEARING EXAMINER

Appeal to the Landmarks and Urban Conservation Commission regarding:

- ☐ CERTIFICATE OF APPROPRIATENESS DECISION OF THE PLANNING DIRECTOR OR STAFF

Appeal to the Environmental Planning Commission regarding:

- ☐ ADMINISTRATIVE AMENDMENT OR DECISION OF THE PLANNING DIRECTOR OR STAFF
- ☐ DECLARATORY RULING OF THE ZONING ENFORCEMENT OFFICER
- ☐ DETERMINATION OR ACTION OF THE DEVELOPMENT REVIEW BOARD

Appeal to the City Council regarding:

- ☒ DETERMINATION OR ACTION OF THE ENVIRONMENTAL PLANNING COMMISSION
- ☐ ACTION OF THE ZONING BOARD OF APPEALS REGARDING AN APPEAL
- ☐ DECISION OF THE LANDMARKS AND URBAN CONSERVATION COMMISSION

✓ Project number of case being appealed; # 1000892

__ Application number of case being appealed; _____

✓ Reason for the appeal *
✓ Appellant's basis of standing as an appellant *
N/A Letter of authorization from the appellant if this application for appeal is submitted by an agent
✓ Copy of the Official Notification of Decision regarding the matter being appealed
✓ Fee (see schedule)

* Criteria for reasonable appeals and criteria for standing as an appellant are given in *Zoning Code §14-16-4-4*. Any appeal must meet these criteria to be heard. The applicant should review these and other relevant documents carefully before preparing an application for appeal.

§ 14-16-4-4, (B) (2) (C) ... ORGANIZED NEIGHBORHOOD ASSOCIATIONS ... IF THE BOUNDARIES OF THE ASSOCIATION INCLUDE ANY PART OF THE SUBJECT SITE...

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.

PERRY R. WILKES
Applicant name (print)

Applicant signature / date 4-5-01

Form revised December 2000

- ☐ Checklists complete
- ☑ Fees collected
- ☑ Case #s assigned
- ☑ Related #s listed

Application case numbers
01278 - 00000 - 00477
____ - ____ - ____
____ - ____ - ____

Bartholomew 4/05/01
Planner signature / date

Project # 1000892

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
LAND DEVELOPMENT COORDINATION DIVISION
PAID RECEIPT

APPLICANT NAME: D.N.A.

AGENT: Perry R. Wilkes

ADDRESS: (w/zip code) 718 MOUNTAIN RD NW 87102

CASE NUMBER: 1000892 / 01218-00000-00477

AMOUNT DUE: $50.00

✓ 441006/4981000 (City Cases)

[redacted]

DOWNTOWN NEIGHBORHOOD ASSOC.

PAY TO THE ORDER OF City of Albuquerque

DATE 3 April 2001

95-32/1070

$ 50.00

Fifty and 00/100 DOLLARS

NationsBank
NationsBank, N.A.
New Mexico

FOR EPC Appeal

Leda J. Clark
James B Clark

[redacted]

DOWNTOWN NEIGHBORHOODS ASSOCIATION

April 5, 2001

Councilor Brad Winter, President
Alburquerque City Council
One Civic Center
Alburquerque, NM 87102

Dear Council President Winter,

The Board of Directors of the Downtown Neighborhoods Association (The DNA) has voted unanimously to appeal the March 23, 2001 decision of the Environmental Planning Commission (EPC) to approve the following File numbers requested by Mr. Charles Benzaquen:

00110 00000 01500, a Zone Map Amendment from SU-2/TH to SU-2/SU-1 for SFR & Restaurant with wine and beer for Lots 47 and 48, Perea Addition.
00138 00000 01501, an amendment to the Downtown Neighborhoods Sector Development Plan.
00128 00000 01502, a Site Development Plan for Building Permit for Lots 47 and 48, Perea Addition.

While we wish Mr. Benzaquen the very best of success in his restaurant venture, we believe that this is an inappropriate location that will be detrimental to the neighborhood and that we must appeal this decision because established City plans, policies, and ordinances have not been properly followed in this case:

1. Contrary to the Planning staff report on this case dated March 22, 2001, the Downtown Neighborhood Area Sector Development Plan does not support the conversion of residential dwellings to commercial uses.
2. The SDP amendment approved by EPC is so broad as to effectively remove many essential protections afforded to the community by the DNA sector plan. This is contrary to the basic purpose of Sector Development Plans.
3. The Downtown 2010 Plan, as approved by the Council, supports and reflects the DNA SDP and protects the residential neighborhoods adjoining the Downtown Core with a "hard line"between residential neighborhoods and commercial activity. In the "Healthy Neighborhoods" section, the 2010 Plan clearly states that "[v]ariances, zone changes and other administrative actions which would allow commercial activity to creep across the boundary from the Downtown Core into the adjacent neighborhoods should occur only in the most exceptional of cases." This case is not exceptional.
4. Adopted City plans and policies demonstrate that the existing residential zoning is appropriate and a zone change to allow commercial uses is inappropriate.
5. Approval of the Sector Development Plan amendment will result in a "changed neighborhood condition" and will open this area of the Downtown Neighborhoods to further intrusion of new commercial land uses. Under Resolution 270-1980, "a changed neighborhood or community condition justif[ies]" a zone change request. If this SDP amendment is approved, once a resident on a nearby parcel decides that a commercial zoning would be advantageous, he could submit a zone map amendment request citing "changed neighborhood conditions." Such a request would be difficult to deny.

6. This a "spot zone;" illegal under Resolution 270-1980. By allowing a special commercial use on this parcel, the EPC has, "singl(ed) out a small parcel of land for a use classification different and inconsistent with the surrounding area, for the benefit of the owner of such property and to the detriment of the rights of other property owners." (Burkett v. City of Texarkana, 500 S.W.2d 242,244 (Tex. Civ. App.) 1973) Resolution 270-1980, the guiding document for the EPC states, "[a] zone change request which would give a zone different from surrounding zoning to one small area, especially when one premise is involved, is generally called a 'spot zone.'" In the practice of land use law, spot zoning is invalid and illegal unless it is consistent with locally adopted plans. The consistency test for spot zoning was clearly not met because the local plan was not "spot planned" to allow the "spot zone."

7. We believe it is inappropriate to grant a Sector Plan Amendment against the earlier unanimous opposition of a duly elected neighborhood Board of Directors.

The Board of Directors for the Downtown Neighborhoods Association respectfully requests the City Council to overturn the decision of the EPC to approve an amendment (00138 00000 01501) to the Downtown Neighborhood Area Sector Development Plan which adds the language "and certain other approved land uses" and an additional sentence that reads "Newly zoned SU-1 properties require site development plan approval."

Thank you very much for your attention to this matter.

Sincerely,

Perry Robert Wilkes, Chairman
Downtown Neighborhoods Association
718 Mountain Road NW
842-8626

April 5, 2001

Councilor Brad Winter, President
City of Albuquerque
One Civic Plaza
Albuquerque NM 87103

Dear Mr. Winter:

It has come to our attention that a downtown resident at 1223 Tijeras NW is requesting an amendment to the DNA Sector Development Plan to allow conversion of a major part of his residence into a restaurant. The Downtown Neighborhood Association is opposing the request.

By majority vote, the Board of Directors of the Huning Castle Neighborhood Association supports the Downtown Neighborhood Association in their opposition to the request for an amendment to the Sector Development Plan allowing the conversion of a residence into a restaurant. The Board of Directors of Huning Castle opposes the inappropriate revision of sector development plans that result in de facto spot zoning.

Thank you for your attention to this matter.

Sincerely,

Gregory T. Hicks
Huning Castle NA, President

Gregory T. Hicks • • • Jacqueline M. Wright

400 San Pasquale SW • Albuquerque, NM 87104 • 505 843-8780

City of Albuquerque
Planning Department
Development Services Division
P.O. Box 1293
Albuquerque, New Mexico 87103

Date: March 23, 2001

OFFICIAL NOTIFICATION OF DECISION

Charles Benzaquen
1223 Tijeras Ave. NW
Albuq. NM 87102

Proj. #1000892

FILE: 00110 00000 01500/00138 00000 01501/00128 00000 01502
LEGAL DESCRIPTION: for Lots 47 & 48, Perea Addition, located on the northeast corner of Tijeras Avenue and 13th Street, containing approximately .11 acres. (J-13) Simon Shima, Staff Planner

On March 22, 2001, the Environmental Planning Commission voted to recommend approval to City Council of 00138 00000 01501, an amendment to the Downtown Neighborhood Sector Development Plan and adds the language "and certain other approved land uses" and an additional sentence that reads "Newly zoned SU-1 properties require site development plan approval" to the text of the plan that describes SU-1 zoning based on the following Findings:

FINDINGS:

1. The applicant intends to open a small restaurant with maximum 24 seating capacity to serve fine food and fine wine for dinner at his residence at 1223 Tijeras Avenue NW. No package liquor sale is requested.

2. To allow for the above land use, the applicant is requesting the Downtown Neighborhood Area Sector Development Plan (the "DNA Plan") amendments including: a) the text amendment to add certain language on the Special Use land use; and b) amendment of Map 7, Land Use Plan, on the subject property from SU-2/TH (Townhouse) to SU-2/SU-1 for SFR (Single Family Residence) & Restaurant with Wine & Beer.

3. Mixed land uses of residential and office/commercial currently exist in the immediate vicinity of the subject property which can be characterized as a transitional area from residential to the north to office/commercial to the south on or in close proximity to Central Avenue.

4. The subject property is located in the Central Urban Area of the Comprehensive Plan adopted in 1988. Its applicable goal is supportive of the proposed land use.

5. The subject property is located within the boundary of the DNA Plan adopted as a Rank III plan in 1976. Certain applicable DNA Plan goal and policies are supportive of the proposed land use.

6. The Board of the Downtown Neighborhood Association (the "Association") has voiced its strong opposition to the request in writing. The Board of the Association regards the request as the conversion of the applicant's single-family home to an eventual commercial restaurant rather than a combined residence and restaurant as proposed.

7. The applicant' agent submitted 21 letters of support for the request. Six (6) letters are from the residents of the Association, 14 letters from adjacent neighborhoods, and one (1) letter from an unknown address.

8. Regarding the subject DNA Plan amendments, the EPC charge is to make a recommendation to the City Council.

On March 22, 2001, the Environmental Planning Commission voted to approve 00110 00000 01500, a Zone Map amendment from SU-2/TH (Townhouse) to SU-2/SU-1 for SFR (Single Family Residential) & Restaurant with Wine & Beer for Lots 47 and 48, Perea Addition based on the following Findings:

FINDINGS:

1. The subject property is currently zoned SU-2/TH. The requested zoning is SU-2/SU-1 for SFR & Restaurant with Wine & Beer.

2. The subject property is located at the edge of the SU-2/TH Zone bordering the SU-2/CC (Community Commercial) Zone. The property immediately to the east houses law offices under the SU-2/TH Zone.

3. The subject property is located in a transitional area from residential to the north to office/commercial to the south on or in close proximity to Central Avenue. There are certain discrepancies between what the DNA Plan has envisioned and the existing land uses.

4. The DNA Plan allows only existing churches under the Special Use, and none of the existing zoning designations in the DNA Plan permits the residence and restaurant serving wine and beer as proposed. Therefore, SU-2/SU-1 for SFR & Restaurant with Wine & Beer along with the associated text amendment, as requested, would permit the proposed use under the DNA Plan framework.

5. Although the Downtown Neighborhood Association Board has taken action to not support the motion for the zone change, there is substantial property owner support, both residents and commercial properties owners, within the neighborhood and adjoining neighborhoods that supports the zone change request.

On March 22, 2001, the Environmental Planning Commission voted to approve 00128 00000 01502, a Site Development Plan for Building Permit for Lots 47 and 48, Perea Addition, based on the following Findings and subject to the following Conditions:

FINDINGS:

1. The subject property, constructed approximately in 1924, is of a one story gable roof cottage style and is located within the Fourth Ward Historical Overlay Zone. The subject property is a contributing residence. As a result, any exterior change would be subject to the Landmarks & Urban Conservation Commission review. The applicant must receive a Certificate of Appropriateness from the City prior to any exterior improvements.

2. The building setback is significantly limited. Under the SU-1 zoning, as requested, it would be the discretion of the Environmental Planning Commission to approve or disapprove the Site Development Plan.

3. The applicant has secured in writing eight (8) off-street parking spaces for use by his patrons after 5:00 pm from Law Office of William Snead, located immediately east of the subject property.

4. Both Route 66 Central Avenue transit service and Route 24 Old Town trolley service are available at a bus stop on Central Avenue, a block away from the subject property.

5. The Site Development Plan shows no information regarding lighting.

6. 2,334 square foot landscape areas are proposed in excess of the required 492 square feet. The Zone Code requires a minimum of 75 percent of the landscape area, 1,750 square feet, be covered with living, vegetative materials.

7. The Site Development Plan provides no information on the design of the proposed sign, nor the location. The proposed sign is 6 square feet to 12 square feet in area and illuminated. The R-1 Zone permits one related, non-illuminated wall sign, not exceeding one square foot in area. Because of the SU-1 zoning, as requested, it would be the discretion of the Environmental Planning Commission to approve or disapprove the proposed sign.

CONDITIONS:

1. The submittal of this site plan to the Development Review Board shall meet all Environmental Planning Commission conditions. A letter shall accompany the submittal, specifying all modifications that have been made to the site plan since the Environmental Planning Commission hearing, including how the site plan has been modified to meet each of the Environmental Planning Commission conditions. Unauthorized changes to this site plan, including before or after Development Review Board final sign-off, may result in forfeiture of approvals.

2. The revised Site Development Plan shall be submitted which provides specific information on lighting and the sign. The sign shall be no larger then 3 square feet in area.

3. No new Ash trees shall be planted.

4. At least 75 percent of the landscape areas shall be covered with living, vegetative materials; concrete, grave or flagstone is not considered living, vegetative materials.

5. The landscape plan and maintenance shall comply with the City Street Tree Ordinance, Pollen Ordinance, and Water Conservation Landscaping and Waste Water Ordinance.

6. The hours of operation are limited to 5 p.m. - 10 p.m.

IF YOU WISH TO APPEAL THIS DECISION, YOU MUST DO SO BY **APRIL 6, 2001** IN THE MANNER DESCRIBED BELOW. A NON-REFUNDABLE FILING FEE OF $50 IS REQUIRED AT THE TIME THE APPEAL IS FILED.

Appeal to the City Council: Persons aggrieved with any determination of the Environmental Planning Commission acting under this ordinance and who have legal standing as defined in Section 14-16-4-4.B.2 of the City of Albuquerque Comprehensive Zoning Code may file an appeal to the City Council by submitting written application on the Planning Department form to the Planning Department within 15 days of the Planning Commission's decision. The date the determination in question is issued is not included in the 15-day period for filing an appeal, and if the fifteenth day falls on a Saturday, Sunday or holiday as listed in the Merit System Ordinance, the next working day is considered as the deadline for filing the appeal. The City Council may decline to hear the appeal if it finds that all City plans, policies and ordinances have been properly followed. If it decides that all City plans, policies and ordinances have not been properly followed, it shall hear the appeal. Such appeal, if heard, shall be heard within 45 days of its filing.

YOU WILL RECEIVE NOTIFICATION IF ANY OTHER PERSON FILES AN APPEAL. IF THERE IS NO APPEAL, YOU CAN RECEIVE BUILDING PERMITS AT ANY TIME AFTER THE APPEAL DEADLINE QUOTED ABOVE, PROVIDED ALL CONDITIONS IMPOSED AT THE TIME OF APPROVAL HAVE BEEN MET. SUCCESSFUL APPLICANTS ARE REMINDED THAT OTHER REGULATIONS OF THE CITY MUST BE COMPLIED WITH, EVEN AFTER APPROVAL OF THE REFERENCED APPLICATION(S).

Successful applicants should be aware of the termination provisions for Site Development Plans specified in Section 14-16-3-11 of the Comprehensive Zoning Code. Generally plan approval is terminated 7 years after approval by the EPC.

Sincerely,

for Robert R. McCabe, AIA, APA
Planning Director

RM/SS/ac

cc:

Garcia/Kraemer, 200Lomas NW, Ste. 1111, Albuq. NM 87102
Perry Wilkes, Downtown Neigh. Assoc., 718 Mountain Rd. NW, Albuq. NM 87102
Jim Barr, Downtown Neigh. Assoc., 407 12th St. NW, Albuq. NM 87102
Joe Sackett, 905 Fruit NW, Albuq. NM 87102
Stephen Lawless, 1323 Marquette NW, Albuq. NM 87102
HR Blackhurst, 1331 Park Ave. SW, #504, Albuq. NM 87102
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Nicholas Gentry, 414 11th St NW, Albuq. NM 87102
Barb Lebeck, 916 Lomas NW, Albuq. NM 87102
John Myers, 1401 Central Ave. NW, Albuq. NM 87104

CITY OF ALBUQUERQUE

EPC

ENVIRONMENTAL PLANNING COMMISSION

Agenda Number: 3
Case Number: 00110 00000 01500/00138 00000 01501/00128 00000 01502
March 22, 2001

Staff Report

Agent	Garcia/Kramer & Associates
Applicant	Charles Benzaquen
Requests	**1) Downtown Neighborhood Area Sector Development Plan Amendments;** **2) Zone Map Amendment; and** **3) Site Development Plan for Building Permit**
Legal Description	Lots 47 & 48 of Perea Addition
Location	1223 Tijeras Avenue NW
Size	Approximately .11 acre
Existing Zoning	SU-2/TH (Townhouse)
Proposed Zoning	SU-2/SU-1 for SFR (Single Family Residence) & Restaurant with Wine & Beer

Staff Recommendation

APPROVAL of 00138 00000 01501,00110 00000 01500, 00128 00000 01502, based on the findings on pages 19 - 22 and subject to the conditions of approval on pages 23-24.

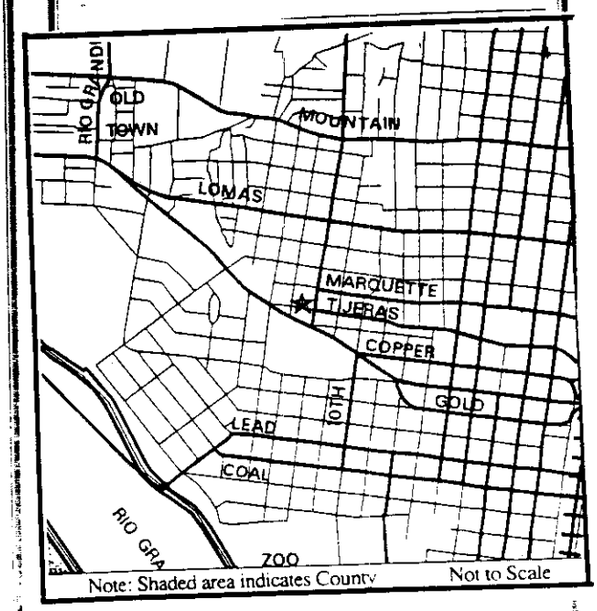
Staff Planner

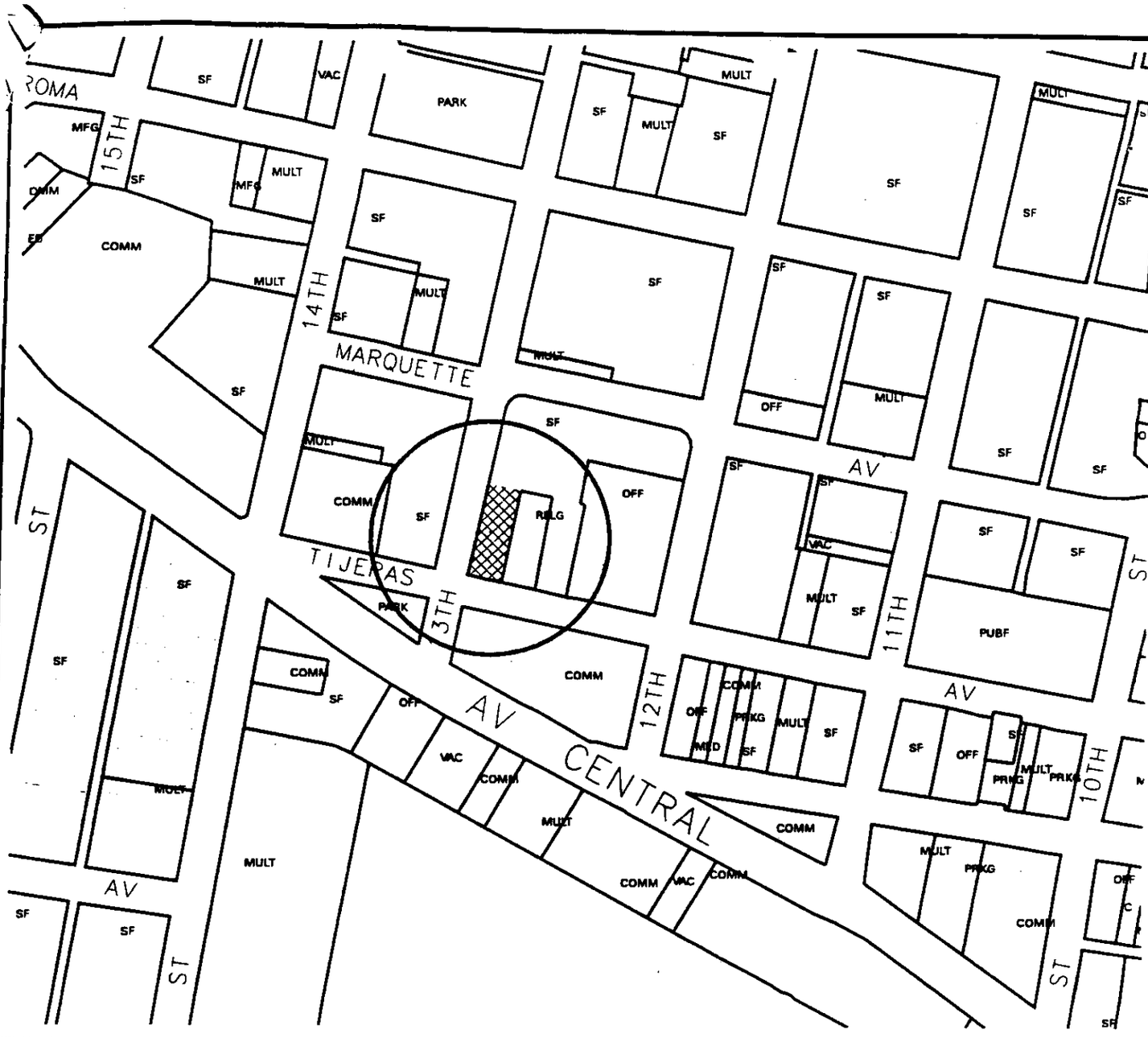
Simon Shima AICP, Senior Planner

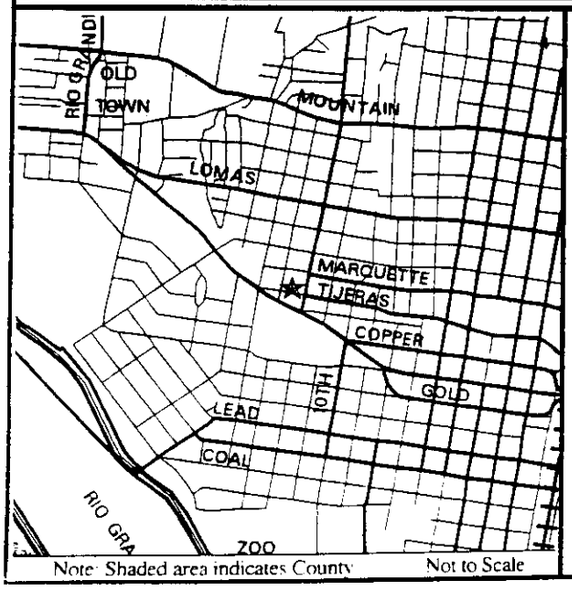
Summary of Analysis

In order to allow the applicant to open a small restaurant (maximum 24 seats) to serve fine food and fine wine for dinner at his residence at 1223 Tijeras Avenue NW, the applicant is requesting approval of: 1) Downtown Neighborhood Area Sector Development Plan amendments, including: a) a text amendment; and b) a Land Use Plan Map amendment from SU-2/TH (Townhouse) to SU-2/SU-1 for SFR (Single Family Residence) & Restaurant with Wine & Beer; 2) a Zone Map amendment from SU-2/TH to SU-2/SU-1 for SFR & Restaurant with Wine & Beer; and 3) Site Development Plan for Building Permit.

Based on the ensuing analysis, it is found that the proposed amendments, as enumerated above, would be compatible with certain applicable goals, policies, and intents of the Comprehensive Plan, the Downtown Neighborhood Area Sector Development Plan, and the Downtown 2010 Sector Development Plan. In addition, the applicant has provided adequate justification for the Zone Map amendment pursuant to the policies contained in Resolution 270-1980. The proposed Site Development Plan is found adequate subject to conditions of approval as enumerated on pages 23-24.







LAND USE MAP

KEY to Land Use Abbreviations

AGRI Agricultural
COMM Commercial -Retail, Service, Wholesale
DRNG Drainage
EDUC Public or Private School
GOLF Golf Course
MED Medical Office or Facility
MFG Manufacturing or Mining
MH Mobile Home
MULT Multi-Family or Group Home
OFF Office
ORG Social or Civic Organization
PARK Park, Recreation or Open Space
PRKG Parking
PUBF Public Facility
RELG Religious Facility
SF Single Family
TRAN Transportation Facility
UTIL Utility
VAC Vacant Land or Abandoned Bldgs
WH Warehousing & Storage

AGIS

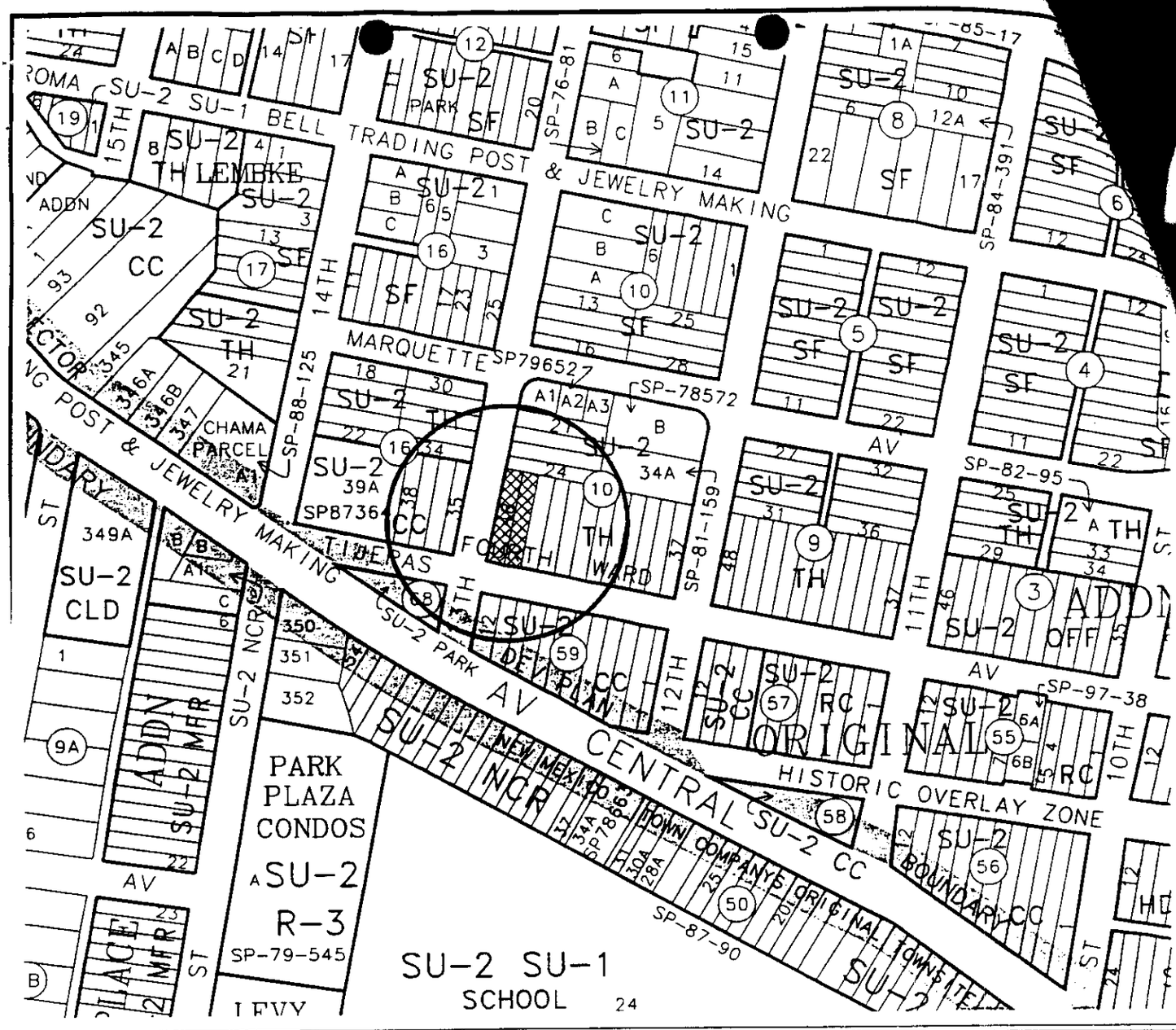
Scale 1"= 231 '

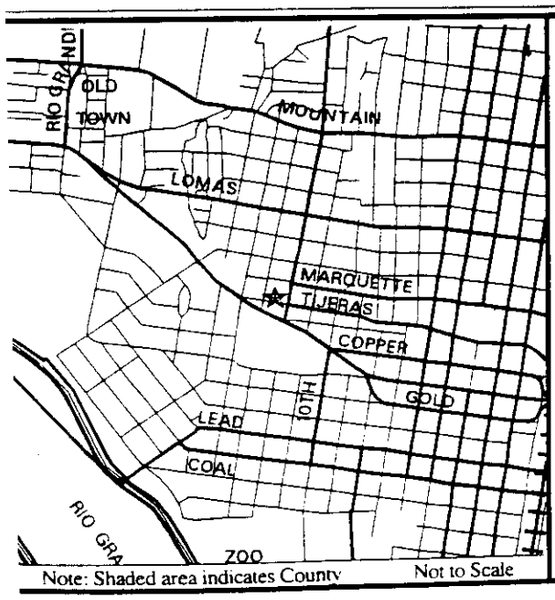
PROJECT NO.
1000892

HEARING DATE
12-21-00

MAP NO.
J-13

APPLICATION NO.
00110-00000-01500
00138-00000-01501
00128-00000-01502





Note: Shaded area indicates County

Not to Scale

ZONING MAP

-14-

AGIS

Scale 1" = 231'

PROJECT NO.	1000892
HEARING DATE	12-21-00
MAP NO.	J-13
APPLICATION NO.	00110-00000-01500 00138-00000-01501 00128-00000-01502

City Departments and other interested agencies reviewed this application from December 1, 2000 to December 15, 2000. Agency comments were used in the preparation of this report, and begin on page 25.

Development Services Report

SUMMARY OF REQUEST

Requests	**1) Downtown Neighborhood Area Sector Development Plan Amendments;**
	2) Zone Map Amendment; and
	3) Site Development Plan for Building Permit
Location	**1223 Tijeras Avenue NW**

AREA CHARACTERISTICS AND ZONING HISTORY

Surrounding zoning, plan designations, and land uses:

	Zoning	***Comprehensive Plan Area; Applicable Rank II & III Plans***	***Land Use***
Site	SU-2/ TH	Central Urban Area of Comprehensive Plan; Downtown Neighborhood Area Sector Development Plan; Downtown 2010 Sector Development Plan	Single-family residence
North	SU-2/TH		Single-family residence
South	SU-2/CC		Motel
East	SU-2/TH		Office
West	SU-2/CC		Single-family residence

Background, History and Context

In order to allow the applicant to open a small restaurant (maximum 24 seat capacity) to serve fine food and fine wine for dinner at his residence at 1223 Tijeras Avenue NW located in the historic Downtown Neighborhood Area, the applicant is requesting approval of: 1) Downtown Neighborhood Area Sector Development Plan (the "DNA Plan") amendments, including: a) a text amendment; and b) a Land Use Plan Map amendment from SU-2/TH (Townhouse) to SU-2/SU-1 SFR (Single Family Residence) & Restaurant with Wine & Beer; 2) a Zone Map amendment from SU-2/TH (Townhouse) to SU-2/SU-1 for SFR & Restaurant with Wine & Beer; and 3) Site Development Plan for Building Permit. No package liquor sale is requested.

The current land uses north of 1223 Tijeras Avenue (the "subject property") are predominantly single-family residential. However, the existing land uses fronting Tijeras Avenue, where the subject property

is located, are mixed with single-family residential and office/commercial. There are former Stephen's Restaurant, an architect office and a single-family residence to the west across 13th Street, and a law office immediately to the east in the same block. Directly across Tijeras Avenue is the two story Downtown Inn fronting Central Avenue. Proximity to Central Avenue, a short block away, might have contributed to the existing mixed land uses in the immediate vicinity of the subject property, as viewed above.

The applicant's request for the DNA Plan amendments, as attached, are:

1) Amendment of the text of the DNA Plan that describes the SU-1 zoning to read as follows (new language underlined):

   The Special Use Land Use corresponds to the SU-1 Special Use Zone in the Comprehensive City Zoning Code and regulates existing churches and certain other approved land uses. It is subject to the regulations of that zone and adopted development plans. Existing churches' present configurations are to be treated as their development plans. Newly zoned SU-1 properties require site development plan approval; and

2) Amendment of Map 7, Land Use Plan, on the subject property from SU-2/TH to SU-2/SU-1 for SFR & Restaurant with Wine & Beer.

APPLICABLE PLANS AND POLICIES

Albuquerque / Bernalillo County Comprehensive Plan

The Comprehensive Plan was adopted in 1988. The subject site is located in the area designated Central Urban by the Comprehensive Plan with the Goal to "promote the Central Urban Area as a focus for arts, cultural, and public facilities/activities while recognizing and enhancing the character of its residential neighborhoods and its importance as the historic center of the City."

Downtown Neighborhood Area Sector Development Plan

The DNA Plan was first adopted in 1976, and revised in 1999. The DNA Plan generally encompasses properties between Mountain Road to the north, Central Avenue to the south, 19th Street to the west, and 4th - 9th Streets to the east; specific boundaries are shown on Map 1 in the DNA Plan. Quoting the 1975 Comprehensive Policies Plan, the DNA Plan sets forth a goal of:

> "a quality urban environment which perpetuates the tradition of identifiable, individualistic communities within the metropolitan area and offers variety and maximum choice in housing, work areas and life styles, while creating visually pleasing architecture, landscaping and vistas to enhance the appearance of the community".

Again quoting the 1975 Comprehensive Policies Plan, the DNA Plan sets forth the first policy:

> "Redevelopment and rehabilitation of older neighborhoods should be continued and expanded"; and the second policy:
>
> "selected buildings and areas which explain our past and which give Albuquerque identity, individuality and cultural richness shall be preserved, enhanced and reused where appropriate".

Downtown 2010 Sector Development Plan

The Downtown 2010 Sector Development Plan (the "Downtown Plan") was adopted in May, 2000. The Plan is a 10 year policy and implementation plan for Downtown, providing the framework to guide public and private decision-making regarding land use, transportation, development regulations and public investment. Although the Downtown Plan focuses on the Downtown Core, and does not supercede any Rank III sector development plan for surrounding neighborhoods such as the DNA Plan, recommendations contained in the Downtown Plan do address certain policies on surrounding neighborhoods in coordination with the plans for adjacent neighborhoods.

The Downtown Plan's healthy neighborhoods goal states:

> Preserve and enhance the character of the neighborhoods which surround Downtown.

Its objective No.1 is:

> Protecting surrounding neighborhoods from incompatible land uses and minimizing the impacts of Downtown revitalization.

One of its actions calls for:

> The Plan makes the boundary between the Downtown Core and its adjacent neighborhoods a hard line in order to protect adjacent neighborhoods from encroachment of commercial activity outside of the core. Variances, zone changes and other administrative actions which would allow commercial activity to creep across the boundary from the Downtown Core into the adjacent neighborhoods should only occur in the most exceptional of cases.

The Downtown Plan's urban housing goal states:

> Have at least 20,000 people living within one mile of the Downtown Core, and 5,000 living within the Downtown Core by 2010.

Its objective No. 3 is:

> Protecting the character of the existing urban neighborhoods adjacent to Downtown and /or within the Historic District.

And one of its action calls for:

> Neighborhood commercial businesses shall be attracted to locate Downtown.

Design Guidelines for Fourth Ward and Eight/Forrester Historical Overlay Zones

The subject property is located within the Fourth Ward Historical Overlay Zone. The above guidelines were adopted by the Landmarks & Urban Conservation Commission in May, 1991 and amended in April, 1998. To insure that building projects in the overlay zones are compatible with traditional neighborhood features, property owners must receive a Certificate of Appropriateness from the City before they begin work. A Certificate of Appropriateness certifies that the owner has complied with historic design guidelines and may proceed with the proposed work. Exterior alterations and additions to existing buildings (not interior work or routine maintenance). new construction, and demolition of contributing buildings, require a Certificate of Appropriateness.

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

This Resolution outlines policies and requirements for deciding zone map change applications pursuant to the Comprehensive City Zoning Code. There are several tests that must be met and the applicant

must provide sound justification for the change. The burden is on the applicant to show why a change should be made, not on the City to show why the change should not be made.

The applicant must demonstrate that the existing zoning is inappropriate because of one of three findings: 1) there was an error when the existing zone map pattern was created; or 2) changed neighborhood or community conditions justify the change; or 3) a different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City master plan.

Resolution 91-1998 (R-70)

This Resolution establishes an overall direction for implementation of the City's growth policies, with a framework emphasizing:

- development of community and regional activity centers and major transportation corridors (high capacity corridors); encourage increased densities and mixed uses in activity centers and corridors; meet the needs of residents closer to their homes or employment to decrease Vehicle Miles Traveled and automobile dependence.
- maintenance, enhancements and upgrades of roads and utilities in the core area, to prevent deterioration of existing communities and to encourage infill; diversify the Downtown land use mix with public facilities, hotels, office and retail development, more and higher density housing; generate more activity and attract more private investment in the Downtown area.
- enhance transit system performance, consistent with the principles of a compact urban form and a network of centers and corridors; improve the viability of transit as an alternative to the single-occupancy vehicle and reduce Vehicle Miles Traveled; improve pedestrian mobility and the character of the pedestrian environment, transit orientation and bicycle connections, within centers and corridors.
- plan the timing of road and utility construction to ensure orderly growth, and coordinate capacity increases and street extensions; transportation improvement programs must recognize the significance of natural, historic, and cultural resources and include strategies for minimizing adverse impacts on them.

ANALYSIS

I. *DNA SECTOR DEVELOPMENT PLAN AMENDMENTS & ZONE MAP AMENDMENT*

As previously stated, the applicant's request for the DNA Plan amendments are:

1) Amendment of the text of the DNA Plan that describes the SU-1 zoning to read as follows (new language underlined):

   The Special Use Land Use corresponds to the SU-1 Special Use Zone in the Comprehensive City Zoning Code and regulates existing churches and certain other approved land uses. It is subject to the regulations of that zone and adopted development plans. Existing churches' present configurations are to be treated as their development plans. Newly zoned SU-1 properties require site development plan approval; and

2) Amendment of Map 7, Land Use Plan, on the subject property from SU-2/TH to SU-2/SU-1 for SFR & Restaurant with Wine & Beer.

Regarding the above request for the DNA Plan amendments, the Environmental Planning Commission (the "EPC') charge is to make a recommendation to the City Council.

Conformance to Adopted Plans, Policies, and Ordinances

Albuquerque / Bernalillo County Comprehensive Plan:

In view of the request for a **combined single-family residence and small fine restaurant** serving wine and beer which would maintain the existing residential architectural façade subject to the Historical Overlay Zone Design Guidelines, the Comprehensive Plan for the Central Urban Area is supportive of the proposed land use with its goal of "promote the Central Urban Area as a focus for arts, cultural, and public facilities/activities while recognizing and enhancing the character of its residential neighborhoods and its importance as the historic center of the City."

DNA Sector Development Plan:

The DNA Plan is supportive of the proposed land use with its goal of :

> "a quality urban environment which perpetuates the tradition of identifiable, individualistic communities within the metropolitan area and offers variety and maximum choice in housing, work areas and life styles, while creating visually pleasing architecture, landscaping and vistas to enhance the appearance of the community".

Further, the DNA policies are supportive of the proposed land use as well with its policies stating:

> "Redevelopment and rehabilitation of older neighborhoods should be continued and expanded" (the first policy); and
>
> "selected buildings and areas which explain our past and which give Albuquerque identity, individuality and cultural richness shall be preserved, enhanced and reused where appropriate" (the second policy).

As previously described, the current land uses north of the subject property are predominantly single-family residential. However, the existing land uses fronting Tijeras Avenue, where the subject property is located, are mixed with single-family residential and office/commercial. There are the former Stephen's Restaurant), an architect office and a single-family residence to the west across 13th Street, and a law office immediately to the east in the same block. Directly across Tijeras Avenue is the Downtown Inn fronting Central Avenue. Proximity to Central Avenue might have contributed to the existing mixed land uses in the immediate vicinity of the subject property.

With respect to **zoning**, the existing zoning designation of the subject property and its entire block is SU-2/TH. Nevertheless, the property immediately to the east of the subject property houses law offices under the SU-2/TH zoning. There is no record of any zoning changes granted to this property. The SU-2/CC zoning is to the west and the south of the subject property. In addition to the fact that the subject property is located at the edge of the SU-2/TH zone bordering the SU-2/CC zone, there are certain discrepancies between what the DNA Plan has envisioned and the existing land uses. It is reasonable to

characterize the subject property as located in a transitional area from residential to the north to office/commercial to the south in close proximity to Central Avenue.

The DNA Plan allows only existing churches under the Special Use. None of the existing zoning designations contained in the DNA Plan permits the proposed residence and restaurant serving wine. Therefore, under the existing DNA Plan framework, SU-2/SU-1 for SFR and Restaurant with Wine & Beer along with the associated text amendment, as requested, would permit the proposed land use.

Regarding the Zone Map amendment, the EPC charge is to make a recommendation to the City Council.

Downtown Plan:

Different from the Comprehensive Plan goal for the Central Urban Area adopted in 1988 and the DNA Plan goal and policies adopted in 1976, as discussed above, the Downtown Plan adopted in 2000 appears to discourage the proposed land use on the subject location.

The Downtown Plan's healthy neighborhoods goal states "Preserve and enhance the character of the neighborhoods which surround Downtown", and its objective No.1 states that "Protecting surrounding neighborhoods from incompatible land uses and minimizing the impacts of Downtown revitalization". One of its actions states:

> The Plan makes the boundary between the Downtown Core and its adjacent neighborhoods a hard line in order to protect adjacent neighborhoods from encroachment of commercial activity outside of the core. Variances, zone changes and other administrative actions which would allow commercial activity to creep across the boundary from the Downtown Core into the adjacent neighborhoods should only occur in the most exceptional of cases.

There appears to be a conflict in policies between the two (2) adopted Rank III plans, the DNA Plan and the Downtown Plan, both of which could be applied to the subject request. At least, two issues would be involved here: 1) the nature of the proposed land use; and 2) applicability of the plan.

First, the nature of the proposed land use: The request is not for an exclusively commercial restaurant, but for a **combined single-family residence and small fine restaurant** serving wine and beer which would maintain the existing residential architectural façade subject to the Historical Overlay Zone Design Guidelines. It should be questioned as to whether or not the Downtown Plan has envisioned this kind of land use where it speaks against encroachment of commercial activity outside of the Downtown Core. It is considered rather appropriate that the requested commercial activity has been envisioned by the Downtown Plan as one of "the most exceptional of cases" which would be allowed in adjacent neighborhoods.

Second, applicability of the plan: At issue will be which Rank III plan should take precedence. The DNA Plan with the most immediacy on the subject location would take precedence over the Downtown Plan with the primary focus on the Downtown Core, 3 to 4 blocks away from the subject location. Nevertheless, a complexity exists in this issue. Although the Downtown Plan does not supercede any Rank III sector development plan for surrounding neighborhoods, such as the DNA Plan, it has strongly-worded specific policies for the surrounding neighborhoods. Such policies, as cited above, however, can be construed as self-serving. Yet, the time element may have to be considered. The DNA Plan was adopted initially in 1976 while the Downtown Plan was adopted in 2000. One can argue that the Downtown Plan adopted in 2000 would more immediately reflect the current policy of the City than the DNA Plan adopted in 1976 would.

Based on the above discussions, it would be reasonable to conclude that the Downtown Plan policies for adjacent neighborhoods would have to be considered; however, that the Downtown Plan has envisioned the requested land use as one of the most exceptional cases which could occur in the adjacent neighborhoods.

Resolution 91-1998 (R-70):

Since the subject location is outside of Downtown, a regional activity center, R-70 has little applicability to the request except for its mixed- use component and its close proximity to the Central Avenue corridor and immediate access to transit service on Central Avenue.

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

The applicant maintains that a restaurant at this historic and pedestrian-oriented site, as proposed, would be advantageous to the community by providing the local residents with a convenient opportunity to enjoy fine food and wine, contributing to the cultural diversity of the City, and enhancing the City's reputation in fine cuisine, while not disrupting the adjacent property, the neighborhood, or the community. The applicant further indicates that the site's proximity to Central Avenue would help enhance the marketing of the Route 66 corridor.

The potential consequences of the request, as the applicant has demonstrated above, would be worthy of consideration and would comply with one of the criteria for justification of a Zone Map Change application, Section 1. D. (3).

The requested Zone Map Amendment would not constitute a spot zone. The SU-1 Zone is not considered a spot zone due to its special nature. As discussed above, the request would facilitate realization of the Comprehensive Plan Central Urban Area goal, and the DNA Plan goal and policies. In addition, the location of the proposed zone change could function as a transition between adjacent zones. Therefore, the zone change, as requested, may be approved.

II. SITE DEVELOPMENT PLAN

Site Plan Layout / Configuration

The two buildings involved in the request for Site Development Plan and Landscape Plan approval are the existing single-family residence and detached garage with 19 foot 8 inch front yard setback, less than 6 foot side yard setback, and no rear yard setback. Because of the SU-1 zoning, as requested, it would be the discretion of the EPC to approve or disapprove the Site Development Plan.

Vehicular Access, Circulation and Parking

Guest access would be provided from the adjacent sidewalk on Tijeras Avenue. Five (5) off-street parking spaces for dinner guests would be required. The applicant has secured in writing, as attached, eight (8) off-street parking spaces from his adjacent neighbor, Law Office of William Snead, for use by his patrons after 5:00 pm. The subject parking lot is immediately adjacent to the applicant property. The residents have access to the existing one car garage and driveway for parking up to two (2) vehicles.

Pedestrian and Bicycle Access and Circulation, Transit Access

Pedestrian and bicycle access and circulation would be adequate for this restaurant with maximum 24 seating capacity. Route 66 Central Avenue transit service is available with a 10 minute headway from 6

AM to 6 PM, and with a 20 minute headway from 6 PM to 10 PM. Route 24 Old Town trolley service is available with a 30 minute headway from 10 AM to 7 PM. The bus stop is at the corner of Central/Tijeras Avenues and 14th Street, a block away from the subject property.

Lighting and Security

Although the application makes reference to lighting, neither the application nor the Site Development Plan provides any specific information on lighting except that the sign would be lit during the business hours by two (2) small spot lights. It is required that all light fixtures be full-cutoff type to prevent fugitive light.

Landscaping

The Landscape Plan indicates that a total of 2,334 square-feet of landscape areas would be provided in excess of the minimum Zone Code requirement of 492 square-feet. Further, the Zone Code requires that a minimum of 75 percent of the landscape area, i.e., 1,750 square-feet, be covered with living, vegetative materials. It should be noted that any concrete, gravel, or flagstone areas are not considered living, vegetative cover areas.

Three (3) ash trees are proposed in the green area between 13th Street and the sidewalk. In view of potential deadly infestation of Ash, other species are recommended.

Grading, Drainage, Utility Plans

No new grading, drainage or utility improvements are involved.

Architecture and Signage

As shown on the photographs in the application, the building constructed approximately in 1924 is of a one story gable roof cottage style and a contributing residence in the Historical District. The applicant states that some minor interior improvements would be made. Since the subject property is located within the Historical Overlay Zone, in order to insure that the exterior design will be compatible with traditional neighborhood features pursuant to the Design Guidelines, any exterior change is subject to the Landmarks & Urban Conservation Commission review, and the applicant must receive a Certificate of Appropriateness from the City before he begins work.

The applicant is proposing a hand-painted sign, 3 to 4 feet wide and 2 to 3 feet high. The sign could be 6 square feet to 12 square feet in size. The Site Development Plan provides no design of the sign, nor the location of the sign. A single-family residence corresponds to the R-1 Zone. The R-1 Zone permits one (1) related and non-illuminated wall sign, not exceeding one (1) square foot in area. The proposed illuminated wall sign, 6 to 12 square feet in area, would far exceed the R-1 Zone Code provision. Because of the SU-1 zoning, as requested, it would be the discretion of the EPC to approve or disapprove the proposed sign.

Concerns of Reviewing Agencies / Pre-Hearing Discussion

The Police Department's comments state "Burglaries", "Transients" and "Need for a neighborhood association". Adequate lighting would address the issue of security. No information is provided concerning lighting.

Neighborhood Concerns

A letter from the Board of the Downtown Neighborhood Association (the "Association") has been received. In its December 12, 2000 letter addressed to Mr. Chuck Gara, Chair of the EPC, as attached, the Board of the Association states its strong opposition to the subject request. The letter states that "...the board of the Downtown Neighborhoods Association is unanimous in its opposition to this zone change request".

Paul Splett's January 5, 2001 facilitator's report prepared for the December 11, 2000 facilitated meeting held for the applicant and the Association, as attached, states that although the Association will fight against the proposal as it is currently presented, "both parties had agreed to search deeper for alternative ways to allow Mr. Benzaquen to proceed with his plan". The report further states that Mr. Benzaquen " planned to go forth with plans for restaurant after first submitting his plan to the Association for vote. At that time, the vote was 17-2 for the restaurant". The date when that vote was taken is not indicated. However, there seems to be a discrepancy in residents' purported reactions to the subject request between the Association Board's letter and the facilitator's report. Further, the applicant's agent has provided 21 letters of support for the request, as attached. Six (6) letters are from the residents in the Association, 14 letters from adjacent neighborhoods, and one (1) letter from an unknown address.

It should be indicated, nonetheless, that if the existing policies contained in the DNA Plan do not reflect the current goal or objective for the DNA, or wishes of its majority residents, the DNA Plan could or should be amended.

Conclusions

The proposed Sector Development Plan amendments, Zone Map amendment, and Site Development Plan, would be compatible with certain applicable goals and policies and intents of the Comprehensive Plan, the Downtown Neighborhood Area Sector Development Plan, and the Downtown 2010 Sector Development Plan. In addition, the applicant has provided adequate justification for the Zone Map amendment pursuant to the policies contained in Resolution 270-1980. The proposed Site Development Plan would be adequate subject to conditions as enumerated on page 23.

FINDINGS – 00138 00000 01501, January 18, 2001

1. The applicant intends to open a small restaurant with maximum 24 seating capacity to serve fine food and fine wine for dinner at his residence at 1223 Tijeras Avenue NW.

2. To allow for the above land use, the applicant is requesting the Downtown Neighborhood Area Sector Development Plan (the "DNA Plan") amendments including: a) the text amendment to add certain language on the Special Use land use; and b) amendment of Map 7, Land Use Plan, on the subject property from SU-2/TH to SU-2/SU-1 for SFR & Restaurant with Wine & Beer.

3. Mixed land uses of residential and office/commercial currently exist in the immediate vicinity of the subject property which can be characterized as a transitional area from residential to the north to office/commercial to the south.

4. The subject property is located in the Central Urban Area of the Comprehensive Plan adopted in 1988. Its applicable goal is supportive of the proposed land use.

5. The subject property is located within the boundary of the DNA Plan adopted as a Rank III plan in 1976. Certain applicable DNA Plan goal and policies are supportive of the proposed land use.

6. The Downtown 2010 Sector Development Plan (the "Downtown Plan") adopted as a Rank III plan in 2000 focuses on the Downtown Core, and does not supercede any Rank III plan for surrounding neighborhoods. Addressing certain policies on surrounding neighborhoods, however, the Downtown Plan appears to discourage the proposed land use on the subject location.

7. There appears to be a conflict between the two adopted Rank III plans, the DNA Plan and the Downtown Plan. Despite the fact that the DNA Plan has a priority applicability to the subject request, the Downtown Plan may have to be considered.

8. It is considered appropriate that the requested land use has been envisioned by the Downtown Plan as one of "the most exceptional of cases" which would be allowed in adjacent neighborhoods.

9. The Board of the Downtown Neighborhood Association (the "Association") has stated in writing its strong opposition to the request. Upon comparing the Association Board letter with the facilitator's report, it can not be ascertained as to whether or not the Association's position in this matter reasonably represents the majority opinion of the concerned residents in the Association.

10. The applicant' agent submitted 21 letters of support for the request. Six (6) letters are from the residents in the Association, 14 letters from adjacent neighborhoods, and one (1) letter from an unknown address.

11. Regarding the subject DNA Plan amendments, the EPC charge is to make a recommendation to the City Council.

FINDINGS – 00110 00000 01500, January 18, 2001

1. Should the EPC approve the DNA Plan amendments, as requested, the Zone Map amendment would be made accordingly.

2. The subject property is currently zoned SU-2/TH. The requested zoning is SU-2/SU-1 for SFR & Restaurant.

3. The subject property is located at the edge of the SU-2/TH Zone bordering the SU-2/CC Zone. The property immediately to the east houses law offices under the SU-2/TH Zone.

4. The subject property is located in a transitional area from residential to the north to office/commercial to the south on or in close proximity to Central Avenue. There are certain discrepancies between what the DNA Plan has envisioned and the existing land uses.

5. The DNA Plan allows only existing churches under the Special Use, and none of the existing zoning designations in the DNA Plan permits the proposed residence and restaurant serving wine. Therefore, SU-2/SU-1 for Residence & Restaurant along with the associated text amendment, as requested, would be the only zoning designation which would permit the proposed use under the DNA Plan framework.

6. Regarding the Zone Map amendment, the EPC charge is to make a recommendation to the City Council.

FINDINGS – 00128 00000 01502, January 18, 2001

1. The subject property, constructed approximately in 1924, is of a one story gable roof cottage style and is located within the Fourth Ward Historical Overlay Zone. The subject property is a contributing residence. As a result, any exterior change would be subject to the Landmarks & Urban Conservation Commission review. The applicant must receive a Certificate of Appropriateness from the City prior to any exterior improvements.

2. The building setback is significantly limited. Under the SU-1 zoning, as requested, it would be the discretion of the EPC to approve or disapprove the Site Development Plan.

3. Five (5) off-street parking spaces for dinner guests would be required. The applicant intends to lease certain parking spaces from Law Office of William Snead, immediately east of the subject property. Mr. Snead's letter addressed to the Downtown Neighborhood Association, short of definite commitment, does not specify the number of parking spaces and the time of use to be allowed for the applicant.

4. Both Route 66 Central Avenue transit service and Route 24 Old Town trolley service are available at a bus stop on Central Avenue, a block away from the subject property.

5. The Site Development Plan shows no information regarding lighting.

6. 2,334 square foot landscape areas are proposed in excess of the required 492 square feet. The Zone Code requires a minimum of 75 percent of the landscape area, 1,750 square feet, be covered with living, vegetative materials.

7. The Site Development Plan provides no information on the design of the proposed sign, nor the location. The proposed sign is 6 square feet to 12 square feet in area and illuminated. The R-1 Zone permits one related, non-illuminated wall sign, not exceeding one square feet in area. Because of the SU-1 zoning, as requested, it would be the discretion of the EPC to approve or disapprove the proposed sign.

RECOMMENDATION – January 18, 2001

APPROVAL of 00138 00000 01501, Downtown Neighborhood Area Sector Development Plan amendments for Lots 47 and 48, Perea Addition, be forwarded to the City Council based on the preceding Findings.

APPROVAL of 00110 00000 01500, a Zone Map amendment from SU-2/TH to SU-2/SU-1 for SFR & Restaurant for Lots 47 and 48, Perea Addition, be forwarded to the City Council based on the preceding Findings.

APPROVAL of 00128 00000 01502, Site Development Plan for Building Permit for Lots 47 and 48, Perea Addition, based on the preceding Findings and subject to the following Conditions.

***CONDITIONS OF APPROVAL* - 00128 00000 01502, January 18, 2001**

1. The submittal of this site plan to the DRB shall meet all EPC conditions. A letter shall accompany the submittal, specifying all modifications that have been made to the site plan since the EPC hearing, including how the site plan has been modified to meet each of the EPC conditions. Unauthorized changes to this site plan, including before or after DRB final sign-off, may result in forfeiture of approvals.

2. The applicant shall submit to the City a commitment letter from William Snead to enter into lease agreement with applicant regarding the use of Mr. Snead's parking spaces for the applicant's dinner guests.

3. No package liquor sale shall be conducted on the premise.

4. The revised Site Development Plan shall be submitted, providing specific information on lighting and the sign.

5. No new Ash trees shall be planted.

6. At least 75 percent of the landscape areas shall be covered with living, vegetative materials; concrete, grave or flagstone is not considered living, vegetative materials.

7. The landscape plan and maintenance shall comply with the City Street Tree Ordinance, Pollen Ordinance, and Water Conservation Landscaping and Waste Water Ordinance.

ACTION TAKEN BY THE ENVIRONMENTAL PLANNING COMMISSION ON JANUARY 18, 2001.

NOW, THEREFORE, BE IT RESOLVED THAT the Environmental Planning Commission voted to defer 00110 00000 01500/00138 00000 01501/00128 00000 01502 to the Environmental Planning Commission Public Hearing on February 15, 2001. There is a $75.00 fee when a

deferral is made at the request of an applicant/agent. Payment is due by February 2, 2001 and may be paid at the Land Development Coordination counter at the Plaza del Sol Building.

MOVED BY COMMISSIONER JOHNSON
SECONDED BY COMMISSIONER McMAHAN MOTION CARRIED UNANIMOUSLY

ADDITIONAL COMMENTS TO THE ENVIRONMENTAL PLANNING COMMISSION FOR FEBRUARY 15, 2001.

The Environmental Planning Commission (the "EPC") deferred this case to the February 15, 2001 public hearing before the EPC at the request of the applicant.

On January 16, 2001, the Planning Department received a letter dated January 14, 2001 from the Downtown Neighborhoods Association (the "Association") addressed to the EPC Chair, as attached, requesting a 120 day deferral in order to "assess the overall impact of this important change on the neighborhood and to explore a number of avenues to reach a mutually acceptable solution, if possible". As stated in the subject letter, the Association is concerned about further erosion of the residential base.

As attached, the applicant's agent drafted an alternative proposal, dated January 25, 2001 and addressed to the Association, in an attempt to materialize his client's request while addressing the Association's expressed concerns. On February 7, 2001, the applicant's agent met with the Association Board. At the meeting, the Association Board rejected the above proposal. The applicant's agent continues searching for a mutually acceptable solution. He intends to further discuss this matter with the Association Board.

On February 8, 2001, the Planning Staff met with the applicant's agent to discuss certain remaining issues involved in the subject case. First, we found that there is a need to re-advertise this case. Despite the fact that the applicant wishes to serve food and wine at his residence and so stated in the text of the application, the current application itself simply states "**SU-2/SU-1 for S.F.R. & Restaurant**" for the proposed zoning on the subject property, not including the term "**Wine**" associated with "Restaurant". As a result, the published notice did not include the term "Wine" for the subject application. The Staff recommends the additional term to read "Beer & Wine" associated with the restaurant service. An addition of beer and wine to a restaurant service constitutes a more intense land use. We need more time to re-advertise this case. Second, we found that there is a need for more time for the applicant to continue refining the alternative proposal and working with the Association Board to reach a mutually acceptable solution. With the consent of the applicant's agent, therefore, the Staff recommends 30 day deferral of this case.

FINDINGS – 00138 00000 01501, 00110 00000 01500, 00128 00000 01502, February 15, 2001

1. The applicant's agent drafted an alternative proposal, dated January 25, 2001 and addressed to the Association, in an attempt to materialize his client's request while addressing the Association's expressed concerns.

2. On February 7, 2001, the applicant's agent met with the Association Board. At the meeting, the Association Board rejected the above proposal.

3. The applicant's agent continues searching for a mutually acceptable solution. He intends to further discuss this matter with the Association Board.

4. There is a need for more time to re-advertise the subject request including the term "Beer & Wine" associated with the restaurant service.

5. There is a need for more time for the applicant to continue refining the alternative proposal and working with the Association Board to reach a mutually acceptable solution.

RECOMMENDATION - February 15, 2001

A 30 Day Deferral of 00138 00000 01501, 00110 00000 01500, and 00128 00000 01502 to the Environmental Planning Commission Public Hearing on March 15, 2001.

ACTION TAKEN BY THE ENVIRONMENTAL PLANNNG COMMISSION ON FEBRUARY 15, 2001.

00110 00000 01500 00138 00000 01501 00128 00000 01502	Garcia Kraemer, agents for Charles Benzaquen, request a zone map amendment from SU-2/TH to SU-2/SU-1 Single Family Residence & Restaurant plus an amendment to the Sector Development Plan and
Project # 1000892	approval of a site development plan for building permit for Lots 47 & 48, Perea Addition, located on the northeast corner of Tijeras Avenue and 13th Street, containing approximately .11 acres. (J-13) Simon Shima, Staff Planner **(DEFERRED TO MARACH 22, 2001)**

NOW, THEREFORE, BE IT RESOLVED THAT the Environmental Planning Commission voted to defer 00110 00000 01500/00138 00000 01501/00128 00000 01502 to the Environmental Planning Commission Public Hearing on March 22, 2001.

MOVED BY COMMISSIONER SCHWARTZ
SECONDED BY COMMISSIONER CHAVEZ

MOTION CARRIED UNANIMOUSLY

ADDITIONAL COMMENTS TO THE ENVIRONMENTAL PLANNING COMMISSION FOR THE MARCH 22, 2001 PUBLIC HEARING

Upon clarifying the precise zoning designation which reflects the applicant's intent, as stated in the additional comments provided for the scheduled February 15, 2001 public hearing (see the previous page), the applicant is now requesting approval of: 1) the Downtown Neighborhood Area Sector Development Plan amendments including a text amendment and a Land Use Map amendment from SU-2/TH to SU-2/SU-1 for SFR (Single Family Residence) & Restaurant with **Wine & Beer** for his residence at 1223 Tijeras Avenue NW; 2) the Zone Map amendment from SU-2/TH (Townhouse) to SU-2/SU-1 SFR & Restaurant **with Wine & Beer**; and 3) the Site Development Plan for Building Permit.

On February 15, 2001, we received a letter, as attached, addressed to Chair of the Environmental Planning Commission (the "EPC") from the Downtown Neighborhoods Association (the "Association") stating that the Board of the Association is not able to support any proposal from the applicant that would cause them to lose additional residential property, wishing him to find an appropriate location in the Downtown Core for his proposed restaurant.

At issue in this controversy appears to be the nature of the proposed land use on the subject single-family residential property. The applicant has stated his intent to maintain his residence at the subject property upon opening a restaurant at his residence. The Planning Staff considers the proposed use of the property feasible and makes recommendations accordingly. The Association, on the other hand, has repeatedly stated its opposition to the subject request as the **conversion** of the applicant's single-family home to a restaurant. In its letter dated December 12, 2001, the Association further stated that "once this property receives a commercial designation it will ever again be used as a residence". It is, therefore, recommended that the EPC at the hearing ascertain the applicant's intent and determine the plausibility of the applicant's proposal for **a combined residence and a small restaurant** at his residence at 1223 Tijeras Avenue NW.

Subsequently, two letters were hand-delivered to the Planning Staff from the applicant's agent, as attached. One is his recommendation to defer this case to the March EPC public hearting. The other is a letter signed by William Snead, Law Office of William Snead, making available his eight (8) parking spaces after 5:00 pm for use by the applicant's patrons that are located immediately east of the subject property.

Despite the Association Board's determination as expressed in its letter dated February 13, 2001, as described above, the applicant's agent verbally stated to the Planning Staff on March 12, 2001 that he remains willing to discuss this matter with the Association Board in an attempt to find a mutually agreeable solution to accommodate his client's proposal.

FINDINGS – 00138 00000 01501, March 22, 2001

1. The applicant intends to open a small restaurant with maximum 24 seating capacity to serve fine food and fine wine for dinner at his residence at 1223 Tijeras Avenue NW. No package liquor sale is requested.

2. To allow for the above land use, the applicant is requesting the Downtown Neighborhood Area Sector Development Plan (the "DNA Plan") amendments including: a) the text amendment to add certain language on the Special Use land use; and b) amendment of Map 7, Land Use Plan, on the subject property from SU-2/TH (Townhouse) to SU-2/SU-1 for SFR (Single Family Residence) & Restaurant with Wine & Beer.

3. Mixed land uses of residential and office/commercial currently exist in the immediate vicinity of the subject property which can be characterized as a transitional area from residential to the north to office/commercial to the south on or in close proximity to Central Avenue.

4. The subject property is located in the Central Urban Area of the Comprehensive Plan adopted in 1988. Its applicable goal is supportive of the proposed land use.

5. The subject property is located within the boundary of the DNA Plan adopted as a Rank III plan in 1976. Certain applicable DNA Plan goal and policies are supportive of the proposed land use.

6. The Downtown 2010 Sector Development Plan (the "Downtown Plan") adopted as a Rank III plan in 2000 focuses on the Downtown Core, and does not supercede any Rank III plan for surrounding neighborhoods. Addressing certain policies on surrounding neighborhoods, however, the Downtown Plan appears to discourage the proposed land use on the subject location.

7. There appears to be a conflict between the two adopted Rank III plans, the DNA Plan and the Downtown Plan. Despite the fact that the DNA Plan has a priority applicability to the subject request, the Downtown Plan may have to be considered.

8. It is considered appropriate to assume that the proposed land use would be one of those cases which has been envisioned by the Downtown Plan as one of "the most exceptional of cases" which would be allowed in adjacent neighborhoods.

9. The Board of the Downtown Neighborhood Association (the "Association") has voiced its strong opposition to the request in writing. The Board of the Association regards the request as the conversion of the applicant's single-family home to an eventual commercial restaurant rather than a combined residence and restaurant as proposed.

10. In view of an apparent discrepancy between the Association Board letters dated December 12, 2000 and February 13, 2001, respectively, and the facilitator's report dated January 5, 2001, it can not be ascertained at this time as to whether or not the Association Board's position in this matter, as written, would reasonably represent the majority opinions of the Association Board members and/or concerned residents of the Association.

11. The applicant' agent submitted 21 letters of support for the request. Six (6) letters are from the residents of the Association, 14 letters from adjacent neighborhoods, and one (1) letter from an unknown address.

12. Regarding the subject DNA Plan amendments, the EPC charge is to make a recommendation to the City Council.

RECOMMENDATION-MARCH 22, 2001

APPROVAL of 00138 00000 01501, Downtown Neighborhood Area Sector Development Plan amendments for Lots 47 and 48, Perea Addition, be forwarded to the City Council based on the preceding Findings.

FINDINGS – 00110 00000 01500, March 22, 2001

1. Should the EPC approve the DNA Plan amendments, as requested, the Zone Map amendment would be made accordingly.

2. The subject property is currently zoned SU-2/TH. The requested zoning is SU-2/SU-1 for SFR & Restaurant with Wine & Beer.

3. The subject property is located at the edge of the SU-2/TH Zone bordering the SU-2/CC Zone. The property immediately to the east houses law offices under the SU-2/TH Zone.

4. The subject property is located in a transitional area from residential to the north to office/commercial to the south on or in close proximity to Central Avenue. There are certain discrepancies between what the DNA Plan has envisioned and the existing land uses.

5. The DNA Plan allows only existing churches under the Special Use, and none of the existing zoning designations in the DNA Plan permits the residence and restaurant serving wine and beer as proposed. Therefore, SU-2/SU-1 for Residence & Restaurant with Wine & Beer along with the associated text amendment, as requested, would permit the proposed use under the DNA Plan framework.

6. Regarding the Zone Map amendment, the EPC charge is to make a recommendation to the City Council.

RECOMMENDATION MARCH 22, 2001

APPROVAL of 00110 00000 01500, a Zone Map amendment from SU-2/TH to SU-2/SU-1 for SFR & Restaurant with Wine & Beer for Lots 47 and 48, Perea Addition, be forwarded to the City Council based on the preceding Findings.

FINDINGS – 00128 00000 01502, March 22, 2001

1. The subject property, constructed approximately in 1924, is of a one story gable roof cottage style and is located within the Fourth Ward Historical Overlay Zone. The subject property is a contributing residence. As a result, any exterior change would be subject to the Landmarks & Urban Conservation Commission review. The applicant must receive a Certificate of Appropriateness from the City prior to any exterior improvements.

2. The building setback is significantly limited. Under the SU-1 zoning, as requested, it would be the discretion of the EPC to approve or disapprove the Site Development Plan.

3. Five (5) off-street parking spaces for dinner guests would be required. The applicant has secured in writing eight (8) off-street parking spaces for use by his patrons after 5:00 pm from Law Office of William Snead, located immediately east of the subject property.

4. Both Route 66 Central Avenue transit service and Route 24 Old Town trolley service are available at a bus stop on Central Avenue, a block away from the subject property.

5. The Site Development Plan shows no information regarding lighting.

6. 2,334 square foot landscape areas are proposed in excess of the required 492 square feet. The Zone Code requires a minimum of 75 percent of the landscape area, 1,750 square feet, be covered with living, vegetative materials.

7. The Site Development Plan provides no information on the design of the proposed sign, nor the location. The proposed sign is 6 square feet to 12 square feet in area and illuminated. The R-1 Zone permits one related, non-illuminated wall sign, not exceeding one square feet in area. Because of the SU-1 zoning, as requested, it would be the discretion of the EPC to approve or disapprove the proposed sign.

RECOMMENDATION – March 22, 2001

APPROVAL of 00128 00000 01502, Site Development Plan for Building Permit for Lots 47 and 48, Perea Addition, based on the preceding Findings and subject to the following Conditions.

***CONDITIONS OF APPROVAL* - 00128 00000 01502, March 22, 2001**

1. The submittal of this site plan to the DRB shall meet all EPC conditions. A letter shall accompany the submittal, specifying all modifications that have been made to the site plan since the EPC hearing, including how the site plan has been modified to meet each of the EPC conditions. Unauthorized changes to this site plan, including before or after DRB final sign-off, may result in forfeiture of approvals.

2. The revised Site Development Plan shall be submitted which provides specific information on lighting and the sign.

3. No new Ash trees shall be planted.

4. At least 75 percent of the landscape areas shall be covered with living, vegetative materials; concrete, grave or flagstone is not considered living, vegetative materials.

5. The landscape plan and maintenance shall comply with the City Street Tree Ordinance, Pollen Ordinance, and Water Conservation Landscaping and Waste Water Ordinance.

SMS

Simon Shima AICP
Senior Planner

cc: Charles Benzaquen, 1223 Tijeras Ave. NW, Albuq. NM 87102

Garcia/Kraemer, 200Lomas NW, Ste. 1111, Albuq. NM 87102
Perry Wilkes, Downtown Neigh. Assoc., 718 Mountain Rd. NW, Albuq. NM 87102
Jim Barr, Downtown Neigh. Assoc., 407 12th St. NW, Albuq. NM 87102

Attachments

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Zoning Code Services

This property is located within the 4th Ward Historic Overlay Zone. Reviewed, no comments.

PUBLIC WORKS DEPARTMENT

Transportation Development Services:
No adverse comment on the proposed zone change request.
No adverse comment on the proposed sector development plan amendment request.
No adverse comment on the proposed site plan for building permit request.

Utility Development:
No comment.

Traffic Engineering Operations:
Access points to allow good sight distance and not interfere with the intersection are important.

Hydrology:
The Hydrology Section has no objection to the zone map amendment request.

Transportation Planning:
This request should have no adverse effect on the arterial street system nor on the on-street bikeways. However, the applicant should provide details of his proposed shared parking agreement. How many parking spaces? When useable?

Traffic Engineering Operations:

ENVIRONMENTAL HEALTH DEPARTMENT

Air Quality Division

"No Comment."

Environmental Services Division

NEIGHBORHOOD SERVICES

"Downtown (A recognized association) was notified."

PARKS AND RECREATION

Planning and Design
"No Adverse Comment."

OPEN SPACE DIVISION

POLICE DEPARTMENT/Planning

Burglaries

Transients

Need for a neighborhood association

SOLID WASTE MANAGEMENT DEPARTMENT

Refuse Division
"No Adverse Comment."

FIRE DEPARTMENT/Planning

"Our Office upon permit stage will conduct its normal plan review."

TRANSIT DEPARTMENT

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY

ALBUQUERQUE METROPOLITAN FLOOD CONTROL AUTHORITY

"No objection. This site is within the AMAFCA excluded area."

ALBUQUERQUE PUBLIC SCHOOLS

"No Adverse Comment."

MIDDLE RIO GRANDE COUNCIL OF GOVERNMENTS
"No Adverse Comment."

City of Albuquerque
Planning Department
Development Services Division
P.O. Box 1293
Albuquerque, New Mexico 87103

Date: February 16, 2001

OFFICIAL NOTIFICATION OF DECISION

Charles Benzaquen
1223 Tijeras Ave. NW
Albuq. NM 87102

FILE: 00110 00000 01500/00138 00000 01501/00128 00000 01502
LEGAL DESCRIPTION: for Lots 47 & 48, Perea Addition, located on the northeast corner of Tijeras Avenue and 13th Street, containing approximately .11 acres. (J-13) Simon Shima, Staff Planner

On February 15, 2001, the Environmental Planning Commission voted to defer 00110 00000 01500/00138 00000 01501/00128 00000 01502 to the Environmental Planning Commission Public Hearing on March 22, 2001.

Sincerely,

For Robert R. McCabe, AIA, APA
Planning Director

RM/SS/ac

cc: Garcia/Kraemer, 200Lomas NW, Ste. 1111, Albuq. NM 87102
Perry Wilkes, Downtown Neigh. Assoc., 718 Mountain Rd. NW, Albuq. NM 87102
Jim Barr, Downtown Neigh. Assoc., 407 12th St. NW, Albuq. NM 87102

City of Albuquerque
Planning Department
Development Services Division
P.O. Box 1293
Albuquerque, New Mexico 87103

Date: January 19, 2001

OFFICIAL NOTIFICATION OF DECISION

Charles Benzaquen
1223 Tijeras Ave. NW
Albuq. NM 87102

FILE: 00110 00000 01500/00138 00000 01501/00128 00000 01502
LEGAL DESCRIPTION: for Lots 47 & 48, Perea Addition, located on the northeast corner of Tijeras Avenue and 13th Street, containing approximately .11 acres. (J-13) Simon Shima, Staff Planner

On January 18, 2001, the Environmental Planning Commission voted to defer 00110 00000 01500/00138 00000 01501/00128 00000 01502 to the Environmental Planning Commission Public Hearing on February 15, 2001. There is a $75.00 fee when a deferral is made at the request of an applicant/agent. Payment is due by February 2, 2001 and may be paid at the Land Development Coordination counter at the Plaza del Sol Building.

Sincerely,

Russell Brito

for Robert R. McCabe, AIA, APA
Planning Director

RM/SS/ac

cc: Garcia/Kraemer, 200Lomas NW, Ste. 1111, Albuq. NM 87102
Perry Wilkes, Downtown Neigh. Assoc., 718 Mountain Rd. NW, Albuq. NM 87102
Jim Barr, Downtown Neigh. Assoc., 407 12th St. NW, Albuq. NM 87102

City of Albuquerque

DEVELOPMENT REVIEW APPLICATION

Supplemental form

ZONING
- [X] Annexation or Map Amendment — Z
- [X] Sector Plan
- [ ] Text Amendment
- [ ] Special Exception — E

SUBDIVISION — S
- [ ] DRB Major Subdivision *
- [ ] DRB Minor Subdivision
- [ ] Variance (Non-Zoning) — V
- [ ] Vacation (Public * & Private)

Supplemental form

SITE DEVELOPMENT PLAN — P
- [ ] for Subdivision Purposes *
- [X] for Building Permit
- [ ] Plan Amendment *
- [ ] Administrative Amendment
- [ ] Master Development Plan

APPEAL / PROTEST of... — A
- [ ] Planning Director, Zoning
- [ ] Enforcement Officer, Zoning
- [ ] Hearing Examiner, DRB, EPC,
- [ ] Zoning Board of Appeals, LUCC

*** Notification of the Recognized Neighborhood Association is required**

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department. Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICANT INFORMATION:

NAME: CHARLES BENZAQUEN — PHONE: 505-244 0830
ADDRESS: 1223 TIJERAS AVE N.W. — FAX: N.A.
CITY: ALBUQUERQUE — STATE N.M. ZIP 87102 — E-MAIL: N.A.
Proprietary interest in site: OWNER

AGENT (if any) GARCIA/KRAEMER & ASSOCIATES — PHONE: 242-5566 ~~SAME AS ABOVE~~
ADDRESS: Wells Fargo Bank Building, 200 Lomas N.W., Ste. 1111 — FAX: N.A. 242-9028
CITY: Albuquerque, NM 87102 — ZIP 87102 — E-MAIL: N/A.

SITE INFORMATION:

DESCRIPTION OF REQUEST: RESIDENCE WITH 24 SEAT RESTAURANT TO SELL FOOD & WINE

Lot or Tract No. 47 & 48 — Block: 10 — Unit: 1
Subdiv. / Addn. PEREA ADDITION CITY OF ALBUQUERQUE.
Current Zoning: SU-2/TH — Proposed zoning: SU-2/SU-1 S.F.R. & Restaurant
Zone Atlas page(s): J-13-Z — No. of existing lots: 2 — No. of proposed lots: SAME
Total area of site (acres): ~~5000 #~~ — Density if applicable: dwellings per gross acre: NA — dwellings per net acre: NA
UPC No. 1013 058 391 051 41501. — MRGCD Map No.
Within city limits? [X] Yes. No, but site is within 5 miles of the city limits (DRB jurisdiction.) — Within 1000FT of a landfill? No
LOCATION OF PROPERTY BY STREETS: On or Near: Tijeras 1223
Between: 12th and 13th

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX-, Z-, V-, S-, etc.): ZA-79-92 Z-84-49

SIGNATURE CHARLES BENZAQUEN — DATE 10/26/2000
(Print) CHARLES BENZAQUEN — [√] Applicant [ ] Agent

FOR OFFICIAL USE ONLY — Form revised May 2000

- [ ] INTERNAL ROUTING
- [ ] All checklists are complete
- [ ] All fees have been collected
- [ ] All case #s are assigned
- [ ] Case history #s are listed
- [ ] Site is within 1000ft of a landfill
- [ ] F.H.D.P. density bonus
- [ ] F.H.D.P. fee rebate

	Application case numbers	S.F.	Fees
ZMA	00110 - 00000 - 01500	Z	$ 170
SP	00138 - 00000 - 01501	Z	$ 50
SDP/BP	00138 - 00000 - 01502	FC	$ 270
	- -		$
	- -		$
		Total	$ 490.-

Hearing date Dec 21, 2000

10/27/00
Planner signature / date

Project # 1000892

43

FORM P(1): SITE PLAN REVIEW E.P.C. PUBLIC HEARING

☐ **SITE DEVELOPMENT PLAN FOR SUBDIVISION**

☐ **IP MASTER DEVELOPMENT PLAN**

__ Scaled site plan and related drawings (folded to fit into an 8.5" by 14" pocket) 30 copies for EPC public hearings. For IP master development plans, include general building and parking locations, and design requirements for buildings, landscaping, lighting, and signage.
__ Site plans and related drawings reduced to 8.5" x 11" format
__ Zone Atlas map with the entire property(ies) precisely and clearly outlined and crosshatched (to be photocopied)
__ Letter briefly describing, explaining, and justifying the request
__ Letter of authorization from the property owner if application is submitted by an agent
__ Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
__ Sign Posting Agreement
__ 2 copies of the Conceptual Utility Layout Plan (mark one for Planning, one for Utility development)
__ TIS/AQIA Traffic Impact Study / Air Quality Impact Assessment form with required signatures
__ Fee (see schedule)
__ Any original and/or related file numbers are listed on the cover application

EPC hearings are approximately 7 weeks after the filing deadline. Refer to schedule. **Your attendance is required.**

☒ **SITE DEVELOPMENT PLAN FOR BUILDING PERMIT**

☐ **SITE DEVELOPMENT PLAN FOR BUILDING PERMIT OF WIRELESS TELECOM FACILITY**

✓ Site plan and related drawings (folded to fit into an 8.5" by 14" pocket) 30 copies for EPC public hearings.
__ Site Plan for Subdivision, if applicable, previously approved or simultaneously submitted. (Folded to fit into an 8.5" by 14" pocket.) 30 copies for EPC public hearings.
✓ Site plans and related drawings reduced to 8.5" x 11" format
✓ Zone Atlas map with the entire property(ies) precisely and clearly outlined and crosshatched (to be photocopied)
✓ Letter briefly describing, explaining, and justifying the request
__ Letter of authorization from the property owner if application is submitted by an agent
__ Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
__ Sign Posting Agreement
__ Completed Site Plan for Building Permit Checklist
__ 2 copies of the Conceptual Utility Layout Plan (mark one for Planning, one for Utility development)
✓ TIS/AQIA Traffic Impact Study / Air Quality Impact Assessment form with required signatures
__ Fee (see schedule) SF BP 270
✓ Any original and/or related file numbers are listed on the cover application

NOTE: For wireless telecommunications facilities that are concealed and/or subject to site development plan review, the following materials are required in addition to those listed above for application submittal:

__ Collocation evidence as described in Zoning Code §14-16-3-17(A)(5)
__ Notarized statement declaring # of antennas accommodated. Refer to §14-16-3-17(A)(10)(d)2
__ Letter of intent regarding shared use. Refer to §14-16-3-17(A)(10)(e)
__ Letter of description as above also addressing concealment issues, if relevant. Refer to §14-16-3-17(A)(12)(a)
__ Distance to nearest existing free standing tower and its owner's name if the proposed facility is also a free standing tower
__ Registered Engineer's stamp on the Site Development Plans EXISTING
✓ Office of Community & Neighborhood Coordination inquiry response as above based on ¼ mile radius

EPC hearings are approximately 7 weeks after the filing deadline. Refer to schedule. **Your attendance is required.**

☐ **AMENDED SITE DEVELOPMENT PLAN FOR SUBDIVISION**

☐ **AMENDED SITE DEVELOPMENT PLAN FOR BUILDING PERMIT**

__ Proposed amended Site Plan (folded to fit into an 8.5" by 14" pocket) 30 copies for EPC public hearings
__ DRB signed Site Plan being amended (folded to fit into an 8.5" by 14" pocket) 30 copies for EPC public hearings
__ DRB signed Site Plan for Subdivision, if applicable (required when amending SDP for Building Permit) 30 copies for EPC public hearings
__ Site plans and related drawings reduced to 8.5" x 11" format
__ Zone Atlas map with the entire property(ies) precisely and clearly outlined and crosshatched (to be photocopied)
__ Letter briefly describing, explaining, and justifying the request
__ Letter of authorization from the property owner if application is submitted by an agent
__ Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
__ Sign Posting Agreement
__ Completed Site Plan for Building Permit Checklist (not required for amendment of SDP for Subdivision)
__ TIS/AQIA Traffic Impact Study / Air Quality Impact Assessment form with required signatures
__ Fee (see schedule)
__ Any original and/or related file numbers are listed on the cover application

EPC hearings are approximately 7 weeks after the filing deadline. Refer to schedule. **Your attendance is required.**

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.

Phil Crawley
Applicant name (print)

10/27/00
Applicant signature / date

Form revised September 2000

☑ Checklists complete
☐ Fees collected
☑ Case #s assigned
☑ Related #s listed

Application case numbers
00110 - AAAA - 01500
00138 - AAAA - 01501
00128 - AAAA - 01502

10/27/00
Planner signature / date

Project # 1000892

FORM Z: ZONE MAP AMENDMENT AND ZONING CODE TEXT AMENDMENT

☐ **ANNEXATION AND ESTABLISHMENT OF ZONING**
- __ Zone Atlas map with the entire property(ies) precisely and clearly outlined and crosshatched (to be photocopied)
  NOTE: The Zone Atlas must show that the site is in County jurisdiction, but is contiguous to City limits.
- __ Letter briefly describing, explaining, and justifying the request
- __ Letter of authorization from the property owner if application is submitted by an agent
- __ Property Boundary Survey prepared by a licensed professional surveyor
- __ Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
- __ Sign Posting Agreement
- __ TIS/AQIA Traffic Impact Study / Air Quality Impact Assessment form
- __ Fee (see schedule)
- __ Any original and/or related file numbers are listed on the cover application

EPC hearings are approximately 7 weeks after the filing deadline. Refer to schedule. **Your attendance is required.**

☐ **SECTOR DEVELOPMENT PLAN PHASE I - DRB CONCEPTUAL PLAN REVIEW** (Unadvertised)

☑ **SECTOR DEVELOPMENT PLAN PHASE II - EPC FINAL REVIEW & APPROVAL** (Public Hearing)

☐ **SECTOR DEVELOPMENT PLAN PHASE II - DRB FINAL SIGN-OFF** (Unadvertised)
- __ Copy of findings from required pre-application meeting (for the DRB conceptual plan review only)
- __ Proposed Sector Plan (30 copies for EPC, 6 copies for DRB)
- ✓ Zone Atlas map with the entire plan area precisely and clearly outlined and crosshatched (to be photocopied)
- ✓ Letter briefly describing, explaining, and justifying the request
- ✓ Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts (for EPC final review and approval public hearing only)
- ✓ TIS/AQIA Traffic Impact Study / Air Quality Impact Assessment form (for EPC final review and approval public hearing only)
- ✓ Fee for final review and approval only (see schedule) $57.
- ✓ Any original and/or related file numbers are listed on the cover application

Downtown Neighborhoods

Refer to the schedules for the dates, times and places of D.R.B. unadvertised meetings and E.P.C. hearings. **Your attendance is required.**

☑ **AMENDMENT TO ZONE MAP (ZONE CHANGE)**
- ✓ Application for sector development plan amendment (required only if site is within a sector plan's boundaries.)
- __ Zone Atlas map with the entire property(ies) precisely and clearly outlined and crosshatched (to be photocopied)
- __ Letter briefly describing, explaining, and justifying the request
  NOTE: Justifications must adhere to the policies contained in "Resolution 270-1980"
- __ Letter of authorization from the property owner if application is submitted by an agent
- __ Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
- __ Sign Posting Agreement
- __ TIS/AQIA Traffic Impact Study / Air Quality Impact Assessment form
- __ Fee (see schedule)
- __ Any original and/or related file numbers are listed on the cover application

EPC hearings are approximately 7 weeks after the filing deadline. Refer to schedule. **Your attendance is required.**

☐ **AMENDMENT TO SECTOR DEVELOPMENT PLAN**
- __ Proposed Amendment referenced to the materials in the sector plan being amended
- __ Sector Plan to be amended with materials to be changed noted and marked
- __ Zone Atlas map with the entire plan area precisely and clearly outlined and crosshatched (to be photocopied)
- __ Letter briefly describing, explaining, and justifying the request
- __ Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
- __ TIS/AQIA Traffic Impact Study / Air Quality Impact Assessment form
- __ Fee (see schedule)
- __ Any original and/or related file numbers are listed on the cover application

EPC hearings are approximately 7 weeks after the filing deadline. Refer to schedule. **Your attendance is required.**

☐ **AMENDMENT TO ZONING CODE OR SUBDIVISION REGULATIONS TEXT**
- __ Amendment referenced to the sections of the Zone Code being amended
- __ Sections of the Zone Code to be amended with text to be changed noted and marked
- __ Letter briefly describing, explaining, and justifying the request
- __ Fee (see schedule)
- __ Any original and/or related file numbers are listed on the cover application

EPC hearings are approximately 7 weeks after the filing deadline. Refer to schedule. **Your attendance is required.**

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.

Paul Garcia
Applicant name (print)

10/27/00
Applicant signature / date

Form revised September 2000

☑ Checklists complete
☑ Fees collected
☑ Case #s assigned
☐ Related #s listed

Application case numbers
00110 - 01500
00138 - 01501
00128 - 01502

10/27/00
Planner signature / date

Project # 1000892

SITE DEVELOPMENT PLAN
FOR BUILDING PERMIT CHECKLIST

This checklist will be used by the Planning Department to verify the completeness of site plans submitted for review by the Environmental Planning Commission. Since development proposals vary in type and scale, there may be application requirements that are not included here. Nonetheless, it is the applicant's responsibility to provide a complete submittal. Incomplete submittals will be rejected. Site development plans submitted will ordinarily be composed of the following plan sheets:

1. ***Site Plan (including utilities and easements)***
2. ***Landscaping Plan***
3. ***Grading Plan***
4. ***Building and Structure Elevations***

Submitted plans shall be organized in the above manner. The following checklist describes the minimum information necessary for element. ***The Applicant shall check off all items shown on the site plan or label as NA, if not applicable.***

Accompanying Material - Fee payment

✓ *A. Complete application with summary.*
✓ *B. 8 ½" x 11" reductions*

SHEET #1 - SITE PLAN

A. General Information

✓ *1. Scale*

Under 1.0 acre	*1" = 10'*
1.0 - 5.0 acres	*1" = 20'*
Over 5 acres	*1" = 50'*
Over 20 acres	*1" = 100'*

Other scales as approved by staff

✓ *2. Bar Scale*
✓ *3. North Arrow*
✓ *4. Scaled Vicinity Map*
✓ *5. Existing structures on site and on sites adjacent to the proposal that may impact, or may be impacted by the project.*
✓ *6. Property lines*
— *7. Existing and proposed easements (identify each)*

B. Proposed Development

1. Structural

✓ *A. Location of existing and proposed structures on the property and on adjacent properties, including privacy and retaining walls (distinguish between proposed and existing structures).*
✓ *B. Square footage of each structure*
✓ *C. Proposed use of each structure*
— *D. Temporary structures, signs and other improvements*
✓ *E. Wall(s), fence(s), and screening: height, length, color and materials. Show cross-sections for retaining walls.*

✓ F. Dimensions of all principal site elements
✓ G. Loading facilities
— H. Site lighting (height, type, and intensity)

2. Non-Structural and Parking

✓ A. Parking design with spaces numbered per aisle.
— 1. Location
— 2. Arrangements
— 3. Dimensions and curve radii
— 4. Turning spaces
— 5. Drives
— 6. Aisles
— 7. Ingress
— 8. Egress
— 9. Number of spaces required:_____
— 10. Handicapped parking, spaces required:_____
— B. Bicycle racks, spaces required:_____
— C. Elevation draving of refuse container and enclosure, if applicable.

C. Street and Circulation

✓ 1. Identification and location of public and private streets and alleys with proper name, existing and proposed width dimensions.
— 2. Curve radii
— 3. Right-of-Way width
— 4. Pavement width (flow line to flow line) including medians and median cuts.
— 5. Sidewalk widths and locations, existing and proposed.
— 6. Rail spurs, if applicable
— 7. Location of traffic signs and signals related to the functioning of the proposal.
— 8. Bikeways
— 9. Bus facilities, including bays and shelters where required.
✓ 10. Curb cut size and type.
— 11. Provisions for non-auto transportation, including transit and bicycle related improvements and pedestrian linkage.

D. Utilities

— 1. Fire hydrant locations, existing and proposed.
— 2. Distribution lines
— 3. Right-of-Way and easements, existing and proposed, on the property and adjacent to the boundaries, with identification of types and dimensions.
— 4. Existing water, sewer, storm drainage facilities (public and/or private).
— 5. Proposed water, sewer, storm drainage facilities (public and/or private)

E. Phasing N/A

— 1. Proposed phasing of improvements and provision for interim facilities. Information on future phasing should be included. If applicable, indicate location and square footage.

SHEET #2 - LANDSCAPING PLAN N/A

If appropriate, landscaping maybe shown on sheet #1 with the approval of Planning staff. See article 6-1-1-1et.al., the Water Conservation Landscaping and Water Waste Ordinance for specific restrictions, regulations, standards, and requirements

___ 1. *Scale - must be same as scale on sheet #1 - Site plan*
___ 2. *Bar Scale*
___ 3. *North Arrow*
___ 4. *Property Lines*
___ 5. *Existing and proposed easements*
___ 6. *Identify nature of ground cover materials*
   A. *Impervious areas (pavements, sidewalks, slope pavings, curb, and gutters, etc.).*
   B. *Pervious areas (planting beds, grass, ground cover vegetation, etc.).*
   C. *Ponding areas either for drainage or landscaping/recreational use.*
___ 7. *Identify nature, location and size of shrubbery and trees (common and/or botanical names).*
   A. *Existing, indicating whether it is to preserved or removed.*
   B. *Proposed, to be established for general landscaping.*
   C. *Proposed, to be established for screening/buffering.*
___ 8. *Irrigation System*
___ 9. *Planting Beds*
___ 10. *Turf Area - only 20% of landscaped area can be high water turf; provide square footage and percentage.*
___ 11. *Responsibility for maintenance (Statement)*
___ 12. *Statement of Water Waste, etc.*
___ 13. *Landscaped area requirement; square footage and percent:_____*
___ 14. *Landscaped area provided; square footage and percent:_____*

SHEET #3 - GRADING PLAN N/A

A. General Information

___ 1. *Scale - must be same as Sheet #1 - Site Plan*
___ 2. *Bar Scale*
___ 3. *North Arrow*
___ 4. *Existing topography and structural improvements within at least 25 feet beyond property boundaries (more may be required).*
___ 5. *Property Lines*
___ 6. *Existing and proposed easements*
___ 7. *Proposed contours and/or spot elevations*
___ 8. *Retaining walls*

B. Proposal

1. *Grading submittals, ponding areas, erosion and sediment control facilities:*
   A. *Conceptual grading and drainage plan*
   B. *Drainage plan (maybe required for other submittals)*
   C. *Drainage Report (maybe required for other submittals)*

___ A. *Cross Sections*
Provide cross section for all perimeter property lines at the point of the greatest grade change: Where the grade change is greater than 4 feet, provide one additional cross section in each direction within no more than 100 feet of the reference point.

___ B. *Spot Elevation*
Provide spot elevations existing and proposed within 20 feet of both sides of the property line, not to exceed intervals of 100 feet.

___ C. *Grade Changes*
Identify grade change on the site greater than 2 feet with shading or a single cross-hatch. Identify grade changes greater than 4 feet with darker shading or a double cross-hatch.

SHEET #4 - BUILDING AND STRUCTURE ELEVATIONS

A. General Information

✓ 1. *Scale (minimum of 1/8" or as approved by Planning Staff).*
✓ 2. *Bar Scale*
✓ 3. *Facade orientation (elevation of all sides of the buildings)*
✓ 4. *Dimensions, to scale including overall height and width, and dimensions of major facade elements.*
✓ 5. *Location, material and colors of windows, doors and framing.*
✓ 6. *Materials and colors of all building elements and structures.*

B. Signage N/A

___ 1. *Elevations*
___ 2. *Location*
___ 3. *Height and width*
___ 4. *Sign face area - dimensions and square footage*
___ 5. *Lighting*
___ 6. *Materials and Colors for sign face and structural elements.*

C. Additional information, including, renderings and perspective drawings may be submitted. ___

___ A. *Samples*
___ 1 *Presentation Models*
___ 2. *Photos*

CITY OF ALBUQUERQUE

TRAFFIC IMPACT STUDY (TIS) / AIR QUALITY ASSESSMENT (AQIA) FORM

APPLICANT: CHARLES BENZADON Date of request: 8/29/00 Zone atlas page(s): J 13

TO BE COMPLETED BY APPLICANT

CURRENT:
Zoning SU2 - TH
Parcel Size (acres / sq.ft.) 50 X 100

Legal Description -
Lot or Tract # 47 & 48 Block # 10
Subdivision Name TERRA ADDITION

REQUESTED CITY ACTION(S):

Annexation	[ ]	Sector Plan	[ ]	Site Development Plan:		Building Permit	[X]
Comp. Plan Amendment	[X]	Zone Change	[ ]	a) Subdivision	[ ]	Access Permit	[ ]
		Conditional Use	[ ]	b) Build'g Purposes	[ ]	Other	[ ]
				c) Amendment	[ ]		

PROPOSED DEVELOPMENT:
No construction / development [X]
New Construction [ ]
Expansion of existing development [ ]

GENERAL DESCRIPTION OF ACTION: [1]
# of units - 1
Building Size - _____ (sq. ft.)

Notes: 1. Changes made to development proposals / assumptions, from the information provided above, may change the TIS or AQIA analysis requirements.

Applicant or Representative OPERATE 24 SEATS / 5 TABLES / RESTAURANT IN MY RESIDENCE Date 8/29/00

(To be signed upon completion of processing by Traffic Engineer and Environmental Health)

TRANSPORTATION DEVELOPMENT

TRAFFIC IMPACT STUDY (TIS) REQUIRED: YES [ ] NO [4] BORDERLINE [ ]

PWD, Dev. & Bldg. Services Div., Transportation Dev. Section - 2nd FL 600 2nd St. NW Plaza del Sol Bldg. 924-3991 or 3994

THRESHOLDS MET? YES [ ] NO [4] Mitigating reasons for not requiring TIS: Previously studied: [ ]

Notes:

IF A TIS IS REQUIRED: A scoping meeting (as outlined in the Development Process Manual) must be held to define the level of analysis needed and the parameters of the study. **Any subsequent changes to the development proposal identified above may require an update or new TIS.**

TRAFFIC ENGINEER Aug 29, 2000 DATE

ENVIRONMENTAL HEALTH

AIR QUALITY IMPACT ASSESSMENT (AQIA) REQUIRED: YES [ ] NO [X] BORDERLINE [ ]

ENVIRONMENTAL HEALTH DEPT. Air Quality Div. 3rd Floor / Rm. 3023 City/County Bldg. 768-2600

THRESHOLDS MET? YES [ ] NO [X] Mitigating reasons for not requiring AQIA: Previously studied: [ ]

Notes:

IF AN AQIA IS REQUIRED: a scoping meeting must be held to define the level of analysis needed and the parameters of the study. **Any subsequent changes to the development proposal identified above may require an update or new AQIA.**

ENVIRONMENTAL HEALTH 9-5-00 DATE

Required TIS and / or AQIA must be completed prior to applying to the EPC. Arrangements must be made prior to submittal if a variance to this procedure is requested and noted on this form, otherwise the application may not be accepted or deferred if the arrangements are not complied with.

TIS	- SUBMITTED ___/___/___	_____ TRAFFIC ENGINEER	_____ DATE
	- FINALIZED ___/___/___		
AQIA	- SUBMITTED ___/___/___	_____ ENVIRONMENTAL HEALTH	_____ DATE
	- FINALIZED ___/___/___		

2nd

Application for Zoning Map Change
Downtown Neighborhood Area
1223 Tijeras Ave. NW
Albuquerque, NM

Introduction

This application is submitted to the Albuquerque Zoning Commission the to allow the opening of a small restaurant in Downtown Neighborhood Area Sector. This application addresses a request for Zoning Map Changes and the approval of a Site Development Plan as part of a Building Permit submittal. This restaurant will engage in the preparation and/or serving of fine foods and wines on the premises. Package liquor sales of any sort will not be included.

Purpose

The purpose of this zoning map amendment is to request that the zoning for this address be changed from that of the existing single family residence to that of a small restaurant with limited capacity of diners (24 seats) and tradespeople. In support of this change, some modifications to the interior of the building would be required and would be implemented via a Site Development Plan and subsequent Building Permit process.. This proposed restaurant would serve the community by providing fine foods and fine wines in support of the downtown office area as well as tourist needs associated with the Old Town area and the City of Albuquerque at large. These services are consistent with the health, safety, morals and general welfare of the City of Albuquerque.

Location/Background

This application for a Zoning Map Change pertains to the real property described as 1223 Tijeras Ave. NW, located on the northeast corner of Tijeras Ave and 13th St., Albuquerque, NM (site). The address is located in the south central portion of the Downtown Neighborhood Area Plan, within the area having SU-2 zoning (Map 7 of the Downtown Neighborhood Area Sector). The land use plan (Map 7) indicates the site is located at the west-most edge of an area designated for Townhouse use. The site is east of and immediately adjacent to areas designated in Map 7 as "community commercial" in the land use plan. The land use plan also designates the area starting one block north of the site as a single family residence area.

This property was initially developed in the Perea Addition to the City of Albuquerque, New Mexico in May 1891, and the building probably constructed in the early 1900's in a bungalow style. The use of this building as a small restaurant would allow for both the preservation of the historic architecture and public (diners) access to a unique window into the past of the building and therefore the recent history of the City of Albuquerque.

Proposed Changes

The proposed changes to the site are largely administrative and consist of changing the existing zoning map designation from SU02/TH to SU-1 (single family residence with restaurant (24 seats maximum capacity)).

The building owners and operators of the proposed restaurant would maintain residence at the location in the designated living area (Figure XX). The anticipated hours of business would be from approximately 5:00 PM to 10:00 PM, six nights per week. Parking would be accommodated by leasing existing parking lot space at the offices of William E. Snead, Attorney, located immediately east of the site. Provisions have been made to secure all appropriate and mandatory insurances, licenses and permits and related fees. The existing refuse collection station adjacent to the garage (Figure XX) will continue to be used.

The physical changes to the site would be minimal. No modifications to the building footprint or landscaping are planned. A hand-painted sign would be applied to the front of the existing building. This sign would be approximately three (3) to four (4) feet long and two (2) to three (3) feet tall. The sign would be lit during the proposed business hours by two (2) small (120 watt maximum) spot lights. All other physical modifications would be restricted to the interior of the building (Figure YY).

Rationale

As per the City of Albuquerque Comprehensive Zoning Code Resolution 270-1980 (revision dated 2/2/98) Section 1:

Section 1.A.: The proposed changes are consistent with the intent of this section and do not promote disorderly, lewd, lascivious or bawdy behavior.

Section 1.B: The proposed changes are not pursued frivolously. The owners are life-long professionals in the food service industry and have notable reputations among the finer eateries in Albuquerque.

Section 1.C: The proposed changes do not significantly conflict with existing City master plans and amendments or their adopted private plans as there are or were several businesses (including restaurants – namely the former Steven Restaurant site) adjacent to or near the site.

Section 1.D.: While the existing zoning map designation is not inappropriate, a zoning map change to allow a restaurant at this site would be advantageous to the community by providing the local residents an opportunity to conveniently enjoy fine foods and wines. Approval of this zoning change request would also add to the cultural diversity of the City of Albuquerque and enhance the City's reputation in the arena of fine cuisine.

Section 1.E.: The proposed zoning change does not encourage uses that are detrimental to the area, and would seem to enhance neighborhood security by enhancing the City's neighborhood lighting efforts and establishing a place where relief is available to the public during the proposed hours of operation.

Section 1.F.: The proposed zoning change would require no anticipated capitol expenditures on behalf of the City. The City services required by this modification are already in place in the form of paved streets, available electricity, water sewer and waste removal.

Section 1.G. The applicant requests that the Zoning Commission not weigh personal or corporate economic considerations when analyzing this zoning map change request.

Section 1.H.: The proposed Zoning Map Change is not requested on the basis of street location only. The other elements of this application provide a wider base for analysis.

Section 1.I.: A "spot zoning" change is not requested.

Section 1.J.: A "strip zoning" change is not requested.

Summary

The proposed restaurant would be an advantage to the neighborhood in that the house and yard are and will be kept presentable for guests and diners. The small size of the proposed establishment will minimize its influence on the immediate neighborhood. The location of 1223 Tijeras NW is historic and pedestrian-oriented and is located very near Soldiers and Sailors Park at the corner of Tijeras Ave. NW and Central Ave. NW.

The Downtown Neighborhood Area Sector Development Plan (3/99, p. 13) states a policy of redeveloping and rehabilitating older neighborhoods and improving the living conditions for low- and moderate-income families. The proposed restaurant is consistent with those goals in that continues the development rehabilitation process initiated by other professional businesses in the area. Further, by being located within the Downtown Neighborhood Area, it promotes improved living condition for all residents regardless of income.

The proposed change is consistent with the health, safety, morals and general welfare of the City of Albuquerque. The requested zoning change will not be harmful to adjacent property, the neighborhood or the community. The proposed change will not be disruptive to the Downtown Neighborhood Area via either lighting or increased traffic. The site's proximity to Central Ave. would help enhance the marketing of the Route 66 corridor with minimal impact to the residential character of the Downtown Neighborhood Area.

GARCIA/KRAEMER & ASSOCIATES

Wells Fargo Bank Building
200 Lomas N.W., Suite 1111
Albuquerque, NM 87102
(505) 242-5566
Fax #(505) 242-9028

SUPPLEMENTAL
REASON FOR REQUEST

This application and most of the supporting documentation has been prepared by the applicant over the last few months. He retained our services to assist him with the technical requirements under the Zoning Code and to help him with the public presentation of his case.

This is a request for a zone map amendment from SU-2 TH to SU-2 SU-1 for a single-family residence with a restaurant including a license for the sale of beer and wine, as provided by Section 60-6A-4 NMSA 1978. Since the subject property is located within the area covered by the Downtown Neighborhood Area Sector Development Plan, the request also seeks a corresponding amendment to that Sector Plan. The SU-1 Special Use zone is appropriate because this is a "use combination not adequately allowed or controlled in other zones" (see Section 14-16-2-22 B(28)) and because it will give the neighborhood protection from potentially adverse impacts by requiring approval of a site development plan.

The Downtown Neighborhood Area is one of the oldest residential areas in Albuquerque and was one of the first neighborhoods that used the Sector Plan process to help it strengthen itself through rehabilitation and stabilization. The Downtown Neighborhood Association (DNA) has long had a clear and strong voice to protect itself from a variety of uses that its members have seen as potentially damaging to the neighborhood integrity. The use proposed by this applicant would not harm the neighborhood. The applicant presented his plans to the DNA on August 2, 2000. There were nineteen (19) members of the DNA present at that hearing, seventeen (17) of which were supportive of this project. We fully intend to hold additional meetings with the neighborhood to answer any concerns they may have. The applicant lives in this neighborhood and intends to stay there and run his business out of his home. This project will be an incredible asset to this historic vibrant neighborhood.

GARCIA/KRAEMER&ASSOCIATES

Wells Fargo Bank Building
200 Lomas N.W., Suite 1111
Albuquerque, NM 87102
(505) 242 5566
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January 25, 2001

Perry Robert Wilkes, Chairman
Downtown Neighborhood Association

RE: Charles Benzaquen's Proposed House/Restaurant

Dear Perry:

As you know, the EPC voted to defer the zone change site plan and sector plan amendment case to its public hearing of February 15, 2001. I am sorry that we were unable to agree to the neighborhood's request for a 120-day deferral.

Even though the staff planner recommended approval of our request, we are committed to continue to work with the DNA to find a mechanism that will allow Charles to open a restaurant at this location while still protecting the residential integrity of the neighborhood.

Enclosed please find our proposed solution. It is a sector plan amendment to the Townhouse zone which defines house/restaurant and allows that use as a permissive home occupation. I drafted this proposal after discussions with David Suffling, Assistant City Attorney, and members of the Planning Staff. I believe that this amendment will protect the neighborhood's valid concerns while still allowing Charles to open a quality French restaurant that will be an asset to the neighborhood and community.

1) The zoning on the subject property will remain the same residential zone.

2) The provision requiring the premises to be "located on an arterial street and adjacent to property zoned Community Commercial" significantly limits the scope of this amendment. The DNA will not be faced with a plethora of new house/restaurants.

3) "House" is defined in the zoning code. This will further restrict possible sites for this new home occupation and protect the residential nature of the neighborhood.

4) The R-1 home occupation regulations obviously would not allow this use as a home occupation, but can work with relatively minor modifications.

5) The off-street parking requirement will further protect the neighborhood from potential deleterious traffic and parking impacts. The law office of William Snead is adjacent to Charles' house. The existing parking lot will be available for use of the restaurant patrons. If off-street parking is not available or is withdrawn, the use will have to be discontinued.

If the DNA will support this amendment to the Sector Plan, we will be able to withdraw the portions of the pending request, which ask for a zone change and site plan approval. I have already shown this proposed amendment to the City Attorney's office, City Council Policy Staff, Zoning Enforcement and Planning Staff and have asked for their input. Of course, we also welcome the neighborhood's input on this proposed solution. We anticipate presenting this draft to the DNA at its next board meeting on the first Wednesday of February. In the meantime, please do not hesitate to call with any questions or concerns.

Sincerely,

William L. Kraemer

William L. Kraemer
WLK/tdl

PROPOSED SECTOR PLAN AMENDMENT

The Townhouse land use corresponds to the R-T Residential Zone in the Comprehensive City Zoning Code and is subject to the same regulations as that zone with (four) five exceptions:

(1) The minimum lot area is 2,000 square feet instead of the Code requirement of 3,000 square feet.

(2) The minimum front yard setback is 10 feet instead of the Code requirement of 15 feet, except that the minimum front yard setback for a garage or carport is 20 feet.

(3) The off-street parking requirement is one and one-fourth spaces per dwelling unit instead of the Code requirement of one space per bath but not less than two spaces per unit.

(4) The usable open space requirement is 500 square feet per dwelling unit instead of the Code requirement of 750 square feet per unit.

(5) A house/restaurant is allowed as a permissive home occupation, provided that the premises are located on an arterial street and adjacent to property zoned Community Commercial. A house/restaurant must be located in a house and may include the sale of food and drink, including beer and wine as provided by Section 60-6A-4 NMSA 1978, for consumption on premises. The home occupation regulations of the R-1 zone shall apply with the following exceptions:

a) Up to two (2) persons who are not members of the residing family may be employed.
b) An outdoor seating area may be provided.
c) The "stock in trade" restriction and the 25% floor area limitation do not apply.
d) Off-street parking at a ratio of one space for each four-restaurant seats shall be provided in addition to the required residential off-street parking. This off-street parking requirement may be met on a separate lot pursuant to a joint use parking agreement.

DOWNTOWN NEIGHBORHOODS ASSOCIATION

PLANNING DEPARTMENT PLANNING DIV.
JAN 16 8 11 AM '01

January 14, 2001

Mr. Chuck Gara, Chairman
Environmental Planning Commission
City of Alburquerque
PO Box 1293
Alburquerque, NM 87103

Dear Chairman Gara,

The Board of Directors of the Downtown Neighborhoods Association would like to request a 120 day deferral in the matter of Project # 1000892 concerning Mr. Charles Benzaquen's request for a zone change from SU-2/TH to SU-2/SU-1 in order to convert his Single Family Home to a restaurant on his property at 1223 Tijeras NW.

At the January 3, 2001 regular meeting of the DNA Board a motion was approved to seek a 120 day delay in this case in order to assess the overall impact of this important change on the neighborhood and to explore a number of avenues to reach a mutually acceptable solution, if possible. Since the residential portion of the Benzaquen home would be reduced to a token amount of space under this proposal, such a solution could involve an agreement to replace this lost residential usage with some additional and substantial residential component elsewhere in the DNA similar to that arrived at for the Palms Project a few years ago at 15th and Lomas. Negotiations to accomplish this goal would likely be complex and require a number of meetings with Mr. Benzaquen.

The DNA is concerned about the very real process of further erosion of our residential base and in exercising the responsibility entrusted in us by the neighborhood we must must consider each such request with great care. Therefore we must ask for a 120 day deferral of this case.

Thank you for your attention to this matter.

Sincerely,

Perry Robert Wilkes
Chairman, Downtown Neighborhoods Association (DNA)

cc. Garcia/Kraemer & Associates

PLANNING
DEPARTMENT
PLANNING
JAN 11 9 45 AM '01

GARCIA/KRAEMER & ASSOCIATES

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200 Lomas N.W., Suite 1111
Albuquerque, NM 87102
(505) 242-5566
Fax #(505) 242-9028

January 10, 2001

Chuck Gara, Chairman
Environmental Planning Commission
City of Albuquerque

RE: Project #1000892

Dear Chairman Gara:

We have been actively involved in discussions with the Downtown Neighborhood Association (DNA) regarding the merits of the above referenced case. On December 11, 2000, we participated in a facilitated meeting with DNA representatives. On January 3, 2001, we attended a DNA Board meeting to discuss options for resolution of this request.

There seems to be general agreement that the small quality French restaurant that Charles Benzaquen proposes in his residence would be an asset to the Downtown Neighborhood Area. However, the DNA is adamant in their opposition to any zone change that would, in their opinion, threaten commercial encroachment into the neighborhood. We believe that it will be possible to come up with a mechanism that will allow our client to open his establishment while protecting the residential integrity of the neighborhood.

At the January 3, 2001 board meeting, the DNA board voted to work with us to explore these options. We understand that they will request that this case be deferred for 120 days to explore options, which they visualize involving changes t oall of the sector plans surrounding the Downtown core.

We are committed to work with the neighborhood to explore other options but cannot agree to a 120-day deferral. One hundred twenty days is not enough time to resolve the plethora of issues regarding the sector plans of all areas adjoining the Downtown core and is too long to hold Mr. Benzaquen's application in limbo. In the alternative, we will

agree to a 30 day deferral to try to reach a compromise solution with DNA. In that amount of time, we should be able to determine whether a compromise is achievable.

Sincerely,

William L. Kraemer

WILLIAM L. KRAEMER
WLK/tdl

Cc: Perry Wilkes
Simon Shima
Charles Benzaquen

GARCIA/KRAEMER&ASSOCIATES

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(505) 242 5566
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January 2, 2001

Simon Shima, Staff Planner
City of Albuquerque
Planning Department
Via facsimile# 924 3339
RE: Project No. 1000892
Sector Plan Amendment 00138-00000-1501

Dear Simon:

This letter is in response to your request for a clarification of the portion of the above referenced request that constitutes a Sector Development Plan Amendment. The Downtown Neighborhood Area Sector Development Plan (DNA Plan) already includes a reference to the SU-1 zone. Therefore, the only amendments that this request contemplates to the DNA Plan are:

1. Amend Map 7, Land Use Plan to show the new zoning on the subject property, and

2. Amend the text of the plan that describes the SU-1 zoning to read as follows: (new language underlined)

   The Special Use land use corresponds to the SU-1 Special Use Zone in the Comprehensive City Zoning Code and regulates existing churches and certain other approved land uses. It is subject to the regulations of that zone and adopted development plans. Existing churches present configurations are to be treated as their development plans. Newly zoned SU-1 properties require site development plan approval.

We hope that this letter is adequate to answer your questions. I will keep you informed of our progress with the neighborhood.

Sincerely,

WILLIAM L. KRAEMER
WLK/tdl

NEIGHBORHOOD NOTIFICATION
ADDENDUM TO APPLICATION

This certifies that I, Tammy D. Leslie-Mills have notified via certified mail, return receipt request, two representatives of the following Recognized Office of Neighborhood Associations, as furnished of Neighborhood Coordination Office* regarding our application for

X ZONE MAP AMENDMENT
_____ SITE DEVELOPMENT PLAN APPROVAL OR AMENDMENT
_____ ANNEXATION
_____ MAJOR SUBDIVISION
_____ VACATION OF PUBLIC RIGHT-OF-WAY
_____ PRIVATE SECTOR DEVELOPMENT PLAN

for property located at Lot 47 and 48, Block 10, Unit 1, Perea Addition

(legal description)

Downtown Neighborhood Association (Neighborhood Association)	Perry Wilkes (Representative) 718 Mountain Rd NW/87102 (Address) 842-8626 (h) (Phone)
(Neighborhood Association)	Jim Barr (Representative) 407 12th Street NW/87102 (Address) 242-3805 (h) 768-2640 (w) (Phone)
(Neighborhood Association)	(Representative) (Address) (Phone)
(Neighborhood Association)	(Representative) (Address) (Phone)

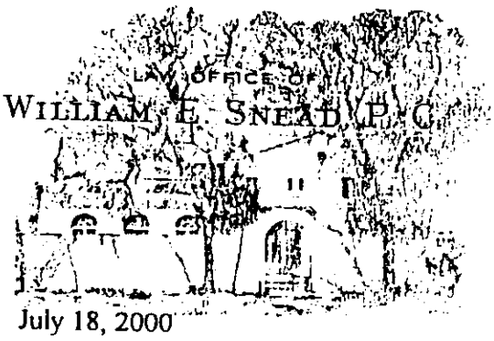
Certified by Tammy D Leslie-Mills (Owner/Agent) For Charles Benzaquen (Owner)

Printed name of person signing Tammy D. Leslie-Mills Phone# 505-242-5566 Date 10-26-00

*The Neighborhood Coordination Office is located in the 5 Floor of the Old City Hall Building, 768-3790

REV. 11/8/90

CASE#_____



201 12TH STREET, N. W.
ALBUQUERQUE, NEW MEXICO 87102
TELEPHONE (505) 842-8177
FAX (505) 842-8079

July 18, 2000

Downtown Neighborhood Association

Re: Mr. Charles Benzaquen
1223 Tijeras NW

Dear Downtown Neighborhood Association:

As you know, for many years I have been supportive of the Downtown Neighborhood Association and its goal of making this neighborhood a nice place within which to live and work. It has recently come to my attention that Charles Benzaquen is undertaking an effort to open a very small, but fine restaurant at his address.

I have known Charles for many years and know him to be not only a fine chef, but a very responsible citizen. It is my belief that his opening a small restaurant in the location he proposes, would be a very significant addition to our neighborhood, replacing in part the loss of Stephen's. I support such an effort. I have also talked to Charles and have told him that we would try to make an accommodation for him in our parking lot for the evenings so that there would not be any significant on-street parking.

I think his restaurant would also be an asset in that the early evening activity would help prevent vandalism and burglaries.

I would be glad to answer any questions that you might have. Please call me either at my office or at my home, 344-9082.

Very truly yours,

WILLIAM E. SNEAD

WES/csw

DOWNTOWN NEIGHBORHOODS ASSOCIATION

December 12, 2000

Mr. Chuck Gara, Chair
Planning Commission
City of Albuquerque
Box 1293
Albuquerque, NM 87103

Dear Chairman Gara:

This is to indicate the strong opposition of the Board of the Downtown Neighborhoods Association to the request made by Mr. Charles Benzaquen (Case # 000110-00000-01500) to change the zoning of residential property located at 1223 Tijeras Avenue NW from SU-1/TH to SU-1 for Restaurant and Single Family Dwelling.

While we wish Mr. Benzaquen well with his restaurant project, and we agree that a quality French restaurant will be a welcome addition to the Downtown Core, the board of the Downtown Neighborhoods Association stringently opposes any conversion of residential property to commercial use in the Downtown Neighborhoods residential areas. A zoning change to accommodate this request would be inconsistent with the DNA Sector Plan, and the Downtown 2010 Sector Plan.

The DNA Sector Development Plan is 25 years old. The primary purpose for its creation was to prevent the conversion of residential dwelling units to commercial uses. Indeed, the Downtown Neighborhood Association originally coalesced around this very premise. According to the recently published "Urban Growth Projections 1999-2010" from the Planning Department the Center City has lost 16% of its population over the past three decades. Under these circumstances we cannot support the further diminution of our housing stock. According to the plan presented by Mr. Benzaquen there is no reasonably adequate living space shown. And having had long experience with R/C zoning, we are under no illusion that once this property receives a commercial designation it will ever again be used as a residence.

The recently passed Downtown 2010 Plan contains explicit language dealing with zone change requests in areas surrounding the Central Business District:

> "We will (emphasis added) preserve and enhance the character of the neighborhoods which surround downtown by: (making) the boundary between the Downtown Core and its adjacent neighborhoods a hard line in order to protect adjacent neighborhoods from encroachment of commercial activity outside the core." (p.9)

Plan language is quite clear. It is the responsibility of the Public Sector to enforce this Plan language.

The Board of the DNA is at pains to point out to the Commission that the DNA gave up six square blocks of its historic area to the Downtown Core as a part of 2010 Plan passage. We acquiesced in this action because of this very strong Plan language regarding commercial zone change requests in the surrounding neighborhoods. In the short term, a French Restaurant would clearly improve the livability of our neighborhood; in the long term, commercial zoning designation means one less dwelling unit. Neighborhoods are fragile and they must not be subjected to constant assaults from the commercial sector.

The current vacancy rate for commercial properties in the Downtown Core is approximately 20% and is very lokely to increase substantially as the new courthouses are occupied; we encourage Mr. Benzaquen to seek appropriate commercial space from the many possibilities available in the Central Business District. It is only a short walk to Downtown from our neighborhood, and a quality French restaurant located there would be beneficial to us all.

The "supplemental reason for request" prepared by Garcia/Kraemer & Associates and attached to Mr. Benzaquen's zone change request contains a serious error. Mr. Benzaquen did present his plans to a meeting of the DNA on August 2, 2000, and the sense of the citizens in attendance was that a quality French restaurant in the area would be a good idea. However, no vote was taken by board members regarding the appropriateness of any possible zone change or special exception request. Mr. Benzaquen had not, at that point, decided what legal changes he would request, and secondly it is the policy of the DNA board to hear such requests at an initial meeting, research and consider their implications, and vote to support or not support the request at a subsequent meeting. We have done that, and the board of the Downtown Neighborhoods Association is unanimous in its opposition to this zone change request.

Finally, Mr. Chairman, we urge the Planning Commission to do the right thing and follow the very clear Plans and Policies of the City of Albuquerque and its citizens in making this decision.

Sincerely,

Perry Robert Wilkes, Chairman DNA

Mediation Works, Inc.

10412 Bellamah Ave. NE
Albuquerque, NM. 87112

Tel: (505) 298-3544
Fax: (505) 332-1453

Project #1000892

Facilitator's Report dated: 01/05/2001

Facilitated Meeting Held: December 11, 2000 6:30 pm

Between
Applicant/Agent: Charles Benzaquen/Garcia Kraemer
And
Neighborhood Association(s): Downtown Neighborhood Association

RE: Project #1000892 which requests a zone map amendment from SU-2/TH to SU-2/SU-1 S.F.R. & Restaurant plus an amendment to the Sector Development Plan and approval of a site development plan for building permit for Lots 47 & 48, Perea Addition, located on Tijeras between 12th Street and 13th Street.

Facilitator: Paul Splett

Summary: Mr. Benzaquen has submitted a plan to the Downtown Neighborhood Association (DNA) for a formal restaurant that would be housed within his single family home. The DNA, finding itself in the unique position of having to vote against a resident of the neighborhood, expressed it's concerns with the long term effect of allowing the zone amendment. By the end of the meeting, both parties had agreed to search deeper for alternative ways to allow Mr. Benzaquen to proceed with his plans. The DNA stated, however, that it would fight against the plan as it is currently presented.

Notes From Meeting:

1) Mr. Benzaquen is a resident within the DNA neighborhood.
2) Mr. Benzaquen reports that he planned to go forth with plans for restaurant after first submitting his plan to the DNA for vote. At that time, the vote was 17-2 for the restaurant.
3) Mr. Benzaquen reports that he plans to begin with the plans in two years.
4) DNA responded that after careful consideration, though they would like to work with Mr. Benzaquen, there were precedential concerns that have caused reconsideration of this earlier vote. These include:
   a) the loss of the neighborhood's residential essence once it is zoned for commercial;
   b) the possibility of the plan being a spot zone in violation of the 2010 Plan;
   c) the possible undermining of the DNA Sector Plan that specifically calls for preserving residential areas (there's already been a 16% loss of the downtown residential population); and
   d) the plan's effects on parking and traffic in the area.
5) Mr. Benzaquen states that this plan is different in that his home will retain its residential essence.

Attendees

Name	Organization
Jim Clark	DNA
Ford Davis	DNA
Jim Barr	DNA
Bill Kraemer	Garcia, Kraemer
Charles Benzaquen	Applicant
Rebecca Romero	DNA

Facilitator: Paul Splett
Mediation Works, Inc.

MILLER, STRATVERT & TORGERSON, P. A.

LAW OFFICES

RANNE B. MILLER
ALAN C. TORGERSON
ALICE T. LORENZ
GREGORY W. CHASE
LYMAN G. SANDY
STEPHEN M. WILLIAMS
STEPHAN M. VIDMAR
ROBERT C. GUTIERREZ
SETH V. BINGHAM
JAMES B. COLLINS
TIMOTHY R. BRIGGS
RUDOLPH LUCERO
DEBORAH A. SOLOVE
GARY L. GORDON
LAWRENCE R. WHITE
SHARON P. GROSS
VIRGINIA ANDERMAN
MARTE D. LIGHTSTONE
J. SCOTT HALL
THOMAS R. MACK
TERRI L. SAUER
JOEL T. NEWTON

THOMAS M. DOMME
RUTH O. PREGENZER
JEFFREY E. JONES
MANUEL I. ARRIETA
ROBIN A. GOBLE
JAMES R. WOOD
DANA M. KYLE
KIRK R. ALLEN
RUTH FUESS
KYLE M. FINCH
H. BROOK LASKEY
KATHERINE W. HALL
FRED SCHILLER
PAULA G. MAYNES
MICHAEL C. ROSS
CARLA PRANDO
KATHERINE N. BLACKETT
JENNIFER L. STONE
ANDREW M. SANCHEZ
M. DYLAN O'REILLY
AMINA QUARGNALI-LINSLEY
BEATE BOUDRO

COUNSEL

PAUL W. ROBINSON
ROSS B. PERKAL
JAMES J. WIDLAND
BRADLEY D. TEPPER
GARY RISLEY

OF COUNSEL

WILLIAM K. STRATVERT
RALPH WM. RICHARDS

ALBUQUERQUE, NM

500 MARQUETTE N.W., SUITE 1100
POST OFFICE BOX 25687
ALBUQUERQUE, NM 87125-0687
TELEPHONE: (505) 842-1950
(800) 424-7585
FACSIMILE: (505) 243-4408

SANTA FE, NM

150 WASHINGTON AVE., SUITE 300
POST OFFICE BOX 1986
SANTA FE, NM 87504-1986
TELEPHONE: (505) 989-9614
FACSIMILE: (505) 989-9857

FARMINGTON, NM

300 WEST ARRINGTON, SUITE 300
POST OFFICE BOX 869
FARMINGTON, NM 87499-0869
TELEPHONE: (505) 326-4521
FACSIMILE: (505) 325-5474

LAS CRUCES, NM

500 S. MAIN ST., SUITE 800
POST OFFICE BOX 1209
LAS CRUCES, NM 88004-1209
TELEPHONE: (505) 523-2481
FACSIMILE: (505) 526-2215

PLEASE REPLY TO ALBUQUERQUE

July 13, 2000

Downtown Neighborhood Association

Re: Mr. Charles Benzaquen
1223 Tijeras, N.W.

Ladies and Gentlemen:

As a member of the Albuquerque Country Club I have known Charles Benzaquen for several years. He is the ultimate professional regarding preparation and service of fine foods. He has been in charge of many private parties at the Albuquerque Country Club which have been hosted by our office and by my wife and I personally. I have also been a guest at many functions where Charles has been responsible for the preparation and service of fine meals. He is without question an excellent chef and is extremely sensitive to the needs and preferences of his clientele.

It is my understanding that Mr. Benzaquen would like to operate a fine restaurant at his current residence at 1223 Tijeras, N.W. We live at 1521 Park Avenue, S.W., and my wife and I consider ourselves "walking neighbors" to the Tijeras address. Not only would we not have any objection to having a fine restaurant in our neighborhood, but we believe that a restaurant operated by Mr. Benzaquen would be an excellent addition to this area of Albuquerque. I can assure you that we would certainly support such a restaurant and, hopefully, all necessary approvals for the operation of this restaurant will be obtained.

Should you have any questions of any nature please do not hesitate to call me at my office or at my home, 243-9623.

Very truly yours,

Ranne B. Miller

RBM:drk

MARCHIONDO, VIGIL & ASSOCIATES, P. C.
ATTORNEYS AT LAW
315 Fifth Street NW
Post Office Box 568
,Albuquerque, NM 87103-0568

William C. Marchiondo
Michael E. Vigil

Kimberly A. Middlebrooks

(505) 247-0751 Telephone
(505) 247-0758 Facsimile

July 14, 2000

Perry Wilkes, President
Downtown Neighborhood Association
1203 Gold SW
Albuquerque, New Mexico 87102

Dear Mr. Wilkes and Members:

Mr. Charles Benzaquen, who resides at 1223 Tijeras Avenue NW, Albuquerue, New Mexico, is desirous of opening a restaurant with beer and wine at that address.

It is my understanding that in order for him to open up this restaurant he must receive permission from the City. He is seeking your support in order to accomplish that permission.

I live at 1331 Park Avenue SW which is the Park Plaza Condominiums. Stephens Restaurant, which was owned by Mr. Anixter, operated for many years at 14th and Central with a full service liquor license. As you know, this was the premier restaurant in Albuquerque. It was a sad day when he sold the restaurant property. The purchaser is now changing the use of the property and I was told that this required permission from the City. I know of enumerable people living in and around this area including the Park Plaza that are looking forward to the opening of the restaurant by Mr. Benzaquen. He is a premier chef and would operate this restaurant on a high class, first class basis. The area needs this type of operation and I am asking you in behalf of myself and many other people with whom I have spoken, to please assist Mr. Benzaquen in accomplishing the opening of this restaurant. This would be a tremendous asset to the community.

Thank you for your assistance.

Sincerely yours,

William C. Marchiondo

WCM/vf

Grisham & Lawless, P.A.
ATTORNEYS AT LAW

THOMAS L. GRISHAM

STEPHEN F. LAWLESS

QUICKEL BLDG.
600 CENTRAL SW, SUITE 100
ALBUQUERQUE, NEW MEXICO 87102
Telephone Number: (505) 247-1401
Facsimile Number: (505) 247-1540

July 13, 2000

To Whom it May Concern:

Being a resident of the neighborhood, I am writing in support of Charles Benzaquen and his desire to open a restaurant at the corner of 13th Street and Tijeras, NW. My wife and I live at the corner of 14th Street and Marquette, NW, less than one block from the proposed location of this restaurant.

We have known Mr. Benzaquen for a number of years and believe that the addition of a restaurant owned and operated by him in the neighborhood would contribute to the ambiance that already exists in the area. His abilities in the area of owning and operating a restaurant are unquestioned. I believe, with the loss of Stephen's Restaurant next door, that another small and fine dining establishment would be welcomed by the neighborhood and particularly by me and my wife. We will be happy to see this project completed and would support any zoning or other changes necessary in order to have the restaurant in our area.

Sincerely,

Stephen F. Lawless

SFL/djs

UNITED MANAGEMENT INC.

August 14, 2000

Downtown Neighborhood Association
Albuquerque, NM

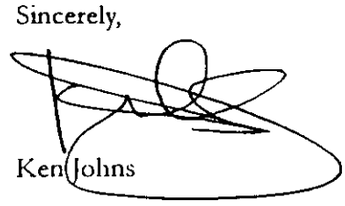
Re: Mr. Charles Benzaquen
1223 Tijeras NW
Albuquerque, NM 87102

To Whom It May Concern:

I have just moved my office to 1311 Tijeras and am in the process of renovating part of the building into a residence, which will be ready for us to move into the first part of 2001. I understand that Mr. Benzaquen would like to open a restaurant at 1223 Tijeras NW. I would certainly appreciate and would support having another small dining alternative of some kind within our neighborhood. I fully support his request.

If you have any questions, please contact me at 224-9000.

Sincerely,



Ken Johns

PO BOX 7338 • ALBUQUERQUE, NM • 87194-7338
PHONE (505) 224-9000 • FAX (505) 224-9001

Moise & Co.

August 21, 2000

Downtown Neighborhood Association

RE: Mr. Charles Benzaquen
1223 Tijeras, N.W.

Ladies and Gentlemen:

It has come to my attention that Mr. Benzaquen wishes to open a fine restaurant at his current residence of 1223 Tijeras, NW. I would like to offer my support to this project and would encourage the Neighborhood Association to respond to this request in an affirmative manner. I have been a long-time member of the Albuquerque Country Club and have enjoyed many of the fine meals prepared by Mr. Benzaquen. I can only imagine a restaurant owned and operated by him would be a benefit to the neighborhood. My offices are located at 14th and Central.

Should you need to contact me concerning this matter, please do so at the phone number listed below.

Very truly yours,

Moise & Co.

By: _____
Steven K. Moise
President

SKM:sh

cc: Charles Benzaquen

Post Office Box 1293
Albuquerque, New Mexico 87103

1401 Central Avenue, NW
Albuquerque, New Mexico 87104

Phone (505) 345-7601 • Fax (505) 344-8626

-72-

7/29/00

Dear Neighborhood Association,

We are so delighted to hear of Charles' dream of a small and wonderful dining spot in our neighborhood. As residents nearby, and members of ACC, we know Charles' culinary expertise, and we adore him as a neighbor, and friend. His restaurant would be such a welcome and happy addition to our community. His clientele would be immediate, enthusiastic and extremely loyal. We all love the way he cooks — there is no one better in Albuquerque — and we treasure his magical spirit and appreciation for excellence. We lend him all of our heartfelt support and urge you to do the same.

Robin + Bruce Pollock
1714 Los Alamos Ave SW
Albuquerque NM 87104

-13-

4/2000

TO WHOM IT MAY CONCERN -

BECAUSE MY HUSBAND & I LIVE AROUND THE CORNER FROM CHARLES BENZAQUEN AND ARE IN THE DOWNTOWN AREA, WE ARE IN TOTAL FAVOR OF HE GETTING THE ZONE CHANGE.

WE MISS HAVING "STEPHENS" AND FEEL THAT CHARLES BENZAQUEN'S RESTAURANT WOULD BE AN ASSET TO THE DOWNTOWN NEIGBORHOOD AREA.

WE HAVE KNOWN THIS GENTLEMAN FOR OVER 15 YEARS AND BELIEVE HIS ESTABLISHMENT WOULD ONLY ENHANCE THE DOWNTOWN AREA. SINCERELY, Lucille Ortiz

Grisham & Lawless, P.A.
ATTORNEYS AT LAW

THOMAS L. GRISHAM

STEPHEN F. LAWLESS

QUICKEL BLDG.
600 CENTRAL SW, SUITE 100
ALBUQUERQUE, NEW MEXICO 87102
Telephone Number: (505) 247-1401
Facsimile Number: (505) 247-1540

July 13, 2000

To Whom it May Concern:

Being a resident of the neighborhood, I am writing in support of Charles Benzaquen and his desire to open a restaurant at the corner of 13th Street and Tijeras, NW. My wife and I live at the corner of 14th Street and Marquette, NW, less than one block from the proposed location of this restaurant.

We have known Mr. Benzaquen for a number of years and believe that the addition of a restaurant owned and operated by him in the neighborhood would contribute to the ambiance that already exists in the area. His abilities in the area of owning and operating a restaurant are unquestioned. I believe, with the loss of Stephen's Restaurant next door, that another small and fine dining establishment would be welcomed by the neighborhood and particularly by me and my wife. We will be happy to see this project completed and would support any zoning or other changes necessary in order to have the restaurant in our area.

Sincerely,

Stephen F. Lawless

SFL/djs

Dorina Romero
213 13th NW
Albuquerque, NM 87102

July 28, 2000

Downtown Neighborhood Association:

I am aware that Mr. Charles Benzaquen would like to open a small restaurant in his home on the corner of 13th and Tijeras NW. As a resident of the neighborhood living just a few doors away, I am in support of his wishes and feel his restaurant would be a welcome addition to the neighborhood.

Sincerely,

Dorina Romero

HINKLE, HENSLEY, SHANOR & MARTIN, L.L.P.
ATTORNEYS AT LAW
500 MARQUETTE N.W., SUITE 800
ALBUQUERQUE, NEW MEXICO 87102
(505) 768-1500 FAX (505) 768-1529

CONRAD E. COFFIELD
HAROLD L. HENSLEY, JR.
STUART D. SHANOR
C. D. MARTIN
ROBERT P. TINNIN, JR.
MARSHALL G. MARTIN
MASTON C. COURTNEY*
DON L. PATTERSON*
DOUGLAS L. LUNSFORD
T. CALDER EZZELL, JR.
WILLIAM B. BURFORD*
RICHARD E. OLSON
RICHARD R. WILFONG*
THOMAS J. McBRIDE
NANCY S. CUSACK
JEFFREY L. FORNACIARI
JERRY F. SHACKELFORD*
THOMAS A. FORBES*
JEFFREY W. HELLBERG*
W. F. COUNTISS*
ALBERT L. PITTS
THOMAS M. HNASKO
JOHN C. CHAMBERS*
W. H. BRIAN, JR.*
RUSSELL J. BAILEY*
STEVEN D. ARNOLD
THOMAS D. HAINES, JR.
GREGORY J. NIBERT

OF COUNSEL
O. M. CALHOUN*
JOE W. WOOD
ROBERT D. TAICHERT
WYATT M. HEARD*
PAUL W. EATON

DECEASED
LEWIS C. COX, JR. (1924-1993)
CLARENCE E. HINKLE (1901-1985)

JAMES M. HUDSON
THOMAS E. HOOD*
REBECCA NICHOLS JOHNSON
STANLEY K. KOTOVSKY, JR.
ELLEN S. CASEY
S. BARRY PAISNER
WYATT L. BROOKS*
DAVID M. RUSSELL*
ANDREW J. CLOUTIER
WILLIAM P. SLATTERY
GARY W. LARSON
DAVID B. LAWRENZ
KENNETH E. WESTON*
JULIA JOPLIN SWALLOW
JOEL M. CARSON, III
CHRISTOPHER C. RITTER*
JEANANNE CHESEK
RYAN M. RANDALL
AMY M. SHELHAMER*
DEREK L. BROOKS
SAMANTHA J. FENROW

*NOT LICENSED IN NEW MEXICO

November 10, 2000

To Whom it May Concern,

I am a resident of the Park Plaza Condominiums, located near 14th and Central. I am writing in support of Charles Benzaquen's application for zoning to permit him to open a restaurant at his home located at the corner of 13th Street and Tijeras NW.

I have no question that the addition of a fine restaurant at the location of Mr. Benzaquen's current residence would contribute greatly to the neighborhood by providing access for the residents of the neighborhood to fine dining. For many years, Stephen's restaurant helped to serve this purpose, and those of us who reside in the neighborhood were saddened to see it close.

Mr. Benzaquen is well known in the restaurant and dining community in Albuquerque and is respected by his peers as well as those who enjoy his cooking. He has shared his plans with me and I agree with the addition to the neighborhood of the small, intimate establishment he has in mind.

Very truly yours,

By: _____
Robert P. Tinnin, Jr.

RPT/rlw

POST OFFICE BOX 10
ROSWELL, NEW MEXICO 88202
(505) 622-6510
FAX (505) 623-9332

POST OFFICE BOX 3580
MIDLAND, TEXAS 79702
(915) 683-4691
FAX (915) 683-6518

POST OFFICE BOX 9238
AMARILLO, TEXAS 79105
(806) 372-5569
FAX (806) 372-9761

POST OFFICE BOX 2068
SANTA FE, NEW MEXICO 87504
(505) 982-4554
FAX (505) 982-8623

218 CONGRESS, SUITE 1150
AUSTIN, TEXAS 78701
(512) 476-7137
FAX (512) 476-7146

Mr. & Mrs. G.S. Jenks
1622 Escalante Avenue Southwest
Albuquerque, New Mexico 87104

November 25, 2000

To Whom it May Concern:

We have resided in the Huning Castle neighborhood for almost ten years and have known Charles Benzaquen even longer. Charles' skills and abilities as a chef are equaled only by his reputation as a responsible landowner and a conscientious neighbor. For these reasons we heartily endorse the notion of Mr. Benzaquen opening a restaurant at 13th and Tijeras streets in Albuquerque.

As other have previously noted, the loss of nearby Stephen's Restaurant and the closure of other nearby, upscale eateries such as Smiroll's has left area residents with fewer options for dining out and creates a real opportunity for Mr. Benzaquen to ply his culinary talents in a more intimate setting than his current venue at the Albuquerque Country Club. We count ourselves among the many loyal patrons we expect he would attract were he to pursue his plans of opening a restaurant at the proposed location. We heartily support any zoning changes or other arrangements necessary to obtain approval for the restaurant.

Very truly yours,

George S. Jenks Tracy M. Jenks

1524 Park Ave S.W
Albuq. N.M. 87104
Nov. 28, 2000

To Whom it may Concern:

Mr. Charles Benzoquen is interested in opening a restaurant on the corner of 13th and Tijeras N.W. What a good idea! There are few places of quality in this area for dining.

I hope you will consider his application as it will fill a void and Mr Benzoquen would enhance our neighborhood dining experiences as well as be a quality neighbor.

Sincerely

Nancy Cutter

600 Raynolds, S.W.
Albuquerque, New Mexico 87104
November 28, 2000
(505) 242-7993

To Whom It May Concern:

As residents of the neighborhood for over forty-five (45) years, we are writing in support of Charles Benzaquien and his wish to open a small restaurant on the corner of 13th Street and Tijeras N.W.

We live in what is loosely called the "Old Country Club Area."

We still bemoan the loss of Stephen's Restaurant which so many of our neighbors enjoyed. We have known Mr. Benzaquien for a number of years as the chef at the Albuquerque Country Club. We feel strongly that his abilities in operating a restaurant, where fine dining would be stressed, would certainly enjoy a ready made clientele.

Judge Hernandez and I would support any zoning changes in order to have the restaurant in our area.

Sincerely,

Evangeline Hernandez

Evangeline Hernandez

EH/sep
November\112800.001.wp

Samuel F. Sherwood 510 Laguna Blvd. S.W. Albuquerque N. M. 87104
Ph. (505) 764-4901

To Whom it may Concern:

My wife and I understand that Charles Benzaqun and Rebecca Romero plan to start a restaurant at 1223 Tijeras N.W. in Albuquerque N.M.

We not only approve of such a venture but heartily welcome such a venture. We have known both of them for a number of years and know that the proposed restaurant will be parexcellence and be an asset to the neighborhood.

Yours Sincerely,.

S. F. Sherwood

NOVEMBER 29, 2000

HINKLE, HENSLEY, SHANOR & MARTIN, L.L.P.

ATTORNEYS AT LAW

500 MARQUETTE N.W. SUITE 800

ALBUQUERQUE, NEW MEXICO 87102

(505) 768-1500 FAX (505) 768-1529

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ALBERT L. PITTS
THOMAS M. HNASKO
JOHN C. CHAMBERS*
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PAUL W. EATON

DECEASED
LEWIS C. COX, JR. (1924-1993)
CLARENCE E. HINKLE (1904-1985)

JAMES M. HUDSON
THOMAS E. HOOD*
REBECCA NICHOLS JOHNSON
STANLEY K. KOTOVSKY, JR.
ELLEN S. CASEY
S. BARRY PAISNER
WYATT L. BROOKS*
DAVID M. RUSSELL*
ANDREW J. CLOUTIER
WILLIAM P. SLATTERY
GARY W. LARSON
DAVID B. LAWRENZ

KENNETH E. WESTON*
JULIA JOPLIN SWALLOW
JOEL M. CARSON, III
CHRISTOPHER C. RITTER*
JEANANNE CHESEK
RYAN M. RANDALL
AMY M. SHELHAMER*
DEREK L. BROOKS
SAMANTHA J. FENROW

*NOT LICENSED IN NEW MEXICO

November 29, 2000

To Whom It May Concern:

I am both a resident of the neighborhood near 13th and Tijeras, and a long time downtown advocate whose business has been in downtown since 1964. I am aware of Charles Benzaquen's intention to open a restaurant at the corner of Tijeras and 13th NW. Mr. Benzaquen's plans would be beneficial to the area, and result in a needed high quality restaurant in the area. Since we have lost Stephens, there is no quality, small restaurant in the area. I would support the plan and endorse any needed zoning change or variance to accomplish the plan.

Sincerely,

HINKLE, HENSLEY, SHANOR & MARTIN, LLP

By: _____
Marshall G. Martin

MGM:jam
00:5246

POST OFFICE BOX 10
ROSWELL, NEW MEXICO 88202
(505) 622-6510
FAX (505) 623-9332

POST OFFICE BOX 3580
MIDLAND, TEXAS 79702
(915) 683-4691
FAX (915) 683-6518

POST OFFICE BOX 9238
AMARILLO, TEXAS 79105
[illegible]

POST OFFICE BOX 2068
SANTA FE, NEW MEXICO 87504
(505) 982-4554
FAX (505) 982-8623

919 CONGRESS, SUITE 1150
AUSTIN, TEXAS 78701
(512) 476-7137
FAX (512) 476-7146

1602 San Carlos Dr. SW
Albuquerque, N.M. 87104
November 30, 2000

To Whom it May Concern:

I firmly believe a restaurant at the corner of 13th and Tijeras would be an asset to our neighborhood and a blessing to folks who enjoy a quiet and intimate dining area.

We've known Charles Benzaquen for many years and I believe any plans he has for such a restaurant would be nothing but first class and a wonderful idea. This is my firm belief.

I live at 1602 San Carlos Dr. SW, a short walking distance to this location.

I support any zoning or other changes requested by him so he can proceed with his plans.

Respectfully yours,

Mrs. Charles Van Ausdal

Mrs. Charles Van Ausdal

INTERSTATE BATTERY SYSTEM
OF ALBUQUERQUE

December 1, 2000

To Whom it May Concern,

I am a resident of 1719 Escalante SW, located near 14th and Central. I am writing in support of Charles Benzaquen's application for zoning to permit him to open a restaurant at his home located at the corner of 13th Street and Tijeras NW.

I have no question that the addition of a fine restaurant at the location of Mr. Benzaquen's current residence would contribute greatly to the neighborhood by providing access for the residents of the neighborhood to fine dining. For many years, Stephen's restaurant helped to serve this purpose, and those of us who reside in the neighborhood were saddened to see it close.

Mr. Benzaquen is well known in the restaurant and dining community in Albuquerque and is respected by his peers as well as those who enjoy his cooking. He has shared his plans with me and I agree with the addition to the neighborhood of the small, intimate establishment he has in mind.

Very Truly Yours,

Patrick B. Moore

615 MOUNTAIN ROAD, N.W. • ALBUQUERQUE, NEW MEXICO 87102 • (505) 243-4691

AXA Advisors, LLC
Doyce Leach, CLU
Registered Representative
Rocky Mountain Region

12-4-2000.

This letter is to support Charles Benzaquen's application for a change in zoning to allow him to open a restaurant in his home — located on the corner of 13th and Tijeras, N.W.

Stephen's restaurant had served a great purpose for our neighborhood and we were very saddened when it closed. Now we have an opportunity to have a replacement.

Mr. Benzaquen's residence would provide a great addition to the neighborhood as a fine-dining restaurant. His experience in the restaurant and dining business is greatly appreciated and recognized by all of us who have experienced his cooking.

We most heartedly support Mr Benzaquen's efforts in the establishment of a fine-dining, intimate restaurant.

Most Sincerely,

Mr & Mrs. Doyce Leach
1500 San Christobal SW
Albuquerque, N.M. 87104

AXA ADVISORS
6100 Uptown Blvd NE. Ste 230. Albuquerque. New Mexico 87110 Tel (505) 855-5139 Fax (505) 855-5155

The above named registered representative offers securities through AXA Advisors, LLC (212 314 4600), member NASD, and is an agent of The Equitable Life Assurance Society of the U.S. (NY, NY 10104). Registered representatives also offer variable and traditional life insurance and annuity products of Equitable, and of over 100 other companies through an insurance brokerage affiliate.

www.axa-advisors.com

MILLER, STRATVERT & TORGERSON, P. A.

LAW OFFICES

RANNE B. MILLER
ALAN C. TORGERSON
ALICE T. LORENZ
GREGORY W. CHASE
LYMAN G. SANDY
STEPHEN M. WILLIAMS
STEPHAN M. VIDMAR
ROBERT C. GUTIERREZ
SETH V. BINGHAM
JAMES B. COLLINS
TIMOTHY R. BRIGGS
RUDOLPH LUCERO
DEBORAH A. LACEY
GARY L. GORDON
LAWRENCE R. WHITE
SHARON P. GROSS
VIRGINIA ANDERMAN
MARTE D. LIGHTSTONE
J. SCOTT HALL
THOMAS R. MACK
TERRI L. SAUER
JOEL T. NEWTON
THOMAS M. DOMME

RUTH O. PREGENZER
JEFFREY E. JONES
MANUEL I. ARRIETA
ROBIN A. GOBLE
JAMES R. WOOD
DANA M. KYLE
KIRK R. ALLEN
RUTH FUESS
KYLE M. FINCH
H. BROOK LASKEY
KATHERINE W. HALL
FRED SCHILLER
PAULA G. MAYNES
MICHAEL C. ROSS
CARLA PRANDO
KATHERINE N. BLACKETT
JENNIFER L. STONE
ANDREW M. SANCHEZ
M. DYLAN O'REILLY
AMINA QUARGNALI-LINSLEY
BEATE BOUDRO
JENNIFER D. HALL

COUNSEL

PAUL W. ROBINSON
ROSS B. PERKAL
JAMES J. WIDLAND
BRADLEY D. TEPPER
GARY RISLEY

OF COUNSEL

WILLIAM K. STRATVERT
RALPH WM. RICHARDS

ALBUQUERQUE, NM

500 MARQUETTE N.W., SUITE 1100
POST OFFICE BOX 25687
ALBUQUERQUE, NM 87125-0687
TELEPHONE: (505) 842-1950
(800) 424-7585
FACSIMILE: (505) 243-4408

SANTA FE, NM

150 WASHINGTON AVE., SUITE 300
POST OFFICE BOX 1986
SANTA FE, NM 87504-1986
TELEPHONE: (505) 989-9614
FACSIMILE: (505) 989-9857

FARMINGTON, NM

300 WEST ARRINGTON, SUITE 300
POST OFFICE BOX 869
FARMINGTON, NM 87499-0869
TELEPHONE: (505) 326-4521
FACSIMILE: (505) 325-5474

LAS CRUCES, NM

500 S. MAIN ST., SUITE 800
POST OFFICE BOX 1209
LAS CRUCES, NM 88004-1209
TELEPHONE: (505) 523-2481
FACSIMILE: (505) 526-2215

PLEASE REPLY TO ALBUQUERQUE

December 5, 2000

To Whom It May Concern:

I am writing this letter in support of Charles Benzaquen and his plan to open a restaurant at the corner of 13th Street and Tijeras, NW. I am enthusiastic about the idea of having a small dining establishment in this area, in view of the fact that Stephen's Restaurant has now been closed.

My wife and I live in this area, and I have known Mr. Benzaquen as a member of the Board of Directors of the Albuquerque Country Club in his capacity of Chef and Manager of the Food Department, and I have great respect for his talent and ability. I also understand that he has had prior experience in the operation of a restaurant, and I believe that this is a project that would be quite appropriate for this area and be welcomed by the neighborhood and even others. Certainly, I would support any zoning or other changes necessary to have the restaurant in our area.

Sincerely,

Paul W. Robinson

PWR:drb

F:\PWR\PERSONAL\TWIMC^Benzaquen 120400.doc

Arthur A. Schreiber
1331 Park Avenue SW
Suite 1504
Albuquerque, NM 87102-2836

December 6, 2000

To Whom It May Concern,

I am a resident of Park Plaza Condominiums located on 14th Street near Central, SW, and I have lived here for nearly 20 years. I support Charles Benzaquen's efforts to establish a restaurant at the corner of 13th Street and Tijeras, NW. I have known Mr. Benzaquen and his wife for many years, and I know he has the experience and talent to begin a fine, neighborhood-dining establishment. The neighborhood needs a facility such as the one Mr. Benzaquen has planned because we lost Stephen's Restaurant several years ago.

I am sure I speak for many residents of Park Plaza Condominiums when I say that we want a restaurant within walking distance of our residence. I would support any zoning changes required to permit this restaurant to become a reality.

Sincerely,

Arthur A. Schreiber

Phone 505-243-6165 Fax 505-224-9880 Email arturo70@aol.com

ROBERT M. ST. JOHN
JOSEPH J. MULLINS
MARK K. ADAMS
ROBERT G. McCORKLE
BRUCE HALL
JOHN P. SALAZAR
WILLIAM S. DIXON
JOHN P. BURTON
REX D. THROCKMORTON
JONATHAN W. HEWES
RICHARD C. MINZNER
W. ROBERT LASATER, JR.
MARK C. MEIERING
CATHERINE T. GOLDBERG
TRAVIS R. COLLIER
EDWARD RICCO
W. MARK MOWERY
PATRICK M. SHAY
NANCY J. APPLEBY
ELLEN T. SKRAK
TRACY M. JENKS
HENRY M. BOHNHOFF
CHARLES K. PURCELL
ANDREW G. SCHULTZ
JOHN M. BRANT
SCOTT D. GORDON
SUSAN S. THROCKMORTON
DEWITT M. MORGAN

MARK A. SMITH
R. NELSON FRANSE
THERESA W. PARRISH
PAUL R. KOLLER
JAMES P. BIEG
CHARLES J. VIGIL
MARY KELEHER CASTLE
THOMAS L. STAHL
DAVID W. BUNTING
LESLIE McCARTHY APODACA
SUSAN BARGER FOX
MacDONNELL GORDON
PAUL C. COLLINS
WILLIAM J. ARLAND
JAMES A. ASKEW
JEFFREY M. CROASDELL
JEFFREY L. LOWRY
DEBORAH E. MANN
THOMAS A. OUTLER
SETH L. SPARKS
LISA A. CHAVEZ
JOCELYN C. DRENNAN
MICHAEL J. BRESCIA
MICHELLE HENRIE
SUNNY J. NIXON
LARRY J. MONTANO
NELSE T. SCHRECK
R. TRACY SPROULS

RODEY, DICKASON, SLOAN, AKIN & ROBB, P. A.
COUNSELORS AND ATTORNEYS AT LAW
ALBUQUERQUE PLAZA
201 THIRD STREET NW, SUITE 2200
ALBUQUERQUE, NEW MEXICO 87102

P.O. BOX 1888
ALBUQUERQUE, NEW MEXICO 87103
WEB-SITE: WWW.RODEY.COM
E-MAIL: INFO@RODEY.COM

TELEPHONE (505) 765-5900
FACSIMILE (505) 768-7395

OF COUNSEL
JACKSON G. AKIN
JOHN D. ROBB
JAMES C. RITCHIE
JO SAXTON BRAYER

BERNARD S. RODEY (1856-1927)
PEARCE C. RODEY (1889-1958)
DON L. DICKASON (1906-1999)
WILLIAM A. SLOAN (1910-1993)

SANTA FE OFFICE
MARCY PLAZA
123 EAST MARCY STREET, SUITE 101
SANTA FE, NEW MEXICO 87501-2034
P.O. BOX 1357
SANTA FE, NM 87504-1357
TELEPHONE (505) 954-3900
FACSIMILE (505) 954-3942

WRITER'S DIRECT NUMBER

December 12, 2000

To Whom it May Concern:

I live at 600 Alcalde Condominiums, located near 14th and Lead S.W. I strongly support Charles Benzaquen's application for a zoning change to permit him to open a restaurant located at the corner of 13th Street and Tijeras, N.E. A fine restaurant at this location would contribute greatly to the neighborhood by providing fine dining to the residents of the neighborhood. For many years, Stephen's restaurant helped to serve this purpose, and those of us who reside in the neighborhood were saddened to see it close.

I am very familiar with Mr. Benzaquen's ability as a chef because of my membership at the Albuquerque Country Club, where he has been the head chef. I have eaten many fine meals prepared by him.

Please approve his application.

Very truly yours,

Jackson G. Akin

JGA:erl

Annette Arrigoni

1331 Park Avenue SW
Albuquerque, NM 87102

December 22, 2000

To Whom It May Concern:

I am a resident of the Park Plaza Condominiums, located at 1331 Park Avenue SW. Gayle Page is a Resident of 408 11th NW. We are both writing in support of Charles Benzaquen's application for zoning to permit him to open a restaurant at his home located at 1223 Tijeras Avenue NW.

We are in need of a fine restaurant in the area. This particular location allows nearby residents in the Country Club area and north of central to enjoy fine dining within walking distance of their homes. The loss of Stephen's Restaurant saddened the neighborhood residents and the downtown business community.

Mr. Benzaquen is a fine gentleman and well respected in the community. His cooking is fabulous and would be enjoyed by all. Please approve the required zoning for his intimate fine dining establishment.

Sincerely,

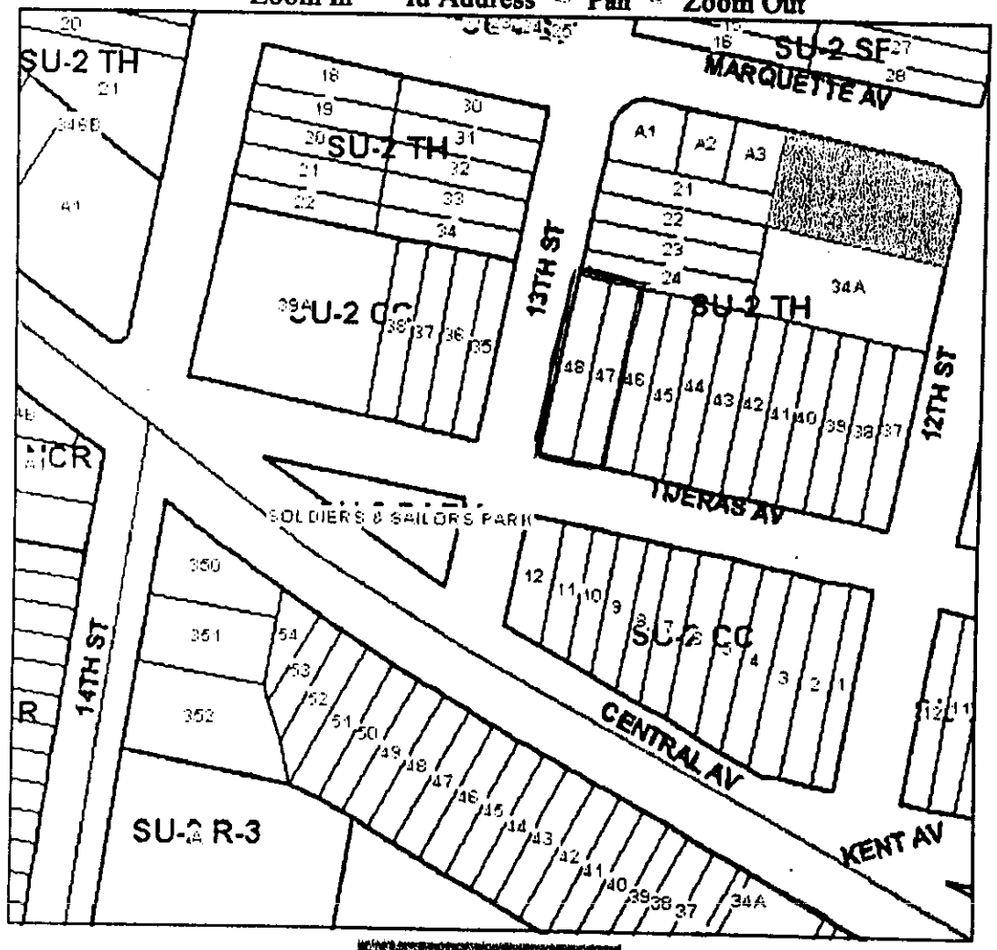
Annette Arrigoni

Gayle Page

-06-

Activate By Clicking on the Map

Zoom In Id Address Pan Zoom Out



Redraw Screen

CITYWIDE VIEW

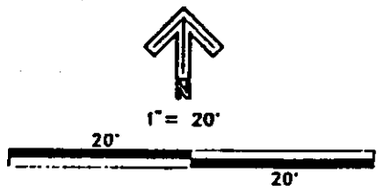
LAYER LEGEND

- [x] STREET NAMES
- [ ] PARKS
- [ ] CITY LIMITS
- [ ] ZONE MAP GRID
- [x] NBR BOUNDARY
- [ ] COMMUNITY PLANNING
- [ ] WATER LINES
- [ ] SEWER LINES
- [ ] STORM DRAINS
- [x] ZONING
- [x] LOT NUMBERS
- [ ] ZIP CODES
- [ ] COUNCIL DISTRICTS
- [ ] FLOOD ZONES
- [x] PARCELS
- [ ] CONTROL STATIONS

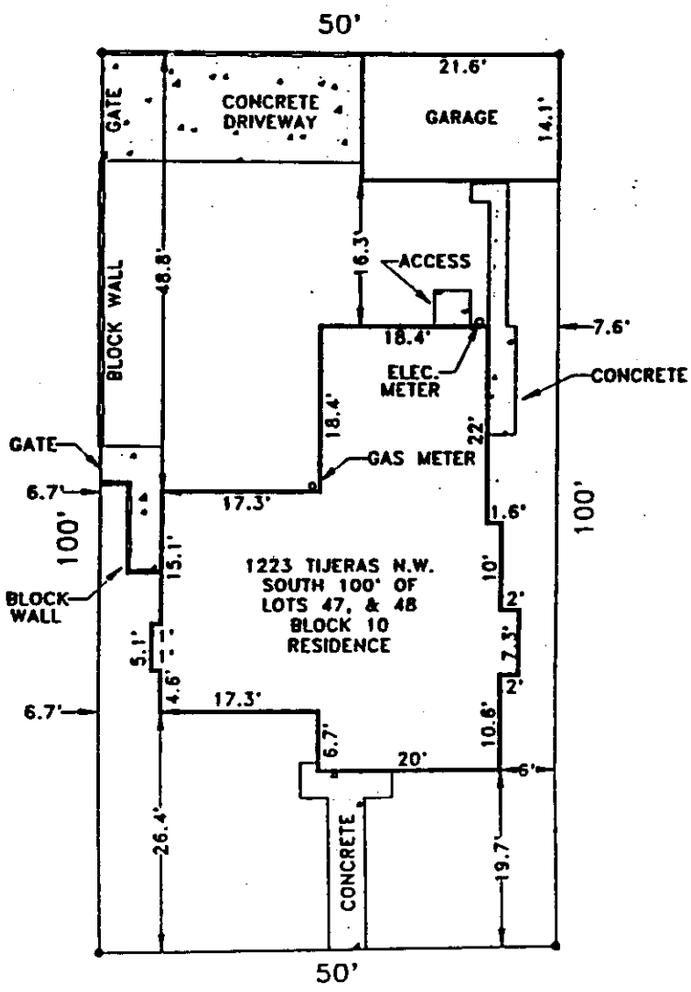
ZOOM SCALE

MEDIUM

TEXT SCALE

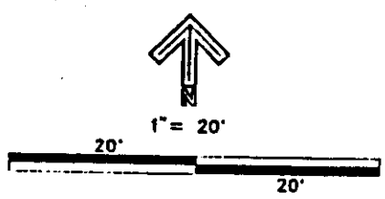


NOTE:
BEARINGS NOT SHOWN
ON PLAT.

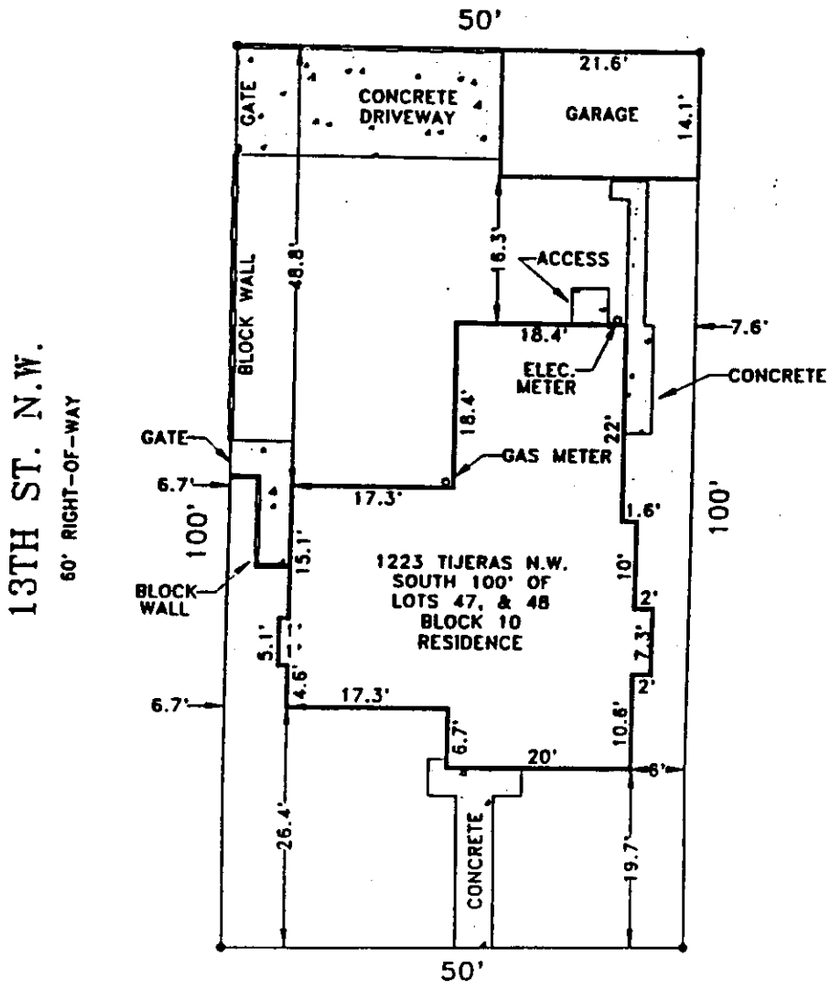


13TH ST. N.W.
60' RIGHT-OF-WAY

TIJERAS AVE. N.W.
60' RIGHT-OF-WAY



NOTE:
BEARINGS NOT SHOWN
ON PLAT.

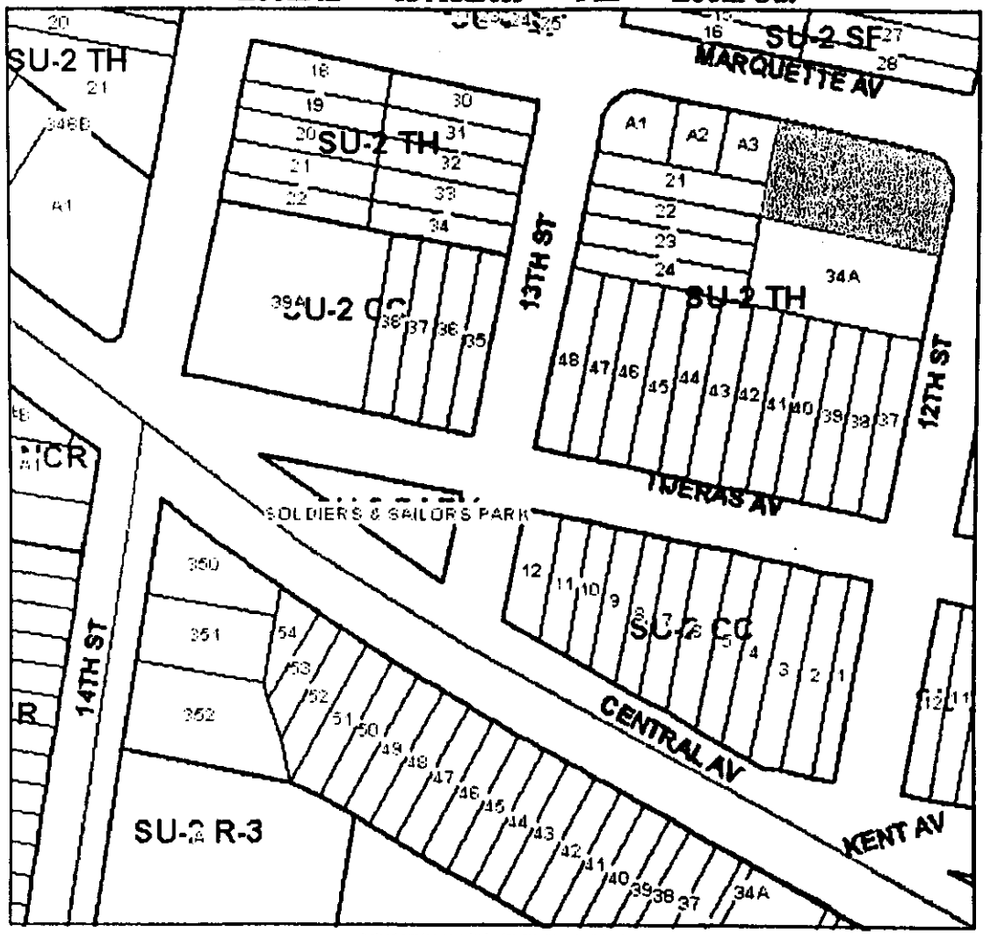


TIJERAS AVE. N.W.
60' RIGHT-OF-WAY

-36-

Activate By 'Clicking' on the Map

Zoom In Id Address Pan Zoom Out



Redraw Screen

CITYWIDE VIEW

LAYER LEGEND

- [x] STREET NAMES
- [ ] PARKS
- [ ] CITY LIMITS
- [ ] ZONE MAP GRID
- [x] NBR BOUNDARY
- [ ] COMMUNITY PLANNING
- [ ] WATER LINES
- [ ] SEWER LINES
- [ ] STORM DRAINS
- [x] ZONING
- [x] LOT NUMBERS
- [ ] ZIP CODES
- [ ] COUNCIL DISTRICTS
- [ ] FLOOD ZONES
- [x] PARCELS
- [ ] CONTROL STATIONS

ZOOM SCALE

MEDIUM

PRINT SCALE

MEDIUM

View of
Subject Property

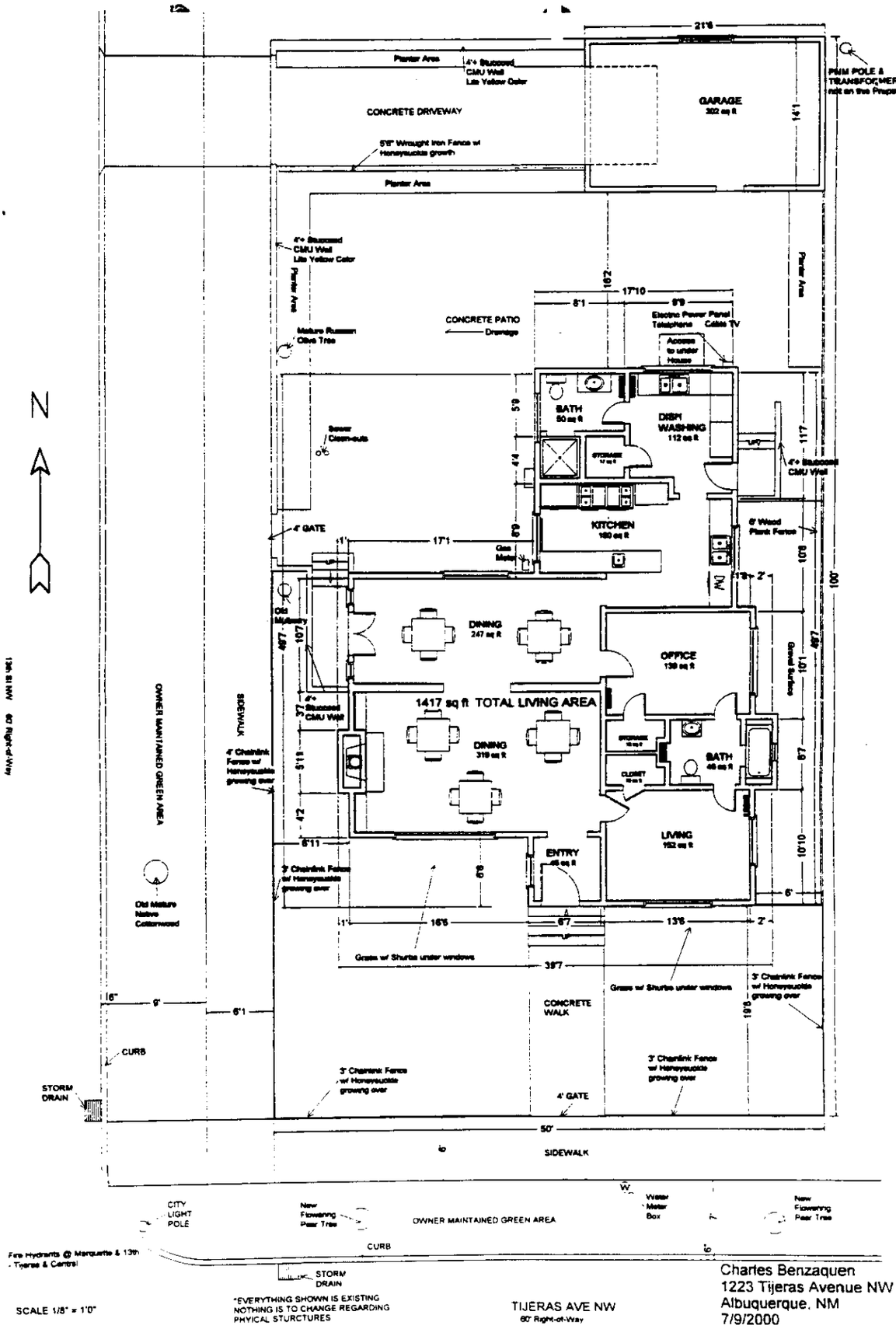
Tijeras Ave NW

13th Ave NW

13th Ave NW

-94-

Charles Benzaquen

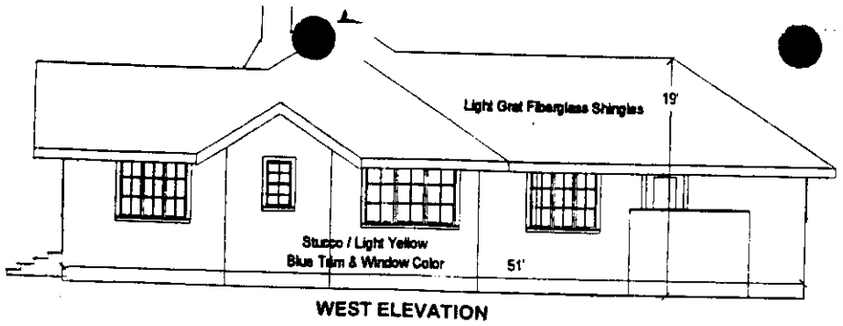


SCALE 1/8" = 1'0"

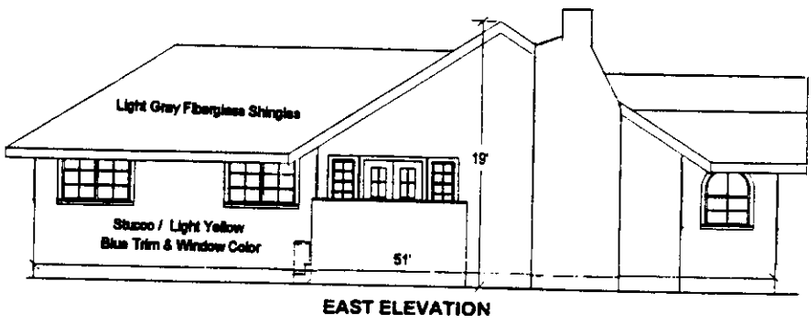
*EVERYTHING SHOWN IS EXISTING NOTHING IS TO CHANGE REGARDING PHYICAL STURCTURES

Charles Benzaquen
1223 Tijeras Avenue NW
Albuquerque, NM
7/9/2000

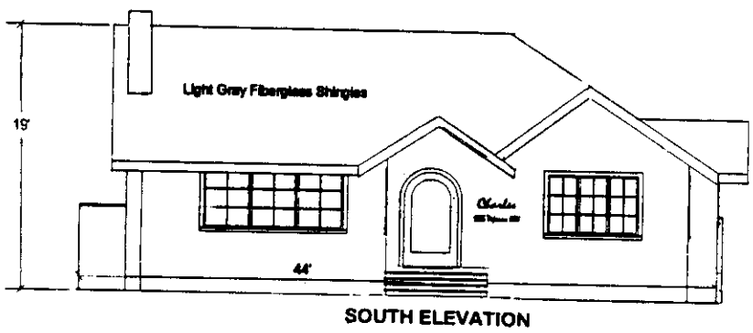
-95-



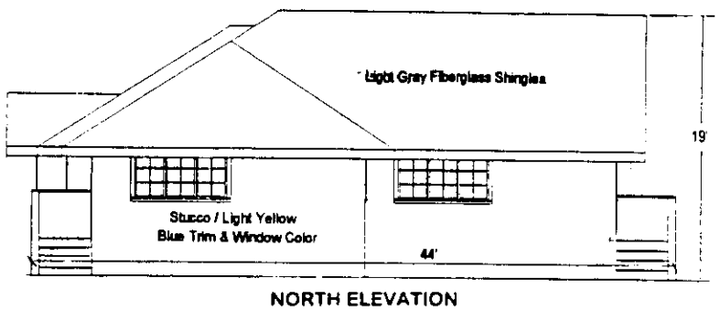
WEST ELEVATION



EAST ELEVATION



SOUTH ELEVATION



NORTH ELEVATION

NOTE:
Sign to be Hand Painted on Existing Wall Surface 3'x2' appox. Area Lighting from above, Existing

-96-

Elevation Scale = 1/8"= 1'0

Charles Benzaquen
1223 Tijeras Ave. NW
Albuquerque, NM

GARCIA/KRAEMER&ASSOCIATES

Wells Fargo Bank Building
200 Lomas N.W., Suite 1111
Albuquerque, NM 87102
(505) 242 5566
Fax (505) 242 9028

February 7, 2001

William E. Snead
201 12th Street N.W.
Albuquerque, New Mexico 87102

RE: Parking for Charles Benzaquen
Proposed Restaurant

Dear Mr. Snead:

Thank you for taking time from your busy schedule to speak with me concerning parking for Charles Benzaquen's proposed restaurant.

I understand that you are the owner of the parking lot located on the southern portion of Lot 10, Perea Addition. This parking serves your law office and is adjacent to Charles' residence in which he is seeking approval to open a small high quality restaurant. In your letter dated July 28, 2000, you indicated that you would make a parking accommodation for Charles' restaurant. The City has requested clarification regarding the number of parking spaces and hours said parking will be available. You informed me that eight (8)-parking spaces will be available to patrons of Charles' restaurant after 5:00 pm.

We appreciate your support for Charles' attempt to secure zoning approval. Please countersign this letter to indicate your approval. Thanks again.

Sincerely,

William L. Kraemer

WILLIAM L. KRAEMER
WLK/tdl

Approval:

William E. Snead

DOWNTOWN NEIGHBORHOODS ASSOCIATION

February 13, 2001

FEB 14 8 15 AM '01 PLANNING DEPT. PLAN. DIV.

Ms. Elizabeth Begay, Chair
Environmental Planning Commission
City of Alburquerque
PO Box 1293
Alburquerque, NM 87103

Dear Chairperson Begay,

At our February 7 meeting of the Board of Directors of the Downtown Neighborhoods Association Mr. Bill Kraemer presented his recent ideas regarding Project # 1000892, concerning Mr. Charles Benzaquen's request for a zone change from SU-2/TH to SU-2/SU-1 in order to convert his Single Family Home to a restaurant on his property at 1223 Tijeras NW. There was no support for this new proposal from the DNA Board as it appeared to undermine many of the basic tenets of our Sector Plan and open a path to any number of problems for the community.

On a related issue, we are troubled by the Staff Recommendation of approval for this proposal. We are concerned that it may have been overly influenced by a large number of purposely solicited, and unrepresentative, letters of support. Let's examine the "numbers game" of this packet of letters: Of the 28 letters included, 5 are duplicates. Of the 23 remaining, 14 are from people who live in the Country Club Area and would not be directly influenced by a restaurant near them or in their neighborhood. Of the remaining letters, only 5 are from people who actually live in the DNA. There were 12 Board Members, residents all, who voted against the original proposal. Thus we hope this game of letters will not be taken seriously by the EPC.

The Board of the DNA would like to wish Mr. Benzaquen the very best in his efforts to find an appropriate location for what we believe will be a positive development for the downtown core. Undoubtedly many members of the Board will visit and support his restaurant regularly. But the end result of all these discussions is that the DNA Board remains concerned about the very real process of further erosion of our residential base and we are unable to support any proposal that would cause us to lose additional residential property.

Thank you for your attention to this matter.

Sincerely,

Perry Robert Wilkes
Chairman, Downtown Neighborhoods Association (DNA)

cc. Garcia Kraemer & Associates

GARCIA/KRAEMER&ASSOCIATES

Wells Fargo Bank Building
200 Lomas N.W., Suite 1111
Albuquerque, NM 87102
(505) 242 5566
Fax (505) 242 9028

February 14, 2001

Elizabeth Begay, Chairman
Environmental Planning Commission
City of Albuquerque

Hand Delivered

Re: 00110 00000 01500/00138 00000 01501/00128 00000 01502
Project #1000892

Dear Chairman Begay:

We represent the applicant, Charles Benzaquen in the above referenced action. We have reviewed the staff report prepared by Simon Shima, and concur with his recommendation of Deferral to the next EPC hearing on March 15, 2001.

This case needs to be re-advertised to accurately reflect the nature of this request. We plan to continue to meet with the DNA in an attempt to satisfy their concerns, and will be ready to present this case in March.

Sincerely,

William L. Kraemer

DOWNTOWN NEIGHBORHOODS ASSOCIATION

February 13, 2001

PLANNING DEPARTMENT PLANNING DIV. FEB 14 8 15 AM '01

Ms. Elizabeth Begay, Chair
Environmental Planning Commission
City of Alburquerque
PO Box 1293
Alburquerque, NM 87103

Dear Chairperson Begay,

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Thank you for your attention to this matter.

Sincerely,

Perry Robert Wilkes
Chairman, Downtown Neighborhoods Association (DNA)

cc. Garcia/Kraemer & Associates

City of Albuquerque
Planning Department
Development Services Division
P.O. Box 1293
Albuquerque, New Mexico 87103

Date: May 1, 2001

AMENDED OFFICIAL NOTIFICATION OF DECISION

Charles Benzaquen
1223 Tijeras Ave. NW
Albuq. NM 87102

FILE: 00110 00000 01500/00138 00000 01501/00128 00000 01502
LEGAL DESCRIPTION: for Lots 47 & 48, Perea Addition, located on the northeast corner of Tijeras Avenue and 13th Street, containing approximately .11 acres. (J-13) Simon Shima, Staff Planner

On March 22, 2001, the Environmental Planning Commission voted to recommend approval to City Council of 00138 00000 01501, an amendment to the Downtown Neighborhood Sector Development Plan and adds the language "and certain other approved land uses" and an additional sentence that reads "Newly zoned SU-1 properties require site development plan approval" to the text of the plan that describes SU-1 zoning based on the following Findings:

FINDINGS:

1. The applicant intends to open a small restaurant with maximum 24 seating capacity to serve fine food and fine wine for dinner at his residence at 1223 Tijeras Avenue NW. No package liquor sale is requested.

2. To allow for the above land use, the applicant is requesting the Downtown Neighborhood Area Sector Development Plan (the "DNA Plan") amendments including: a) the text amendment to add certain language on the Special Use land use; and b) amendment of Map 7, Land Use Plan, on the subject property from SU-2/TH (Townhouse) to SU-2/SU-1 for SFR (Single Family Residence) & Restaurant with Wine & Beer.

3. Mixed land uses of residential and office/commercial currently exist in the immediate vicinity of the subject property which can be characterized as a transitional area from residential to the north to office/commercial to the south on or in close proximity to Central Avenue.

4. The subject property is located in the Central Urban Area of the Comprehensive Plan adopted in 1988. Its applicable goal is supportive of the proposed land use.

5. The subject property is located within the boundary of the DNA Plan adopted as a Rank III plan in 1976. Certain applicable DNA Plan goal and policies are supportive of the proposed land use.

6. The Board of the Downtown Neighborhood Association (the "Association") has voiced its strong opposition to the request in writing. The Board of the Association regards the request as the conversion of the applicant's single-family home to an eventual commercial restaurant rather than a combined residence and restaurant as proposed.

7. The applicant' agent submitted 21 letters of support for the request. Six (6) letters are from the residents of the Association, 14 letters from adjacent neighborhoods, and one (1) letter from an unknown address.

8. Regarding the subject DNA Plan amendments, the EPC charge is to make a recommendation to the City Council.

On March 22, 2001, the Environmental Planning Commission voted to recommend approval to the City Council of 00110 00000 01500, a Zone Map amendment from SU-2/TH (Townhouse) to SU-2/SU-1 for SFR (Single Family Residential) & Restaurant with Wine & Beer for Lots 47 and 48, Perea Addition based on the following Findings:

FINDINGS:

1. The subject property is currently zoned SU-2/TH. The requested zoning is SU-2/SU-1 for SFR & Restaurant with Wine & Beer.

2. The subject property is located at the edge of the SU-2/TH Zone bordering the SU-2/CC (Community Commercial) Zone. The property immediately to the east houses law offices under the SU-2/TH Zone.

3. The subject property is located in a transitional area from residential to the north to office/commercial to the south on or in close proximity to Central Avenue. There are certain discrepancies between what the DNA Plan has envisioned and the existing land uses.

4. The DNA Plan allows only existing churches under the Special Use, and none of the existing zoning designations in the DNA Plan permits the residence and restaurant serving wine and beer as proposed. Therefore, SU-2/SU-1 for SFR & Restaurant with Wine & Beer along with the associated text amendment, as requested, would permit the proposed use under the DNA Plan framework.

5. Although the Downtown Neighborhood Association Board has taken action to not support the motion for the zone change, there is substantial property owner support, both residents and commercial properties owners, within the neighborhood and adjoining neighborhoods that supports the zone change request.

On March 22, 2001, the Environmental Planning Commission voted to approve 00128 00000 01502, a Site Development Plan for Building Permit for Lots 47 and 48, Perea Addition, based on the following Findings and subject to the following Conditions:

FINDINGS:

1. The subject property, constructed approximately in 1924, is of a one story gable roof cottage style and is located within the Fourth Ward Historical Overlay Zone. The subject property is a contributing residence. As a result, any exterior change would be subject to the Landmarks & Urban Conservation Commission review. The applicant must receive a Certificate of Appropriateness from the City prior to any exterior improvements.

2. The building setback is significantly limited. Under the SU-1 zoning, as requested, it would be the discretion of the Environmental Planning Commission to approve or disapprove the Site Development Plan.

3. The applicant has secured in writing eight (8) off-street parking spaces for use by his patrons after 5:00 pm from Law Office of William Snead, located immediately east of the subject property.

4. Both Route 66 Central Avenue transit service and Route 24 Old Town trolley service are available at a bus stop on Central Avenue, a block away from the subject property.

5. The Site Development Plan shows no information regarding lighting.

6. 2,334 square foot landscape areas are proposed in excess of the required 492 square feet. The Zone Code requires a minimum of 75 percent of the landscape area, 1,750 square feet, be covered with living, vegetative materials.

7. The Site Development Plan provides no information on the design of the proposed sign, nor the location. The proposed sign is 6 square feet to 12 square feet in area and illuminated. The R-1 Zone permits one related, non-illuminated wall sign, not exceeding one square foot in area. Because of the SU-1 zoning, as requested, it would be the discretion of the Environmental Planning Commission to approve or disapprove the proposed sign.

CONDITIONS:

1. The submittal of this site plan to the Development Review Board shall meet all Environmental Planning Commission conditions. A letter shall accompany the submittal, specifying all modifications that have been made to the site plan since the Environmental Planning Commission hearing, including how the site plan has been modified to meet each of the Environmental Planning Commission conditions. Unauthorized changes to this site plan, including before or after Development Review Board final sign-off, may result in forfeiture of approvals.

2. The revised Site Development Plan shall be submitted which provides specific information on lighting and the sign. The sign shall be no larger then 3 square feet in area.

3. No new Ash trees shall be planted.

4. At least 75 percent of the landscape areas shall be covered with living, vegetative materials; concrete, grave or flagstone is not considered living, vegetative materials.

5. The landscape plan and maintenance shall comply with the City Street Tree Ordinance, Pollen Ordinance, and Water Conservation Landscaping and Waste Water Ordinance.

6. The hours of operation are limited to 5 p.m. - 10 p.m.

IF YOU WISH TO APPEAL THIS DECISION, YOU MUST DO SO BY **APRIL 6, 2001** IN THE MANNER DESCRIBED BELOW. A NON-REFUNDABLE FILING FEE OF $50 IS REQUIRED AT THE TIME THE APPEAL IS FILED.

Appeal to the City Council: Persons aggrieved with any determination of the Environmental Planning Commission acting under this ordinance and who have legal standing as defined in Section 14-16-4-4.B.2 of the City of Albuquerque Comprehensive Zoning Code may file an appeal to the City Council by submitting written application on the Planning Department form to the Planning Department within 15 days of the Planning Commission's decision. The date the determination in question is issued is not included in the 15-day period for filing an appeal, and if the fifteenth day falls on a Saturday, Sunday or holiday as listed in the Merit System Ordinance, the next working day is considered as the deadline for filing the appeal. The City Council may decline to hear the appeal if it finds that all City plans, policies and ordinances have been properly followed. If it decides that all City plans, policies and ordinances have not been properly followed, it shall hear the appeal. Such appeal, if heard, shall be heard within 45 days of its filing.

YOU WILL RECEIVE NOTIFICATION IF ANY OTHER PERSON FILES AN APPEAL. IF THERE IS NO APPEAL, YOU CAN RECEIVE BUILDING PERMITS AT ANY TIME AFTER THE APPEAL DEADLINE QUOTED ABOVE, PROVIDED ALL CONDITIONS IMPOSED AT THE TIME OF APPROVAL HAVE BEEN MET. SUCCESSFUL APPLICANTS ARE REMINDED THAT OTHER REGULATIONS OF THE CITY MUST BE COMPLIED WITH, EVEN AFTER APPROVAL OF THE REFERENCED APPLICATION(S).

Successful applicants should be aware of the termination provisions for Site Development Plans specified in Section 14-16-3-11 of the Comprehensive Zoning Code. Generally plan approval is terminated 7 years after approval by the EPC.

Sincerely,

Robert R. McCabe, AIA, APA
Planning Director

RM/SS/ac

cc:

Garcia/Kraemer, 200Lomas NW, Ste. 1111, Albuq. NM 87102
Perry Wilkes, Downtown Neigh. Assoc., 718 Mountain Rd. NW, Albuq. NM 87102
Jim Barr, Downtown Neigh. Assoc., 407 12th St. NW, Albuq. NM 87102
Joe Sackett, 905 Fruit NW, Albuq. NM 87102
Stephen Lawless, 1323 Marquette NW, Albuq. NM 87102
HR Blackhurst, 1331 Park Ave. SW, #504, Albuq. NM 87102
Mary Lebeck, 415 11th St. NW, Albuq. NM 87102
Nicholas Gentry, 414 11th St NW, Albuq. NM 87102
Barb Lebeck, 916 Lomas NW, Albuq. NM 87102
John Myers, 1401 Central Ave. NW, Albuq. NM 87104

2. 00110 00000 01500
00138 00000 01501
00128 00000 01502
Project # 1000892

Garcia Kraemer, agents for Charles Benzaquen, request a zone map amendment from SU-2/TH to SU-2/SU-1 Single Family Residence & Restaurant to Include Sale of Beer & Wine as Provided by Section 60-6A-4NMSA 1978 plus an amendment to the Sector Development Plan and approval of a site development plan for building permit for Lots 47 & 48, Perea Addition, located on the northeast corner of Tijeras Avenue and 13th Street, containing approximately .11 acres. (J-13) Simon Shima, Staff Planner **(RECOMMENDED APPROVAL TO THE CITY COUNCIL ZONE MAP AMENDMENT. RECOMMENDED APPROVAL TO THE CITY COUNCIL OF AN AMENDMENT TO THE DOWNTOWN SECTOR DEVELOPMENT PLAN.)**

STAFF PRESENT:

Simon Shima, Planning Department
Russell Brito, Planning Department
David Suffling, Planning Department

PERSONS PRESENT TO SPEAK IN FAVOR OF THIS REQUEST:

William Kraemer, 200 Lomas NW
Charles Benzaquen, 1223 Tijeras NW
Stephen Lawless, 1323 Marquette NW
HR Blackhurst, 1331 Park Ave. SW
Mary Lebeck, 415 11th St. NW
Nickolas Gentry, 415 11th St. NW
Barb Lebeck, 916 Lomas NW
John Myers, 1401 Central Ave. NW

PERSONS PRESENT TO SPEAK IN OPPOSITION OF THIS REQUEST:

Joe Sackett, 905 Fruit NW
Jim Barr, 407 12th St. NW

CHAIR BEGAY: The new item two Mr. Shima.

MR. SHIMA: Good morning Madam Chair and members of the Commission. This case number is 00110 00000 01500 and 00138 00000 01501 and 00128 00000 01502. This case was originally scheduled for January 18. Since then this case has been deferred twice.

I would like to summarize the request. To allow the applicant to open a small restaurant with a maximum sitting capacity of twenty-four seats to serve fine food and fine wine for dinner at this residents at 1223 Tijeras Avenue Northwest. The applicant is requesting approval of number one Downtown Neighborhood area set the development plan amendments including

the text amendment and land use map, land use plan map amendment from SU-2 townhouse to SU-2 SU-1 for single family residents and restaurant with wine and beer. Number two a zone map amendment from SU-2 townhouse to SU-2 SU-1 for single-family residences and restaurant with wine and beer. And number three a site development plan for building permit. Based on the staffs analysis as presented in this report it is found that the proposed amendment would comply with certain applicable goals, policies, and intents of the Comprehensive Plan, the Downtown neighborhood area sector development plan and the Downtown 2010 Sector Development Plan.

In addition the applicant has provided adequate justification for the zone map amendment pursuant to the policies containing Resolution 270-1980. It is concerning zone map change application. Further the proposed sign site development plan is found adequate subject to conditions of approval listed on page twenty-two, twenty-three and twenty-four. Based on the above staff recommends approval of the subject request. However, I would like to point out that there is a strong opposition from the Board of the Downtown Neighborhood Association and Downtown Neighborhood Association Board has stated the letters from them attached in the report. The association is not able to support any proposal from the applicant. That would cause them to be, them meaning the neighborhood association to loose additional residential property and then wishing the applicant to find appropriate location in the Downtown Core for his proposed restaurant.

An issue involving in this dispute appears to staff that the nature what will be the nature of the proposed land use. The applicant has stated his intent to maintain his residence at the subject property upon opening a restaurant at his residents. The Planning staff considers the proposed use feasible and has made recommendations accordingly. However, the Downtown Neighborhood Association Board repeatedly stated it opposition to the subject request as the conversion of the applicant's single-family residents to a commercial restaurant. The Associations Board letter as attached in your packed dated December 12, 2000 stated, "Once this property receives a commercial designation it will never again be used as a residence." Because of this dispute on the different interpretation on the proposed land use the staff would like to recommend that the EPC through this public hearing process assitane the applicants intent and determine if the proposed land use that is a combined residence and small restaurant at his residence at 1223 Tijeras Avenue Northwest would be feasible. I stand to answer your questions if you have any.

CHAIR BEGAY: Any questions? Commissioner Schwartz?

COMMISSIONER SCHWARTZ: Thank you Madam Chair. Mr. Shima, regarding the parking?

MR. SHIMA: Yes.

COMMISSIONER SCHWARTZ: Don't we require offsite parking to be in a P or PR zone? I mean we do not typically just allow people to go out and make their own parking arrangements right without also being in compliance with the zoning for off-site parking?

MR. SHIMA: Commissioner Schwartz, I would like to ask Planning Staff to respond to that question. While staff is preparing for the response as stated in this report the applicant has secured in writing up to eight parking spaces, off-street parking spaces from the adjacent property owner.

COMMISSIONER SCHWARTZ: I understand that. But what I am saying is that if the adjacent property was say let's say it was an apartment building. Would we be in favor of allowing an apartment owner to contract for use of some of those parking spaces to a business use next door?

MR. SHIMA: Commissioner Schwartz, concerning that particular zoning question I may have to refer this question to Russell.

CHAIR BEGAY: Mr. Brito?

MR. BRITO: Madam Chair, Commissioner Schwartz, the requested zoning is an SU-1 zone. The special use zone gives the Planning Commission site plan control and in regards to off-street parking on page one-ninety-two of the Zoning Code under the SU-1 description off-street parking states that off-street parking shall be provided as required by the Planning Commission. So this Board does have some discretion on a case-by-case basis about where parking should be located and how much should be provided by the use.

COMMISSIONER SCHWARTZ: I understand that. I guess in regard to that what concerns me is that personally I seem to be seeing a lot of SU that in my opinion are not being requested because the site is particularly sensitive but because the site cannot be made to meet the requirements. And then under the SU we can wave parking requirements and landscaping requirements and everything else. That concerns me somewhat. I understand we can do what we want to do on an SU. Let me move on.

Mr. Shima in our Zoning Code we do not really have a definition of restaurant do we? I did not see one in the definition.

MR. SHIMA: My understanding is that it does not.

COMMISSIONER SCHWARTZ: So when we talk about fine food, fine dining, fine wine, there is no way, I mean once you put a restaurant zoning on here it can be a burger joint right?

MR. SHIMA: But since the proposal is SU-1 the Planning Commission has the power to review that.

COMMISSIONER SCHWARTZ: Do we have the power to review the menu?

MR. SHIMA: Not the menu.

COMMISSIONER SCHWARTZ: I do not think so. A restaurant does not, where we distinguish between let's say drive ins and drive thrus and sit down there is no distinction

about take out right? Any restaurant-zoned property can have a take out facility or for food for take out?

MR. SHIMA: Commissioner Schwartz, I may have to ask Mr. Brito about clarification but if I remember the Zoning Code the take out will not be permitted unless it is so provided in SU-1 site development plan.

MR. BRITO: Madam Chair, Commissioner Schwartz, the Zoning Code regulates drive thru facilities but take out is not regulated by the Zoning Code to any restaurant you can walk in and get your order to go.

COMMISSIONER SCHWARTZ: So there can be a lot of street traffic if this person decided to offer take out service?

MR. BRITO: Potentially that can occur.

COMMISSIONER SCHWARTZ: Also I think, since we are talking about eight parking spaces couldn't that be turned around and used to then justify eight tables in the restaurant instead of five? Since the actual requirement is simply one table for four seats.

MR. SHIMA: This is what the zoning requires, yes. One space per table.

COMMISSOINER SCHWARTZ: Okay. I noticed that somewhere in the materials it talked about patio dining. And I did not see anywhere on the site plan proposal for any outside seating.

MR. SHIMA: Commissioner Schwartz, I do not remember that language patio in the package. You could help me.

COMMISSIONER SCHWARTZ: I think it is probably in Mr. Kramers letter. It says, this is in the proposed sector plan amendment that I believe Mr. Kramer submitted. It says: "An outdoor seating area may be provided."

CHAIR BEGAY: But it is not shown on the site plan?

COMMISSIONER SCHWARTZ: No.

CHAIR BEGAY: Commissioner Gara did you have a question?

COMMISSOINER GARA: I just had a comment. I think that as working on the Design Guidelines Task Force and the Infill Task Force we are going to see more issues of parking come up because sites cannot meet the requirement. And if we are truly going to support infill development we have to look at each case on a case by case basis or develop standards by which those things can be done without going through the entire process. Because as smaller sites become attractive for development because they are successful, they are in the area other businesses are successful in the area then we are going to see

more and more of this. And it is going to continue to be an issue and infill we have talked about this many times that one of the issues certainly is the parking and you have areas that Downtown, Nob Hill that have the same issue now. It is not anything new.

COMMISSIONER SCHWARTZ: I guess I would just note that when I read the Downtown Neighborhood Area Sector Development Plan that the 1999 amendment seemed to be specifically targeted towards eliminating surface parking areas.

COMMISSIONER GARA: It certainly was.

COMMISSIONER SCHWARTZ: That is all I have, thank you.

COMMISSIONER JOHNSON: Madam Chair?

CHAIR BEGAY: Yes?

COMMISSIONER JOHNSON: I have a question for Commissioner Schwartz. Were you suggesting that there ought to be zoning applied to Mr. Snead's parking lot as well in order to make it officially the parking for this restaurant? Was that the nature of your earlier comment?

COMMISSIONER SCHWARTZ: The way I am reading it that would what would be suggested by the Code. In my reading of the Code is that off site parking, parking required for a specific use were the parking is on a different parcel then the use that that parcel were the parking has to be zoned or the P zone or the PR zone are the appropriate zones for that type of activity.

COMMISSIONER JOHNSON: I took the staff's response which was this is SU-1 you can do anything you want to be not quite on the point for this because what we are talking is accommodating the parking somewhere else. But we do not have any say so over that site.

COMMISSIONER SCHWARTZ: No we do not.

COMMISSIONER JOHNSON: Although I noticed in his letter that Mr. Kraemer suggest that if that parking ever disappears the use disappears as well.

COMMISSIONER SCHWARTZ: I think that is something that each individual person would have to consider whether they think that is actually going to happen. If the parking goes away is someone simply going to close the business.

COMMISSIONER JOHNSON: But it is kind of where we are left because we have no say so over the parking. We have no assurance that it continues and I suppose we can condition the zone change on the continuation of that parking as a resource to the use on the site but it gets pretty complicated.

COMMISSIONER SCHWARTZ: Well I do not know if we want to get into the legalities but I think just a letter of agreement is probably more like a covenant that if the property were to sell the subsequent owner would not be bound by that.

CHAIR BEGAY: Commissioner Gara?

COMMISSIONER GARA: I think what is before us is the case whether as staff pointed out if they have no parking on the site we can certainly approve that. Or no accommodation of parking whether it is street parking available in the area or whatever the case may be as in the case in the Nob Hill area. Whether or not the dedicated parking is there for now on, I do not know that the use would go away since we are not dealing with that at this point and time. I think we are looking at specifically what is before us and have to make a decision based upon that.

CHAIR BEGAY: Thank you Mr. Shima.

MR. SHIMA: Thank you.

CHAIR BEGAY: We are going to try something new from now on. Our recording secretary and our assistant April Candelaria will be in charge of swearing everybody in and we are going to try it and see how it works. And you might want to try and swear everybody in at one time.

MS. CANDELARIA: Anyone wishing to speak on this case please stand up. Do you swear to tell the truth? Thank you.

MR. KRAEMER: My name is William Kraemer; I am with Garcia Kraemer and Associates. Our address is 200 Lomas, Suite 1111. Before I get started on my presentation I would like to answer some of the questions that have come up because I think that, I mean I can see that that is some of the things that are troubling the Commission and I would like to at least get my two cents in on those.

CHAIR BEGAY: Mr. Kraemer, how much time do you think you are going to need?

MR. KRAEMER: I am going to try and keep it very brief because we have a number of people who are here both in favor and of opposition to this request.

CHAIR BEGAY: Thank you.

MR. KRAEMER: First on the parking issue it is, and we have gone to great lengths to supply parking so that there would not be impacts from this request if it is approved on the neighborhood. We understand that this is a very dicey area in that if it were straight zoning it could not be accomplished. We think that the staff is correct on the interpretation that since it is SU-1 you could approve this without any off-street parking. And what we are offering in the way of a letter from Bill Snead which could be turned into a covenant that could run with the land Mr. Snead has indicated his willingness to work with us in anyway possible to provide

parking for Mr. Benzaquen's restaurant. That those could be included as a condition that provision of parking off-site could be included as a provision, as a condition to the SU-1 request if you feel that you can approve it.

I would like to point out that I am sure many of you know that this request is in the area that is real close to where Steven's Restaurant use to be and Steven's although they did have a parking lot had some parking on the street for many years. And it is also an area that is on the edge of the Downtown Neighborhood Associations, both the property to the west of this request and the property to the south of this request is zoned SU-2 for CC which is essentially C-2 uses. There are other parking areas in the area including Mr. Meyers law office that might be used for parking for this request also.

On the question of carryout I beg to differ that in fact the Zoning Code does make a distinction between consumption of food on premise and off. If the concern of this Commission is that this establishment not have any carryout it can be handled in language that is already included in the Zoning Code where you can have consumption on-premise and consumption off-premise. You can do that for liquor as well as for food so you could make a restriction that deals with the issue of carryout.

Now I would like to go back to where I intended to start on this thing. I would like to introduce you to Charles Benzaquen, Charles why don't you stand up. He is the applicant in this request. He is currently the chef at the Albuquerque Country Club and has been trying to come up with a way that he can retire from the Country Club and invite people into his house for dinner and serve dinner and make a living, a retirement living based on that.

Mr. Benzaquen has been working on this concept for over a year. Long before we got involved in this project he met with various people, the City Planning staff and was given instructions and directed certain ways. He came to us the day before he was going to file his application and asked for our help and we said this is finally a project that we really would like to be involved in. I like to eat and I like the concept of having something in the Downtown neighborhood that to me and I hope after today's presentation is over to you you will see that there can be real asset to the Downtown Neighborhood and to the Downtown area as a whole. Mr. Benzaquen does not intend to convert his house into a commercial establishment. Mr. Benzaquen and his partner Becky live in that house. They intend to continue to live in that house and the primary use of this residence; this unit will be their residence. But what do they do for a living? They serve people food. And what they would like to be able to do is bring people into their house every night, maybe five nights a week, I am not sure how many nights he intends to do it but to bring people in and serve them a nice meal with a glass of wine. And the, as Commissioner Johnson pointed out this gets pretty complicated because we have got a set of rules that is not intended to handle this sorts of situations. So, we end up with a three-pronged request; a sector plan amendment, a site plan, a zone change and a site development plan all to accomplish something pretty simple. A man who wants, a man and his partner who want to have people into their house and serve them dinner a home occupation.

I do not know if any of you know but every Thursday I have people into my house for dinner. Whoever shows up is welcome and you are all invited. I certainly hope, six o'clock except for tonight I am going to New Orleans so it will not be on tonight. No French food. But what I hope is that we do not take this complicated system we have and impose it in a way that somebody cannot do something that is an honest attempt and a real good effort to make Downtown Albuquerque a more livable place.

I will be happy to answer any questions but I know there are a lot of Mr. Benzaquens friends and neighbors who have come here to offer their support and I would like to be quiet for a minute and let some of them speak.

CHAIR BEGAY: Commissioner Schwartz?

COMMISSIONER SCHWARTZ: Thank you Madam Chair. Mr. Kraemer from the first time I read this application the thought that occurred to me was has the applicant every considered or could he live with like a single seating format?

MR. KRAEMER: Mr. Benzaquen answered from the audience...

COMMISSIONER SCHWARTZ: ...if we are talking about the same thing I am talking about like appointment where, I am familiar with that kind of thing. A couple of restaurants in Los Angeles did that. And that would be were just you make a reservation, everybody is seated at the same time and there is like one serving and then everybody goes home.

MR. BENZAQUEN: It will be one seating a night, yes sir.

COMMISSIONER SCHWARTZ: It will be one seating a night?

MR. BENZAQUEN: It will be one seating...

COMMISSIONER SCHWARTZ: It does not say that anywhere in here and I think that mitigates quite a bit some of the concerns I had about people coming and going.

MR. BENZAQUEN: No sir.

MR. KRAEMER: One of the things that we tried to covey to the neighborhood association is that Charles lives there. He wants to be a neighbor, he wants to continue to live there and he wants to do things that help the neighborhood out. We have offered a time limit on, approve this for five years and see if it works. We talked about any sort of reasonable restriction that the neighborhood would be happy with Charles will certainly try to do those things, and I think this is a good example of that.

CHAIR BEGAY: Commissioner Johnson?

COMMISSIONER JOHNSON: Thank you Madam Chair. Mr. Kraemer, is Tijeras or Thirteenth, are either one of those arterial streets?

MR. KRAEMER: I believe Tijeras is and again that is something I want to point out. The text amendment that you are looking at is not what we are asking for.

COMMISSIONER JOHNSON: Well why does it say it is your proposed sector plan amendment?

MR. KRAEMER: Well because there is a proposed, there is another letter in the file that is the proposed sector plan amendment...

COMMISSIONER JOHNSON: ...do you want to point that out?

MR. KRAEMER: I would like to. That was requested. And when we went to meet with the Downtown Neighborhood Association in the facilitated meeting we had with them there was a statement from them that we do not mind this use particularly. We do not find this use to be offensive but what we do not want is a zone change that can be used for precedence for other cases.

COMMISSIONER JOHNSON: Well I would be concerned about that to but I can see what it is you are proposing and this is not it.

MR. KRAEMER: Let me find it. So, the sector plan amendment that is in there is one that we came up with to try to accomplish this without a zone change. The original sector plan amendment, the only change that it would be in the Downtown Neighborhood Sector Plan it says "SU-1's are only available for existing churches" and so we are trying to change the language of the sector plan to read "That it could be used for specific uses". And I hope that is in there.

COMMISSIONER JOHNSON: Would it be your letter of January 2nd, which comes right before your addendum to the application?

MR. KRAEMER: I would hope so. But again that longer text amendment, it would be the January 2nd letter because the January 25th letter was when we were trying to find, yes the second letter is the amendment...

COMMISSIONER JOHNSON: Can you stop for a minute and say to you and to staff this thing is plenty complicated enough without having things in here that we really did not mean. So, let's, I would appreciate better guidance from whoever puts it together here to point to us what it is that is being requested and what is no longer in play. Thank you.

MR. KRAEMER: The January 25th letter is no longer in play because that second longer text amendment was something that Downtown Neighborhood found more offensive then the original request.

COMMISSIONER JOHNSON: I can believe that. So, what you are proposing is in terms of an amendment to the sector plan?

MR. KRAEMER: And that is in the January 2nd letter and the text of the SU-1 zoning area in the Downtown Sector Plan will read that "The special use land corresponds to SU-1 special use zone in the Comprehensive Zoning Code and regulates existing churches and certain other approved land uses". That is new language. And then at the end of that section it says newly zoned SU-1 properties require site development plan approval.

COMMISSIONER JOHNNSON: So the idea here is there may be things that people want to do and ask for SU-1 zoning but we are not specifying what those are and we are not lining out as you did before.

MR. KRAEMER: That is right.

COMMISSIONER JOHNSON: But they need to be located in a particular place or have certain features. Okay, thank you.

MR. KRAEMER: Thank you. And again I would like the people who came here to support us to be able to talk at this point. Judge Blackhurst.

MR. BLACKHURST: Good morning.

CHAIR BEGAY: Good morning sir.

MR. BLACKHURST: Madam Chair, and Commission members. I would like to address the problem that Mr. McMahan referred to. The only court over which I have any authority clout in is just the Court of Public Opinion because I retired a few years ago. I will make one other observation I am very happy that you have the problem of dealing with the iniquities of this. I had a few appeals that I had to preside over but I relied one hundred percent upon the ability of the experts who were called to testify. Of course I had to decide whether or not they were really experts but that is another problem.

Let me say this I have been a member of the Board of Park Plaza Condominiums for about eight years and while I do not report to speak officially for the association I do believe that I sincerely represent the consensus of about one hundred and sixty people there. We have a real stake in the development and the help of the Downtown area. We live there; our property values are there. We want it to succeed and we believe that the City as a whole is in favor of increasing the viability and attractiveness of the Downtown. To that end, I feel that Charles proposition is a beneficial boost to that philosophy and that ambition. For us it is within walking distance so we are not going to crowd the streets with cars or anywhere else with cars. But I have looked very carefully at the property and surrounding areas. One thing that has stuck out in reading your materials is that I see no specific injury that anybody can point to other then somewhere in the back of their mind something might happen. You are here to prevent that from happening I believe. And I think you can and still accommodate Charles request.

I want you to know we feel that he is a fine person with a great reputation and his food is miraculous. I am sure over any time that you should come down and try it out and you will agree with us. We certainly miss Steven's, it was a blessing. A blessing has said amen and gone. We would like to have another prayer. Thank you very much.

CHAIR BEGAY: Any questions of Judge Blackhurst?

MR. BLACKHURST: Any questions? No tickets?

CHAIR BEGAY: Thank you sir.

MS. CANDELARIA: Joe Sackett?

MR. KRAEMER: Actually these people from the Downtown Neighborhood Association, they are in opposition. Steve Lawless.

MR. LAWLESS: Madam Chair, members of the Commission, Steve Lawless is my name, I am an attorney. I do not represent nor I have ever Mr. Benzaquen but I live in the Downtown Neighborhood and if they would lower that map a little bit or raise it I guess where it was I can show you where I live. I live right here less then a block from where this restaurant is proposed and having lived there for about ten years I am familiar with what went on with Stevens Restaurant which was I felt a benefit to the neighborhood. I think that besides all of the things that have been talked about and Stephens Restaurant is on that map where you see the SU-2 across the street where Charles place is going to be is currently a motel. I think, and surrounding are law offices of various types. I think that it will be a great benefit to the neighborhood because among other things we have talked about it being different, something new for Albuquerque. Something that I think could help enhance the character of the atmosphere of the Downtown. But in addition I know that when I have lived there for over ten years and I have known Charles personally for over ten years as well and I find him to be a fine individual. But when I lived there there was street parking for Stephens Restaurant and one thing that has been left out of all this is I thought that it enhances the security of the neighborhood because there were people who where patrons of the restaurant who where there walking around basically up till eleven o'clock at night and it enhanced the security, you felt pretty safe walking in that neighborhood. So, that is the one thing that I do not think that has been mentioned by anybody but I do think in terms of something new for Albuquerque a small restaurant in a residential neighborhood that has a lot of trees, it is a very nice neighborhood. I think it will help the character, the atmosphere and it think Mr. Benzaquen is a fine gentlemen I have known for many years and I think if he has made this proposal it will be a success and it will be something the City of Albuquerque will be proud of. Thank you.

CHAIR BEGAY: Any questions? Thank you.

MR. GENTRY: Commissioners, my name is Nick Gentry. I live Downtown, 415 Eleventh Street just a few blocks from this proposed restaurant. I have lived there for over ten years. I have an office downtown, my law office at 902 Roma Northwest, just a few additional blocks away. I walk practically everywhere that I possible can. I do not drive east of Carlisle unless

absolutely necessary. I like Downtown and I think this would be a wonderful addition to our neighborhood. I do not want to reiterate what some of the other people have said but I would like to make one comment regarding the Downtown Neighborhood Association. I have been to two meetings where this issue has come up. I think one of the Commissioners said earlier or maybe it was a staff member that the Board of the Downtown Neighborhood Association was against this. The meetings I attended as a member the vote was far and away in favor of this restaurant. And I am not speaking for the Board I am just speaking for myself based on my experience and what I witnessed the membership of the association that attended those two meetings was absolutely in favor of this and I think they were in favor of it because of the reasons that have already been discussed and that is simply that it would be a great addition to our neighborhood. Thank you.

CHAIR BEGAY: Thank you. Any questions? Thank you.

MS. LEBECK: Good morning. My name is Mary Lebeck and actually Nick Gentry is my husband so I will not go into too much of what he has said so far. I have been at the same meetings that he has been at for the DNA I would concur on his conclusions about the memberships feelings about this project.

I would like to add a couple of things it seems like the concerns that I here you expressing are twofold. One has to do with retaining the residential character of this particular building and it seems that this is something that can be resolved either through your Code or through some type of covenant that would be specific to Charles. I am a lawyer and I know that those things can be enforceable if that is the tact you want if you want to put some kind of condition this use running with him or whatever I know that that can be achieved. I know his lawyer has talked about that at our meetings. It seems that if you want to restrict this to his use I know you can do that. Secondly is the parking issue and I live with parking issues, I live on Eleventh Street across from a major law firm and we have parking problems all day. We have a lot of city employees who park in front of our house. But you know what about five o'clock parking is not an issue downtown. And as I understand it Charles is intending to serve dinner and as I understand it I know Mr. Snead, I am very familiar with his parking area that is behind a façade. You do not realize it is a lot and I understand, I have walked that lot and I am sure it is quite ample. I do not think it would cause any problems whatsoever for the surrounding landowners and frankly most of the surrounding landowners particularly on Tijeras are gone at night. It is the motel, it is a court reporters office, it is a law firm, there are many commercial uses on that just right along that part of Tijeras who are not there at night. And so I do not believe the parking is truly a problem especially considering Mr. Sneads offer but coupling that with if you drive in that area you can see that really it is not going to present a problem for the adjacent neighbors I do not believe and I heard Mr. Lawless comment about increasing the security of the neighborhood and I know I often times we used to walk to Stephens and so on and I agree with that comment as well. So, your two concerns the residential character and the parking issues I do not believe really pan out as something that cannot be resolved here. And I believe Charles is a person of great integrity and that if he makes a representation to you as to his living there and having a small restaurant there all the neighbors that I have spoken to which are many believe him in those kinds of representations as do I. Thank you.

CHAIR BEGAY: Thank you. Any questions? Thank you.

MS. CANDELARIA: Joe Sackett?

MR. SACKETT: Thank you Madam Chair, my name is Joe Sackett. I am the vice-president of the Downtown Neighborhood Association for this year. I also live in the Downtown neighborhood, I live on Fruit Street, I also own a unit in the Park Plaza Condominiums, my mother lives in that unit so I am familiar with that neighborhood as well. Mr. Jim Barr is a member of our association he is going to speak to you in a moment about some of the more technical questions of our response to this issue.

I would like to speak to you in two regards. One is in my role as the vice-chair of the association and the other is personally. In my role as vice-chair I can assure you that the Board voted unanimously in opposition to this request. The initial, and I would like (INAUDIBLE) what I am about to say with this comment also. It has nothing to do personally with Mr. Benzaquen; he has been a gentleman in every regard in his relationships with us. When he came to see the very first time it was an informal presentation, there were no specifics. Mr. Kraemer did not accompany him. It was this is whom I am, I would like to do a French restaurant somewhere in the neighborhood, in my house perhaps. Would it be a good idea to have a French restaurant in the neighborhood? As you I think you can see from the people in the audience today most people there said yea it is a great idea. But as the neighborhood association found out what the specifics of this proposal where some of the comments you made to have addressed those. It became clear to us that this was not something we could support. I will be able to provide if necessary the documentation to support what I say about that.

I would like now to speak a little bit more personally about this. My view of what you have before you is if I can respectfully suggest this, it is a political question more than anything else. And in my opinion even more fundamentally it is a class question. If you look at those letters in support that are in this packet you see lots of letterheads, you see lots of names, partners from law firms who want and perhaps should have access to a good French restaurant. But most of the people who live in the downtown neighborhood association do not have letterheads. The do not eat in fancy French restaurants. They are not politically sophisticated, they do not have access to the bureaucrats, they are not here today. So, I would like you to keep that in mind.

I would like you to consider a situation in which people who live across Central in the Country Club neighborhood made a similar request. Lets say that somebody who lived in that neighborhood wanted to convert their house into a fine restaurant that served fine food and fine wine. It is going to have outdoor seating. What kind of response do you think we will get? I mean you know as well as I do that this request would not be seriously considered for a moment. The response is that the downtown neighborhood is different and I agree that it is different in many ways. But one of the things that makes it different is that for the past thirty years there has been relentless pressure to convert residences to commercial property and that is what we are opposed to. Mr. Benzaquen will do a fine job is not any question if this is

approved but for how long. Stephens is no longer there, as some of these people have mentioned. Sooner or later Mr. Benzaquens restaurant will not be there either. What will replace it? Not so fine food, perhaps burger and wine coolers, takeout. The people who sign these letters, who wrote on those letterheads will go to where the fine French restaurant of the moment is. But what is left will be left for us, the people who live in those neighborhoods so I encourage you look at this in the long run. I further encourage you to look at the 2010 plan, which draws a hard line between downtown development and the neighborhoods. The staff report goes out of its way to try to find justification to get around that. It says that this request is among the most exceptional cases. I submit to you that this is not an exceptional case. Thank you.

CHAIR BEGAY: Commissioner Johnson and then Commissioner Gara.

COMMISSIONER JOHNSON: Thank you Madam Chair. Mr. Sackett, you ended with just what I wanted to ask you about. What is it that the downtown neighborhood would consider the most exceptional cases? I read that paragraph from the Downtown Plan, which draws a hard line and uses exactly the language you used.

MR. SACKETT: I will give you an example...

COMMISSIONER JOHNSON: ...(INAUDIBLE) commercial activity to creep across the boundary from the downtown core into the adjacent neighborhood should only occur in the most exceptional of cases. What in your estimation is an exceptional case?

MR. SACKETT: I think an exceptional, I was speaking again personally but we had a recent example of this in front of the neighborhood association. Hardship could be part of an exceptional case. There was a case we dealt with recently in which the house had been extensively remodeled, it essentially had been reclaimed, the person who owned the house did not want to sell it. Parking lots surrounded it. The issue was can sell it as a commercial property or not? I think this is, a case can be made for this sorts of thing. There was great discussion about this in terms of the association. We finally decided to make no recommendation one-way or the other. But obviously in a case like that there are extenuating circumstances. Again, this has nothing to do Mr. Benzaquen personally.

COMMISSIONER JOHNSON: I understand that, I think we all understand that.

MR. SACKETT: This I do not believe is a similar situation.

COMMISSIONER JOHNSON: Okay, thank you.

CHAIR BEGAY: Commissioner Gara?

COMMISSIONER GARA: Thank you Madam Chair. Based upon you line of discussion and I guess the burgers and wine coolers will be appropriate then. If it is for the Country Club set to eat there and the letterhead set to eat there when it is fine French restaurant but it does

not meet the needs of the Downtown Neighborhood Association I believe is what you were saying. I really resented that comment. I think it is not relative to the case.

MR. SACKETT: Well if I could respond. I think what would meet the needs of the downtown neighborhoods and not the association more then anything else is to increase and improve residential property in the neighborhood. If we are looking at downtown development what is going to make it succeed in the long run is a sufficient population in the area to support the businesses that are there. The Downtown Neighborhood Association has moved heaven and earth to support condominium development, apartments, appropriate residential construction. That is what we would like to see.

CHAIR BEGAY: Commissioner Chavez?

COMMISSIONER CHAVEZ: Mr. Gentry indicated that while the Board is opposed to this project he indicated that a good amount of the membership of the Downtown Association is in favor. I wonder if you could address it, I think that is important.

MR. SACKETT: I think I can address it as I tried to previously. In our initial familiarity with this project, I mean on its face most of the people who are involved would yea it is a great idea, have a good restaurant. But as we thought about the implications of this the Downtown Neighborhood Association has a zoning committee, it has a policy for hearing such cases. The policy is that it should be presented, the Zoning Committee hears it, perhaps meet with the people who are proposing it then we vote. What happened on that first meeting was essentially a straw vote. And if the Commission would like to see a poll of the Board and the membership we can certainly arrange to have that done.

COMMISSIONER CHAVEZ: But it sounds like there seems to be a poll, or maybe not a poll but I did not hear you say that was not accurate so apparently it is accurate that the membership on the whole is in favor of this project?

MR. SACKETT: What I would say is this the Board of the DNA has nineteen members. The vote, the voting members, Jim could help me with this but it was, the last vote we took on this issue was unanimous. When we have a meeting almost all of the people who are there are board members. There are other residents who come to the meetings and there is a difference of opinion on this issue as you have seen here today, that is for sure. But the vote of the elected board members was unanimous in opposition to this.

CHAIR BEGAY: Commissioner Gara?

COMMISSIONER GARA: The testimony we heard earlier was that there was two meetings that were attended by members of the neighborhood association that are not board members and their testimony indicated that there was. Do you agree that there was two meetings that were held?

MR. SACKETT: We have discussed this at numerous meetings.

COMMISSIONER GARA: Typically do you have more then the nineteen board members at your meetings?

MR. SACKETT: We sometimes do not have all nineteen I must point out. Yes, we do have other people there almost always.

COMMISSIONER GARA: Do you have a good turnout for your meetings?

MR. SACKETT: It varies but I would say yes we do.

COMMISSIONER GARA: When these two issues, when this issue was discussed do feel that you had a good turnout at those meetings other then board members?

MR. SACKETT: I would say that we did.

COMMISSIONER GARA: Give me a number roundabout. Twenty people, thirty people?

MR. SACKETT: We rarely have more then twenty people, twenty, twenty-five.

COMMISSIONER GARA: Half board half residents.

MR. SACKETT: Usually more board then not.

COMMISSIONER GARA: But the board voted but the audience that was there and were not board members where they in favor of it or against it?

MR. SACKETT: The first time we addressed this we had to, we sort of had a show of hands who thinks this is a good idea when Charles first came to see us. We had to try to sort out later who did that. Who where board members and, I mean it is a neighborhood association sir it is not a formally constituted, I mean we have bylaws of course but you know things get a little chaotic on occasion.

COMMISSIONER GARA: You have not answered my question.

MR. SACKETT: I am sorry, if you could ask it again.

COMMISSIONER GARA: Wouldn't the people that were there, where they in favor of the issue and the two testimonies that we have heard indicated there were two meetings that these people attended. Where the people that were in attendance other then board members where in favor of it but the board is the one that took the vote. What input I guess did the members of the community have into the board's action?

MR. SACKETT: Well if I am not fair correct me. There has been, always has been a difference of opinion on this issue. There is no question about it. There are people who are strongly in favor and you have seen some of them here today who live in the neighborhood who would like to see this occur. And it has been an honest and an interesting discussion as

to whether or not this is appropriate development for our neighborhood. We have a computer-based list and there have been many discussions on it about this. One of the points that was made was that one of the reasons most of us live in the neighborhood is because we want to have an urban neighborhood that has mixed use. I personally agree with that that is why I live there. So it is not as if that there...

CHAIR BEGAY: I think you answered his question.

MR. SACKETT: ...people have wrestled with this.

CHAIR BEGAY: Thank you. Commissioner Schwartz?

COMMISSIONER SCHWARTZ: Thank you Madam Chair. Since you have a lot of discussion about this what is your understanding about the mechanics of the operation that is being proposed. Is it just a, is it your understanding that it is a restaurant that is open from five to ten and people come and go? Or otherwise?

MR. SACKETT: My personal understanding of it is that it is going to be open in the evening and that it will be, I have some concerns about what will be required to, the modifications that will be required to this building. External modifications I understand will be small with the exception of the possible outdoor seating and the lighting that might have to accompany that. But internal modifications as I understand will have to be rather severe in order to meet ADA requirement, in order to meet commercial kitchen requirements and so forth and so on. It seems to us that once these requirements are made the likely hood that this structure will ever again be a residence diminishes, not impossible we understand that. Restrictive covenants are possible but they must be enforced.

COMMISSIONER SCHWARTZ: I mean is that, I am sorry, is that really the thrust of your argument then that you are concerned about the actual of the house itself will be pulled so far from residential use that it can never be returned to residential use?

MR. SACKETT: In essence yes. And that it will open up the possibility of doing the same thing for other...

COMMISSIONER SCHWARTZ: So the issue about whether it will be just a coming and going or single seating that is really not relevant?

MR. SACKETT: Speaking personally it has not been a particular concern of mine.

COMMISSIONER SCHWARTZ: Okay, thank you.

CHAIR BEGAY: Any other questions? Commissioner McMahan?

COMMISSIONER McMAHAN: Thank you Madam Chair. Was there any opposition by the DNA when Stephens opened?

MR. SACKETT: I cannot answer that question I was not involved in the neighborhood association at that time.

CHAIR BEGAY: Thank you.

MR. SACKETT: Your welcome.

MS. CANDELARIA: Mary Lebeck. Rebecca Romero (Pass). Jim Barr?

MR. BARR: Madam Chair.

CHAIR BEGAY: Good morning Mr. Barr.

MR. BARR: How are you Madam Chair?

CHAIR BEGAY: I was initially very happy to see you join us.

MR. BARR: It elevated you Madam Chair, congratulation. My name is Jim Barr, Downtown Neighborhood Association, 407 Twelfth Street Northwest. Mr. Kraemer in his presentation said that the applicant's intention is to maintain this as a residence. I think that is a crucial question here today and if you read the staff report the staff was very concerned with that also. What they say on page seventeen is that it is recommended that the EPC at the hearing ascertain the applicants intent and determine the plausibility of the applicants proposal for a combined residence and small restaurant at this residence on Tijeras Avenue Northwest.

Now we took a look at the site development plan as it was submitted to us, pardon my nineteenth century presentation here. As you can see this is the resident, the outline of the residence. What you see is yellow would be private area at least by my estimation. What you see in blue would be a combined public and private area. So, what I have estimated here is that the private living space for Mr. Benzaquen and his family (INAUDIBLE) one hundred and seventy square feet. And the shared private living space would be two hundred and thirty square feet. So Mr. Benzaquen and his family and any subsequent occupants under the zoning designation would have slightly over four hundred square feet to live in. So, the question before you is whether you think that is comfortable living space. Now, I also want to point out that the landscaping requirement is four hundred and ninety-two square feet which is more then the living requirement here from what I can see.

If I could turn to another portion of the staff report here now this is a, there is a lot of discussion in the staff report about this being a small restaurant for fine food and fine wine. Well that is not the nature of the request here. You are getting a request; you are acting on a request for a restaurant with food and wine. It is not a fine French restaurant with fine wine. So anyone can move in here some time when Mr. Benzaquen leaves and can put any kind of restaurant they want in here. Or worse yet do not forget if you give this commercial application your blessing someday in the future someone may come before you and say well it has been a commercial use for quite sometime now and we just want to turn it into a

lawyers office or a hair salon. So the residential character of this is diminishing substantial here.

If I can turn to the plans for just a moment. There is discussion of the city Comprehensive Plan. As you know the City Comprehensive Plan is basically everything to everyone so you can read the Comp Plan and find basically support for a position no matter what your position is. And so that is our attitude about the Comp Plan, which is a good plan of course. If you look at the discussion of the DNA Sector Development Plan there is some language that the staff lifts out of the DNA Sector Development Plan. Well that language comes from the Comp Plan that is not in the sector development plan. The sector development plan was completely ignored by staff. If you look in the sector development plan, the DNA Sector Development Plan the specific plan purposes is all about residential uses. Maintaining and stabilizing residential uses. Promoting residential uses. Allowing increased residential density. Accommodating high density residential.

COMMISSIONER McMAHAN: Can you give us a reference to where you are reading from?

MR. BARR: On page fourteen, the DNA SDP. Madam Chair, how many neighborhood associations come before and request high density residential in their neighborhood? So that is what we have been about for twenty-five years is promoting residential uses, mixed use is not a problem with us, we have mixed use everywhere. What is a problem with us is people proposing to turn bungalows into commercial uses.

I think the exceptional cases thing has been addressed. The staff determines that this is an especially exceptional use. Nevertheless they do not give any justification in here for exceptional use. There should be some foundation as to why this is an exceptional use. Now you are acting on a request for food and liquor in a restaurant, not for fine food, not for fine liquor. This is nothing exceptional about this request.

CHAIR BEGAY: Mr. Barr, in the DNA Sector Development Plan is there any guidelines for those exceptional cases to be reviewed?

MR. BARR: No there are not.

CHAIR BEGAY: Okay.

MR. BARR: But I would like to point out Madam Chair that we, Richard Sertich from the Planning Department and Randy Romero, when they were bringing the 2010 Downtown Plan forward they met with the DNA a number of occasions and we discussed this very language. And we pointed out that for twenty-five years this is the kind of language we have been looking for, a hard line to prevent commercial uses that were appropriate in the downtown Central business district from infiltrating into the neighborhood.

CHAIR BEGAY: So then if there is not a definition of exceptional uses or guidelines or criteria what we would use then, Mr. Dineen, the definition in the dictionary of what exceptional is?

MR. DINEEN: Madam Chair, I believe that is all we can rely on.

CHAIR BEGAY: Okay, thank you.

MR. BARR: I would like to point out one more thing in the staff report now. The staff finds that there is a contradiction between the Downtown Neighborhood Sector Development Plan and the 2010 Plan. We do not see any contradiction at all. The Downtown Neighborhood Sector Development Plan is supportive of residential uses and the 2010 Plan is supportive of preventing commercial uses from infiltrating into the neighborhood. Now regarding this contradiction staff said are the policies or the contradiction side of the book are a problem and therefore the language citing the hard line can be construed as self serving. I beg your pardon this is not self-serving at all. We spent many hours discussing this language in the DNA.

CHAIR BEGAY: Mr. Barr, and forgive me I do not have my DNA Sector Plan in front of me, there is residential commercial in the DNA?

MR. BARR: There is RC, yes ma'am. In fact there are two houses in a RC zone for sale right now a block from Mr. Benzaquen. Ishmael Addari's house and John Taylor's house. He can go a block away; locate in a residential commercial zone with no problem. If he bought Taylor's house they would have parking right next door and all they would have to do is come up with a site development plan.

If I could just wrap it up Madam Chair. One other thing is staff says if the DNA Sector Development Plan does not inflict the majority of the residents in fact when it in fact it does the DNA plan should be amended. Well our plan is twenty-five years old and it needs amendments, this is clear. We sent a letter to the Planning Director about eight months ago requesting that we sit down and go over our plan and amend it and we have heard from him but he does not want to attempt that right now. So, we still have our plan and we are still defending it.

I think there are just basically four questions here that you have to answer. What is the likely hood of Mr. Benzaquen or his successors maintaining this as a residents. There is no requirement that he lives, there is no requirement that he lives here. It is for a residents but is he going to live in four hundred square feet with his family? Again and secondly is this request somehow exceptional? We do not see this as exceptional at all. We see a commercial use trying to move into a bungalow, it happens all the time.

CHAIR BEGAY: Commissioner Serrano did you have question?

COMMISSIONER SERRANO: Mr. Barr, it seemed to me from the testimony that I have heard that the Downtown Neighborhood Association their concern from what I understand from Mr. Sackett is that once Mr. Benzaquens ceases to operate as a restaurant will it go back to being a residence or will a burger joint move in or whatever? Is the Downtown

Neighborhood Association in adverse to having a covenant run for the term of this applicant? The applicant did not seem to be adverse to that from what I understand.

MR. BARR: Commissioner Serrano, I think our problem is visualence. We are less then enthusiastic about the performance of the Zoning Enforcement Office in the neighborhood. Now we have several request before with zoning violations and I am not sure that the have acted on any of them. So there is a question of enforcement here and enforcing this covenant. It would be presumably the City's responsibility to enforce it.

COMMISSIONER SERRANO: But would they be adverse to a covenant running with this applicant?

MR. BARR: I think, again the problem with the covenant, I think we would be adverse to it under the current circumstances were we really do not get any enforcement. So in other words someone can come in and do whatever they wanted to do and then how is this going to be enforced. The RC zone that I mentioned right down on Tijeras under the sector development plan it requires that somebody live in those homes in that RC zone, someone has to live there in the sector development plan.

CHAIR BEGAY: There is also a certain percentage, isn't there a division percentage of living space and commercial that is delineated in the RC zone?

MR. BARR: I believe that is but now we brought this up to the Zoning Enforcement people. The Zoning Enforcement people go into a house in the RC zone and there is a kitchen, there is a bathroom and there is what appears to be a bedroom. How can he say there is no one living there? So he cannot really enforce that. You cannot enforce the provisions of our sector development plan the way it is written so that is not his problem that is basically our problem. We have to some how redefine that.

CHAIR BEGAY: Commissioner Schwartz?

COMMISSIONER SCHWARTZ: Thank you Madam Chair. Mr. Barr you stated that you agree that this plan needs to be revised. Does that mean that the plan has not achieved the desired purposes for the area? And more the point I mean which way do you see that the plan should go?

MR. BARR: Well I have only been there for five years. There is institutional history on the DNA as to the sector development plan when it was developed twenty-five years ago.

COMMISSIONER SCHWARTZ: I understand that and that is my point. I have looked at some of these plans and when you go out to the neighborhood and in a couple of cases and I know one case in particular the neighborhood looks exactly vacant lots and all the way it did like twenty-five or thirty years ago when the plan, and my take on that is that well however well intention the plan it did not work. And so what I am saying is have any of the changes that were envisioned by this plan happened. Somewhere I picked up this I think in the plan somewhere it references that in 1970 medium family income was sixty percent citywide. I

mean has anything changed in the area? Has the plan been effective? If the plan needs to be changed is it possible that the changes will facilitate the request that is before us now.

MR. BARR: Can I give you a bit of history of the plan, my understanding of it.

COMMISSIONER SCHWARTZ: Brief.

MR. BARR: Okay. The plan was developed twenty-five years ago. The entire neighborhood was zoned office and commercial use. People could not get loans; people who wanted to live in the neighborhoods could not get loans for their residents because of the zoning. So, the problem with the zoning is they needed residential zoning. That was the problem number one. Problem number two was of the destruction of houses and the detoriation of houses and the creation of parking lots. So the second question was to try to prevent that detoriation. The third question was stabilization. What can you do to stabilize the housing stock? And fourth, what can you do to increase the housing stock? And if you read the DNA Plan that is what it was all about is stabilization and increasing the housing stock. And I think with that regard it has be relatively successful. The EPC helped us a couple of years ago when you passed an amendment to the plan so that we can outlaw surface parking so that houses could be, someone can just go in destroy a house and say oh I am sorry it was in the historical zone, I did not get a permit. But it is gone now and I want to turn it into a parking lot, you can do that automatically, you cannot do that anymore. So in that regard it has been successful. I think we would like to revise it to get more residences in the neighborhood. I think that is what would be important to us and also beef up the provisions to prevent the continuing infiltration of commercial and offices uses. I think those are the two things that we would look at if we were going to upgrade the plans.

CHAIR BEGAY: Thank you. Commissioner McMahan?

COMMISSIONER McMAHAN: Thank you Madam Chair. Mr. Barr I assume you are against this? And my question is if the Commission approves this with restrictions and covenants would we then be in your eyes eligible for ....award?

MR. BARR: Who knows.

CHAIR BEGAY: We already got one.

COMMISSIONER McMAHAN: But I really do not need another one. And I do not really relish the idea of being held up to public reticule again and I have enough opportunity to do that on my own let alone as a member of the Planning Commission. My concern is that it sounds like the Downtown Neighborhood Association really does not want this kind of improvement in the neighborhood. I cannot imagine that this is going to create a traffic problem because of the hours of operation that are in division. I really cannot get to upset about the sinks between dining and fine dining, or wine and fine wine. Because I think that this kind of thing would enhance the area, it would add a restaurant to an area that is sadly lacking. Not necessarily a fine restaurant that is lacking, simply lacking a restaurant right now that serves something other then fast food. And I can appreciate the Downtown

Neighborhood Associations concerns about not having another fast-food restaurant in the interior of the association's boundaries. But the boundary problem also bothers me, boundaries I think in our situation, as Planning Commissioners and looking at these things are not hard lines drawn in the sand across which some things can never pass. If that were the case they would really no need for this Commission to get involved in these kinds of situations because they would simply be a check list that said does this meet this, this, and this condition therefore these actions obtained. And the reason you have Commissions of people are to help to interpret what in their mind seems to be best for a property, an area for the city as a whole. So to come in say the boundaries exist to prevent this I think begs the question as to why this Commission exists. At this point I have not been convinced that this is not in the best interest of the neighborhood or the city or the property. And I do, believe me; I do understand the concern about the incursion commercial developments into residential areas. We fight this in my own neighborhood and certainly in some others on almost a daily basis and sometimes we are successful, sometimes we are not. But the majority of times what finally ends up happening is for the benefit of all of us. I do not want to use you as a whipping boy but I really did expect an answer to the question of gee if we do go ahead with this are you going to hold us up to ridicule again. I would hope that is not the case because given your position as member of the Downtown Neighborhood Association and as a well known well thought of city bureaucrat we are going to have lots more interactions and I really do not want it to be tainted by any of these other kinds of things that have gotten in the way. Thank you Madam Chair.

CHAIR BEGAY: Thank you. I too Mr. Barr had some concerns and wondered if I needed to recuse myself when I saw you here because we have through efforts that you have done in your city job have assailed the Planning Commission several times and actually was a party and an instigator in a lawsuit against. So, I wondered if I needed to recuze myself and I also wondered to, I mean I walk a very fine line between you personally and what you are trying to do to help your community and your neighborhood and you as a member of a department that refuses to come before the Planning Commission. Refuses to even acknowledge or write in your staff report anymore to us and so I mean I really thought a long time about recusing myself. I have to say this publicly that it is very hard for me when you come in here as a quote citizen and you will not even acknowledge or comply with our questions about planning issues that are critical and important to us because you have not got your way in the past. And that is all I have to say.

MR. BARR: Henceforth Madam Chair I will recuze myself from up here and before the DNA and before the Environmental Planning Commission in the capacity of the DNA.

CHAIR BEGAY: Well that is something that you are going to have to decide and the Downtown Neighborhood Association is going to have to decide exactly how useful you are to them when you come to this Planning Commission.

MR. BARR: I think you are right and that is probably another reason why I should recuse myself.

CHAIR BEGAY: Any other questions of comments? Commissioner Serrano?

COMMISSIONER SERRANO: I have a question for the applicant but is that going to come at a later time?

MS. CANDELARIA: Barbara Lebeck.

CHAIR BEGAY: Let get done with all the public comments. Thank you.

MS. LEBECK: My name is Barbara Lebeck. My office is located in the Downtown Neighborhood Association at 916 Lomas Northwest, and I live in the Huning Castle Neighborhood. And I have a couple of points to make and I will try not to reiterate what other people have said. I have know Charles Benzaquen since approximately 1983 when I was working as a commercial broker downtown and I feel very strongly in my heart of hearts that when Charles Benzaquen comes before you and says that he will in this home and he will provide a fine dining with fine wines he will do that.

I also would like to explain that Stephens did not close because of a lack of business. There were other reasons that Stephens Restaurant closed and I feel that Charles Benzaquen is filling a void that the neighborhood has felt since Stephens Restaurant has left.

You know I am also very confused because I do not feel like we are loosing a resident because he will be a resident. I feel like we are gaining a wonderful business in our neighborhood and I know in all that I have worked on for Downtown Revitalization we worked so hard to find businesses to come into the downtown areas and into our neighborhoods and when you find someone who will work so hard with the neighborhoods and not try to go around them. And when you find someone who is flexible as to that the use will stay with him and he is willing to work with say for example if the land sells you know that to me is really special that someone who will come to you and really work with you to make this happen.

You DNA, the Downtown Neighborhood is a very different neighborhood and I feel that it is very different in that it is an urban neighborhood where we want mixed uses. And with mixed uses at times there are enforcement problems. And I feel that the downtown neighborhood with other properties have problems with enforcement but that is something that Charles Benzaquen should not have to pay the price for and that we should work very hard to make sure that enforcement is followed through on.

I also feel that this use would create a very pedestrian friendly environment so I am asking you to please approve and work with Charles Benzaquen. Thank you.

CHAIR BEGAY: Any questions? Commissioner Schwartz has a question for.

COMMISSIONER SCHWARTZ: I have a question for Mr. Suffling.

CHAIR BEGAY: Okay, sorry. Are we done with the public?

COMMISSIONER SCHWARTZ: Mr. Suffling, in the past years there have been several occasions it seems to me it has been stated unequivocally that the use runs with the land. And today I have heard several people come up here and state that seemingly state that that is not the case. That it could be constructed, that the use can run with an individual. Am I confused or which is it?

MR. SUFFLING: Commissioner Schwartz, the use runs with the land, it does not run with the individual.

COMMISSIONER SCHWARTZ: Thank you.

MR. SUFFLING: And I just might add Madam Chair, I think this case shows a need for a change in the Zoning Code. And perhaps staff might make a proposal in the future. I see cases like this from time to time where it would be nice if there were a provision in the Zoning Code that would allow a temporary use. I mean there are lots of times when we want to be flexible but we are afraid what may happen in the future. So it would be nice if there were a zoning provision where you can have a use and you can apply for a five-year period and then apply for extensions.

COMMISSIONER GARA: Just like the County.

CHAIR BEGAY: Yes, maybe that merger would not be such a bad idea. One more.

MS. CANDELARIA: John Myers.

MR. MYERS: Good morning Madam Chair, Commissioners. My name is John Myers; my address is 1401 Central Avenue Northwest. I am here on behalf of myself, my partners, and Ken and Cindy Johns. I have my office located, I am located at Fourteenth and Central northwest corner, Ken and Cindy Johns are the owners of the properties that were formally the Stephens Restaurant together with the properties immediately, the property immediately east of the old Stephens Restaurant. We are here in support of the request before the Commission.

I do not live in the neighborhood, I live close enough that I can ride my bike to my office. Charles Price, one of my partners lives in the neighborhood, he lives on south Fourteenth, two blocks south of Central. Ken Johns and Cindy Johns if you have ever driven by there they have been working on that building for two and half years to convert to their personal residence. They are going to move into that building. We located our, we bought that office building and located at that location because of the character of that neighborhood. We have no interest in seeing commercial enterprise expanded into the DNA. It is in our interest to preserve the character of the DNA, to preserve the character of that neighborhood. But we think it is a benefit to us as a member of that neighborhood, not a member of the DNA because we are across the street but a member of that community to have this kind of use to serve our community. To have a place you can walk, we can walk a couple of places and we like the places we walk to but eating at the Dog House and Wimpy's everyday gets a little old.

We think it would be beneficial to our community, we do not think it would be harmful to the DNA. We hear a lot of concern and of course you hear it, I hear it about the domino affect. We let one person do one thing and then there will be a harmful precedent and then the neighborhood will be destroyed. And I think that is overstated. You have to look that the decision you make and what is the precedent that you create by that decision. And it is not that you are saying or we are going to allow them to tear a house down we are going to allow a commercial use so we can encroach, move Central Avenue or move the commercial uses from Central to destroy the DNA. You have to look at the facts of the case and where you are allowing this limited kind of use it does not create precedent for further zone changes of the character that will destroy the Downtown Neighborhood Association area. We, and my partners, and Mr. and Ms. Johns would encourage your support of this request. Thank you.

CHAIR BEGAY: Thank you. Any questions for Mr. Meyers? Thank you.

MS. CANDELARIA: Thank you.

CHAIR BEGAY: That is it. You have a question for staff?

COMMISSIONER SERRANO: I have a question for the applicant. Mr. Benzaquen I just wanted to ask I guess for the record there has been several comments made with regard to whether or not you in fact actually will be living in this as a residence. Will you please respond to that?

MR. BENZAQUEN: Yes ma'am. Yes I will.

COMMISSIONER SERRANO: Thank you.

CHAIR BEGAY: Staff, closing comments?

MR. SHIMA: Madam Chair, I have no further comments to make. Thank you.

CHAIR BEGAY: Thank you. Applicant?

MR. KRAEMER: Can we get this projected back up there. It was interesting when Mr. Barr was up here he pointed this out to you and said that this is the only area that, the yellow area is the only area which Mr. Benzaquen and his partner Becky Romero will be leaving. And in fact, and that has been one of their contentions all along some how this will be changed from a residents into a business. Charles just stood up here and told you point blank he will live there. And I think it is also important to know that in fact he is going to live in the whole house. Because he has some tables and he is having people there for dinner maybe five hours a day, maybe less does not mean that those portions of the house are off limits to him and his family. There is not going to be a single little bedroom that Charles and Becky have to stay in nineteen hours a day. They are going to live in the house nineteen hours a day and for five hours a day they are going to feed people. And I think that is an important distinction to make.

We have stated here, we have stated before the DNA Board a number of times we are not trying to change this into a commercial property. We are trying to do something very special and we have some very complicated rules under which we have to try to do this. Mr. Benzaquen is willing to live with any reasonable restrictions on this use. The special use zone allows the Commission the ability to impose some of those restrictions. We have talked about; Commissioner Schwartz mentioned a single seating. We are more then happy to have limited hours of operation, a single seating requirement for the restaurant, we are willing to have a condition that there be no takeout service. The outdoor seating area is not an issue because that was something that mistakenly got put in there. We do not want to have outdoor seating, I mean it would be nice but we are willing to live without that. We have had discussions over the months with the City Attorney's Office about other sorts of things. Time limits on the operation, a special use permit for five years, we would be willing to go with that, evidently it cannot happen and limited to this applicant. We have talked about that with the neighborhood and we regret that cannot happen either. I just urge you to look at this request and approve the very limited sector plan amendment that we have asked for, the zone change, and the site development plan. With that I stand for any questions.

CHAIR BEGAY: Commissioner Gara?

COMMISSIONER GARA: Just one quick question. You said every Thursday night?

MR. KRAEMER: Every Thursday night that I am in town.

COMMISSIONER GARA: And your address is?

MR. KRAEMER: Number one, Garden Park Circle.

CHAIR BEGAY: Commissioner Johnson?

COMMISSIONER JOHNSON: Thank you Madam Chair. Mr. Kraemer, lets talk signs. Apparently staff feels that we should decide what size your sign should be and that you are proposing anything from six feet to twelve feet, twelve square feet.

MR. KRAEMER: No, we did not intend to have a twelve square foot sign. As I understand on the site plan the only sign that we intend to have is the word "Charles" by the front door.

MR. BENZAQUEN: The sign will be a hand written on the entryway of the house.

MR. KRAEMER: And it will say Charles.

MR. BENZAQUEN: It will say "Our Home", it would not say "Charles", it will say "Our Home".

CHAIR BEGAY: You can have, that is not really a sign, I can put that on my house.

COMMISSIONER JOHNSON: I am sorry but where is the information on the sign that staff was responding to? Somehow I have missed seeing it and I think this is something to consider...

MR. KRAEMER: The only sign that we intended to show on the south elevation of the, in the elevation package on the site plan. It says "Charles" and it has the address. But it will say "Our House".

COMMISSIONER GARA: Our Home.

COMMISSIONER JOHNSON: Okay, but do we know what size it is? I think it is reasonable to make sure that it is a good neighbor sign and I think we should have some specifications for the sign.

MR. KRAEMER: I think you should too.

COMMISSIONER JOHNSON: And I am interested in your recommendation for those.

MR. KRAEMER: I think three feet...

COMMISSIONER JOHNSON: Square feet?

MR. KRAEMER: Three square feet would be more then enough.

COMMISSIONER JOHNSON: Thank you.

MR. KRAEMER: Or smaller.

COMMISSIONER GARA: Three square feet?

MR. KRAEMER: One foot by three feet.

COMMISSIONER SCHWARTZ: What is R-1? One square foot?

COMMISSIONER JOHNSON: One Square foot.

MR. KRAEMER: One square foot would be acceptable.

CHAIR BEGAY: Mr. Kraemer, I have a question for you. I do not want to open up a can a worms or anything but is the liquor issue the reason why you did not look at an RC zoning?

MR. KRAEMER: Actually the reason we went with SU-1 zoning was that was what staff instructed staff to do before he came to see us. I think that the liquor was, and once we got involved in it I think there is three issues. There is the liquor issue, the parking issue, and there is the site plan control issue. The RC zone does not give you site plan control. So those are the three issues, the three reasons why we did not switch it to RC zoning.

CHAIR BEGAY: Okay, because there are parking requirements associated to RC.

MR. KRAEMER: That is right.

CHAIR BEGAY: Okay, thank you.

MR. KRAMER: And also very finally I have got four letters that I would like to also submit to the record all in support of this, Andrew Heaven Street, John K. Anderson, Tom and Caroline Meade, and David Hernandez, and I think the David Hernandez letter was already faxed to the Commission.

CHAIR BEGAY: Thank you. Once last thing, Neal can you get the Webster's Dictionary on your...

COMMISSIONER SCHWARTZ: Isn't that the language from the Downtown 2010 Plan?

COMMISSIONER JOHNSON: Yes it is.

COMMISSIONER SCHWARTZ: It is not really in the DNA Neighborhood Plan, it is in the, it is the Downtown 2010 Plan addressing adjacent areas.

CHAIR BEGAY: Okay.

COMMISSIONER SCHWARTZ: So I think the definition would have to be in the Downtown 2010 Plan.

CHAIR BEGAY: All right lets close floor. I would like to say before the Commissioners start addressing this. We have taken a long time on this case but I think it is an important case that needed the time and the ramifications and the discussion that we have and hopefully results that come out of this are beneficial. And it was important even if the Lobos play at six o'clock we will make the time up later.

COMMISSIONER GARA: If we have a quorum I will leave.

CHAIR BEGAY: Commissioners, discussion? A motion? Commissioner Gara?

COMMISSIONER GARA: I am contemplating a deferral based upon a sampling of the food.

CHAIR BEGAY: Commissioner Chavez?

COMMISSIONER CHAVEZ: I think this is an exceptional opportunity to enhance the quality of life in the Albuquerque and particularly in this neighborhood. In my mind there is a clear support of the neighborhood association. You know I am appreciative of some of the risks involved but I think it is a great concept and I thoroughly encourage it. I do not believe that we have to put a lot of restrictions on it although I would encourage a restriction for the hours

of operation to encourage the continued use well beyond Mr. Benzaquens tenor there. I would hope that something like this would continue forever and perhaps there would be other similar restaurants in the area and in the city. I think it is a great concept that although I have traveled and had the good fortune of eating in nice places I have never had something like this and I think it is something really nice for community.

CHAIR BEGAY: Thank you. Commissioner Johnson?

COMMISSIONER JOHNSON: Thank you Madam Chair. To me this hinges on the concept of exceptional and I think that is an appropriate focus and I think this probably qualifies. I was interested to hear the Downtown Neighborhood area representatives say that that was the kind of language the hard line and the exceptional cases for the kinds of language they were seeking. I think that is a reasonable approach to take and I think we should look hard at these.

I do not have a problem with the residential use continuing because I believe the house is usable as Mr. Kraemer pointed out in its entirety most of the time. I do have a problem with trashing the Downtown Neighborhood Association and its plan. I think these folks have fought a long hard battle for a long time against very serious threats. The last time this came up I voted against letting anything happen but residential on of its boundary areas because I think there is a domino affect and I do think that once one thing goes it is in the nature of an incursion and it is something that is a danger to this neighborhood. I think it used to be more fragile then it is now but I do not think it is out of the woods yet and I commend the Downtown Neighborhood Association for the energy and effort and care and love they have put into that place and the defensive stand they have taken. I think probably it is time to revise the document that is their bible. I think they maybe have hit three out four of their objectives. They have maintained. They have been successfully defensive; they perhaps have not constructed and built up in the way that we are talking about. But I would not like to see our decision today construed as a repudiation of the principles that have been in place and at play and strongly worked with by the Downtown Neighborhood Association for all of these years. I think they are important, I think the effort that has gone in to keeping that place alive and flourishing is important to all of us.

So, I am inclined to support the request that we have and the minor change in language that will be required to the Downtown Neighborhood Association, the Downtown Sector Plan. But I would not want to see it construed as a defeat for the neighborhood and its principles.

CHAIR BEGAY: Commissioner McMahan?

COMMISSIONER McMAHAN: Thank you Madam Chair. I am really on the horns of a dilemma because I want to support the DNA in their actions because they have come a long way. Neighborhood associations have a very tough road to hold for lots of reasons. One of which is the occasion that do not achieve the support of the bureaucrats because they sometime do not have access to them that some of the rest of us might have for a variety of reasons. Interestingly enough in this particular one I personally know a number of the people who have submitted letters in support of this. But none of them called me to ask for my

support for this so there was no attempt by these people who are, what is the right phrase, politically well placed to certainly influence me on this one way or the other. But I think that in spite of my really wanting to support the Downtown Neighborhood Association and the rest of the neighborhood associations and their efforts to maintain or improve their quality of life and surroundings this is one of those things where I think it is going to be an enhancement. But I really want the Downtown Neighborhood Association to stay at the barricades and keep fighting because if you let your guard down really then the Burger Kings and the fast-food takeouts and the adult bookstores and those kinds of businesses slowly began to creep in there so it requires that constant vigilance. This is not one of those things that I think is going to harm the association or the harm the neighborhood. I think indeed it is going to be a benefit. Thank you Madam Chair.

CHAIR BEGAY: Thank you Commissioner. Any other comments? Neal, I cannot read that. Is there anybody in the audience that can, or on the Commission that can read that. The definition for "exceptional" Russell.

MR. BRITO: Madam Chair, members of the Commission the definition on the screen reads "Exceptional one, forming an exception or rare instance, unusual, extraordinary. Two, unusually excellent, superior. Three, education A, being intellectually gifted. B, being physically or specially mentally handicapped as to an extent that special schooling is required.

CHAIR BEGAY: Thank you Russell. Commissioners, if we are through with our comment period we are waiting for a motion.

COMMISSIONER SCHWARTZ: I will make an additional comment.

CHAIR BEGAY: Okay, one more comment.

COMMISSIONER SCHWARTZ: As far as whether or not any interior improvements that might be made are going to destroy the residential potential of this unit. I would like to point out that it is not uncommon, I have seen a couple of examples in this kind of bungalow thing when people come in to just tear out all the interior walls and redesign it in a more contemporary kind of living arrangement open plan. So I do not think that making changes on the interior necessarily affects any future use as a residence. Some people might see the improvements in the kitchen as being a big plus.

CHAIR BEGAY: Thank you. Commissioner Johnson?

COMMISSIONER JOHNSON: I am prepared to make a motion. In the matter of 00138 00000 01501, Downtown Neighborhood Area Sector Development Plan amendment I move we forward it to the City Council and that amendment is...

COMMISSIONER GARA: ...hard to find.

COMMISSIONER JOHNSON: Hard to find, that amendment is as stated in the January 2nd letter from Mr. Kraemer to Mr. Shima and adds the language "and certain other approved land uses" and an additional sentence that reads "Newly zoned SU-1 properties require site development plan approval to the text of the plan that describes SU-1 zoning."

COMMISSIONER GARA: Second.

COMMISSIONER JOHNSON: I want to propose that we delete some findings. I think these findings where not findings of fact they were something else that I do not believe really ought to be in here. They are kind of quasi observations. I would propose deleting finding six, seven and eight, and finding ten. And I will take the opportunity to remind staff that these are to be findings of fact and not speculation. So that would end us up with five, six, seven, eight findings and no conditions.

COMMISSIONER GARA: Second.

CHAIR BEGAY: A motion and a second. All those in favor? Opposed? Motion passes unanimously.

COMMISSIONER JOHNSON: In the matter of 00110 00000 01500, a zone map amendment from SU-2/TH to SU-2/SU-1 for single family residential and restaurant with wine and beer I move that we forward a recommendation of approval to the City Council...

COMMISSIONER GARA: Zone changes we can approve, we do not have to forward them to approve them.

COMMISSIONER JOHNSON: I am sorry, I am reading the language here and it should not read that way?

COMMISSIONER GARA: No, we do not forward zone changes to the City Council, we approve those and they are subject to appeal.

COMMISSIONER JOHNSON: So staff that is wrong? So we are recommending approval based on findings one through six as written.

COMMISSIONER McMAHAN: Second.

CHAIR BEGAY: All right I have a question then. The way that it is since we do not it is a zone change do we not need to take out then number six?

COMMISSIONER GARA: Yes.

COMMISSIONER JOHNSON: Yes, I do not think that is a finding either.

CHAIR BEGAY: And then I kind of had a problem with number one.

COMMISSIONER JOHNSON: Well then lets look at them because I think all of the findings where kind of strange.

CHAIR BEGAY: Kind of strange. I do not think we need number one.

COMMISSIONER JOHNSON: I agree.

CHAIR BEGAY: Okay.

COMMISSIONER GARA: I would like to add another finding. Although the Downtown Neighborhood Association Board has taken action to not support the motion for the zone change there is substantial owners, property owners support both residents and commercial property owners within the neighborhood and adjoining neighborhood that supports the zone change request.

CHAIR BEGAY: The maker of the motion agree?

COMMISSIONER JOHNSON: I agree.

CHAIR BEGAY: We have a motion and a second.

COMMISSIONER JOHNSON: And we have five findings.

CHAIR BEGAY: Five findings. All those in favor? Opposed? Motion passes unanimously.

COMMISSIONER JOHNSON: In the matter of 00128 00000 01502, a site development plan for building permit I move approval based on findings one through seven and, well all it does is observe, well actually that is not true according to the applicant. Apparently it is not the case that the proposed sign is six feet square to twelve feet square in area and illuminated. Does the applicant agree?

MR. SHIMA: It is so stated in the application document.

COMMISSIONER JOHNSON: It is so stated in the document?

MR. SHIMA: That is correct.

COMMISSIONER JOHNSON: All right, thank you. And then the conditions one, two as written with the addition that the sign shall be no larger then three feet square. Is that kind of where we ended up?

COMMISSIONER GARA: Three square feet.

CHAIR BEGAY: Three square feet.

COMMISSIONER JOHNSON: That is right. And I would propose at least for discussion adding a condition that the hours of operation are limited to those from five to ten in the evening since that what was proposed.

CHAIR BEGAY: Then do we get into issues of compliance and who is going to, I mean I do not have any problems with it.

COMMISSIONER JOHNSON: Well lets do it.

CHAIR BEGAY: We will let Zoning Enforcement handle it.

COMMISSIONER JOHNSON: And this is the opportunity to add further conditions if anyone wants to.

CHAIR BEGAY: Commissioner Gara?

COMMISSIONER GARA: I will second the motion and I have a question of the maker of the motion. Finding number three says that five off street parking spaces for dinner guests would be required. This is an SU-1 zone and I do not know that that is an accurate statement based upon the zoning that has just been approved.

COMMISSIONER JOHNSON: You would propose that we delete that sentence and just leave the...

COMMISSIONER GARA: ...a finding of fact would be "The applicant secured in writing eight off street parking spaces". Unless we put a parking requirement we have approved a site plan without any.

COMMISSIONER JOHNSON: What is your pleasure on that point.

COMMISSIONER GARA: I just wanted to remove that finding, that first sentence of that finding. I do not know that they are required.

CHAIR BEGAY: Only if we require them. Good point.

COMMISSIONER JOHNSON: Is there any interest in requiring that arrangement? Okay, so finding three as amended and conditions one through six.

CHAIR BEGAY: A motion and a...

COMMISSIONER GARA: ...I already seconded.

CHAIR BEGAY: All those in favor of the motion? Opposed? Motion passes unanimously.

FINAL ACTION TAKEN

NOW, THEREFORE, BE IT RESOLVED THAT the Environmental Planning Commission voted to recommend approval to City Council of 00138 00000 01501, an amendment to the Downtown Neighborhood Sector Development Plan and adds the language "and certain other approved land uses" and an additional sentence that reads "Newly zoned SU-1 properties require site development plan approval" to the text of the plan that describes SU-1 zoning based on the following Findings:

FINDINGS:

1. The applicant intends to open a small restaurant with maximum 24 seating capacity to serve fine food and fine wine for dinner at his residence at 1223 Tijeras Avenue NW. No package liquor sale is requested.

2. To allow for the above land use, the applicant is requesting the Downtown Neighborhood Area Sector Development Plan (the "DNA Plan") amendments including: a) the text amendment to add certain language on the Special Use land use; and b) amendment of Map 7, Land Use Plan, on the subject property from SU-2/TH (Townhouse) to SU-2/SU-1 for SFR (Single Family Residence) & Restaurant with Wine & Beer.

3. Mixed land uses of residential and office/commercial currently exist in the immediate vicinity of the subject property which can be characterized as a transitional area from residential to the north to office/commercial to the south on or in close proximity to Central Avenue.

4. The subject property is located in the Central Urban Area of the Comprehensive Plan adopted in 1988. Its applicable goal is supportive of the proposed land use.

5. The subject property is located within the boundary of the DNA Plan adopted as a Rank III plan in 1976. Certain applicable DNA Plan goal and policies are supportive of the proposed land use.

6. The Board of the Downtown Neighborhood Association (the "Association") has voiced its strong opposition to the request in writing. The Board of the Association regards the request as the conversion of the applicant's single-family home to an eventual commercial restaurant rather than a combined residence and restaurant as proposed.

7. The applicant' agent submitted 21 letters of support for the request. Six (6) letters are from the residents of the Association, 14 letters from adjacent neighborhoods, and one (1) letter from an unknown address.

8. Regarding the subject DNA Plan amendments, the EPC charge is to make a recommendation to the City Council.

MOVED BY COMMISSIONER JOHNSON
SECONDED BY COMMISSIONER GARA — MOTION CARRIED UNANIMOUSLY

NOW, THEREFORE, BE IT RESOLVED THAT the Environmental Planning Commission voted to approve 00110 00000 01500, a Zone Map amendment from SU-2/TH (Townhouse) to SU-2/SU-1 for SFR (Single Family Residential) & Restaurant with Wine & Beer for Lots 47 and 48, Perea Addition based on the following Findings:

FINDINGS:

1. The subject property is currently zoned SU-2/TH. The requested zoning is SU-2/SU-1 for SFR & Restaurant with Wine & Beer.

2. The subject property is located at the edge of the SU-2/TH Zone bordering the SU-2/CC (Community Commercial) Zone. The property immediately to the east houses law offices under the SU-2/TH Zone.

3. The subject property is located in a transitional area from residential to the north to office/commercial to the south on or in close proximity to Central Avenue. There are certain discrepancies between what the DNA Plan has envisioned and the existing land uses.

4. The DNA Plan allows only existing churches under the Special Use, and none of the existing zoning designations in the DNA Plan permits the residence and restaurant serving wine and beer as proposed. Therefore, SU-2/SU-1 for SFR & Restaurant with Wine & Beer along with the associated text amendment, as requested, would permit the proposed use under the DNA Plan framework.

5. Although the Downtown Neighborhood Association Board has taken action to not support the motion for the zone change, there is substantial property owner support, both residents and commercial properties owners, within the neighborhood and adjoining neighborhoods that supports the zone change request.

MOVED BY COMMISSIONER JOHNSON
SECONDED BY COMMISSIONER McMAHAN — MOTION CARRIED UNANIMOUSLY

NOW, THEREFORE, BE IT RESOLVED THAT the Environmental Planning Commission voted to approve 00128 00000 01502, a Site Development Plan for Building Permit for Lots 47 and 48, Perea Addition, based on the following Findings and subject to the following Conditions:

FINDINGS:

1. The subject property, constructed approximately in 1924, is of a one story gable roof cottage style and is located within the Fourth Ward Historical Overlay Zone. The subject property is a contributing residence. As a result, any exterior change would be subject to the Landmarks & Urban Conservation Commission review. The applicant must receive a Certificate of Appropriateness from the City prior to any exterior improvements.

2. The building setback is significantly limited. Under the SU-1 zoning, as requested, it would be the discretion of the Environmental Planning Commission to approve or disapprove the Site Development Plan.

3. The applicant has secured in writing eight (8) off-street parking spaces for use by his patrons after 5:00 pm from Law Office of William Snead, located immediately east of the subject property.

4. Both Route 66 Central Avenue transit service and Route 24 Old Town trolley service are available at a bus stop on Central Avenue, a block away from the subject property.

5. The Site Development Plan shows no information regarding lighting.

6. 2,334 square foot landscape areas are proposed in excess of the required 492 square feet. The Zone Code requires a minimum of 75 percent of the landscape area, 1,750 square feet, be covered with living, vegetative materials.

7. The Site Development Plan provides no information on the design of the proposed sign, nor the location. The proposed sign is 6 square feet to 12 square feet in area and illuminated. The R-1 Zone permits one related, non-illuminated wall sign, not exceeding one square foot in area. Because of the SU-1 zoning, as requested, it would be the discretion of the Environmental Planning Commission to approve or disapprove the proposed sign.

CONDITIONS:

1. The submittal of this site plan to the Development Review Board shall meet all Environmental Planning Commission conditions. A letter shall accompany the submittal, specifying all modifications that have been made to the site plan since the Environmental Planning Commission hearing, including how the site plan has been modified to meet each of the Environmental Planning Commission conditions.

Unauthorized changes to this site plan, including before or after Development Review Board final sign-off, may result in forfeiture of approvals.

2. The revised Site Development Plan shall be submitted which provides specific information on lighting and the sign. The sign shall be no larger then 3 square feet in area.

3. No new Ash trees shall be planted.

4. At least 75 percent of the landscape areas shall be covered with living, vegetative materials; concrete, grave or flagstone is not considered living, vegetative materials.

5. The landscape plan and maintenance shall comply with the City Street Tree Ordinance, Pollen Ordinance, and Water Conservation Landscaping and Waste Water Ordinance.

6. The hours of operation are limited to 5 p.m. - 10 p.m.

MOVED BY COMMISSIONER JOHNSON
SECONDED BY COMMISSIONER GARA — MOTION CARRIED UNANIMOUSLY

2. 00114 00000 01643
00110 00000 01650
00128 00000 01641
00128 00000 01642
Project #1000937

City of Albuquerque, Transit Department request annexation and establishment of SU-1 for Transit Facility and Daycare zoning plus approval of a site development plan for subdivision purposes and site development plan for building permit for Tracts B-15, B-16, B-17, B-18 and B-19, Town of Atrisco Grant, located on Daytona between Unser and 90th Street, containing approximately 20 acres. (J-9) Debbie Stover, Staff Planner **(RECOMMENDED APPROVAL TO THE CITY COUNCIL OF ANNEXATION AND ESTABLISHMENT OF SU-1 FOR TRANSIT FACILITY ZONING. CONTINUED SITE DEVELOPMENT PLAN TO APRIL 19, 2001)**

City of Albuquerque
Planning Department
Development Services Division
P.O. Box 1293
Albuquerque, New Mexico 87103

Date: February 16, 2001

Charles Benzaquen
1223 Tijeras Ave. NW
Albuq. NM 87102

OFFICIAL NOTIFICATION OF DECISION

FILE: 00110 00000 01500/00138 00000 01501/00128 00000 01502
LEGAL DESCRIPTION: for Lots 47 & 48, Perea Addition, located on the northeast corner of Tijeras Avenue and 13th Street, containing approximately .11 acres. (J-13) Simon Shima, Staff Planner

On February 15, 2001, the Environmental Planning Commission voted to defer 00110 00000 01500/00138 00000 01501/00128 00000 01502 to the Environmental Planning Commission Public Hearing on March 22, 2001.

Sincerely,

For Robert R. McCabe, AIA, APA
Planning Director

RM/SS/ac

cc: Garcia/Kraemer, 200Lomas NW, Ste. 1111, Albuq. NM 87102
Perry Wilkes, Downtown Neigh. Assoc., 718 Mountain Rd. NW, Albuq. NM 87102
Jim Barr, Downtown Neigh. Assoc., 407 12th St. NW, Albuq. NM 87102

NOW, THEREFORE, BE IT RESOLVED THAT the Environmental Planning Commission voted to defer 00114 00000 01763/ 00110 00000 01764/01110 00000 00007 to the Environmental Planning Commission Public Hearing on May 17, 2001. There is a $75.00 fee when a deferral is made at the request of an applicant/agent. Payment is due by March 2, 2001 and may be paid at the Land Development Coordination counter at the Plaza del Sol Building.

MOVED BY COMMISSIONER SCHWARTZ
SECONDED BY COMMISSIONER SERRANO — MOTION CARRIED UNANIMOUSLY

00110 00000 01500
00138 00000 01501
00128 00000 01502
Project # 1000892

Garcia Kraemer, agents for Charles Benzaquen, request a zone map amendment from SU-2/TH to SU-2/SU-1 Single Family Residence & Restaurant plus an amendment to the Sector Development Plan and approval of a site development plan for building permit for Lots 47 & 48, Perea Addition, located on the northeast corner of Tijeras Avenue and 13th Street, containing approximately .11 acres. (J-13) Simon Shima, Staff Planner **(DEFERRED TO MARACH 22, 2001)**

NOW, THEREFORE, BE IT RESOLVED THAT the Environmental Planning Commission voted to defer 00110 00000 01500/00138 00000 01501/00128 00000 01502 to the Environmental Planning Commission Public Hearing on March 22, 2001.

MOVED BY COMMISSIONER SCHWARTZ
SECONDED BY COMMISSIONER CHAVEZ — MOTION CARRIED UNANIMOUSLY

00110 00000 01778
Project #1000982

Scott Steinberg request a zone map amendment from R-1 to M-1 for Lot A, Block 7, Unit 2, Mandell Addition #2, located on 3rd Street between Woodland and La Poblana, containing approximately .9 acre. (H-14) Loretta Naranjo-Lopez, Staff Planner **(DEFERRED TO MARCH 22, 2001)**

NOW, THEREFORE, BE IT RESOLVED THAT the Environmental Planning Commission voted to defer 00110 00000 01778 to the Environmental Planning Commission Public Hearing on March 22, 2001.

MOVED BY COMMISSIONER SCHWARTZ
SECONDED BY COMMISSIONER CHAVEZ — MOTION CARRIED UNANIMOUSLY

City of Albuquerque
Planning Department
Development Services Division
P.O. Box 1293
Albuquerque, New Mexico 87103

Date: January 19, 2001

Charles Benzaquen
1223 Tijeras Ave. NW
Albuq. NM 87102

OFFICIAL NOTIFICATION OF DECISION

FILE: 00110 00000 01500/00138 00000 01501/00128 00000 01502
LEGAL DESCRIPTION: for Lots 47 & 48, Perea Addition, located on the northeast corner of Tijeras Avenue and 13th Street, containing approximately .11 acres. (J-13) Simon Shima, Staff Planner

On January 18, 2001, the Environmental Planning Commission voted to defer 00110 00000 01500/00138 00000 01501/00128 00000 01502 to the Environmental Planning Commission Public Hearing on February 15, 2001. There is a $75.00 fee when a deferral is made at the request of an applicant/agent. Payment is due by February 2, 2001 and may be paid at the Land Development Coordination counter at the Plaza del Sol Building.

Sincerely,

Russell Brito

For Robert R. McCabe, AIA, APA
Planning Director

RM/SS/ac

cc: Garcia/Kraemer, 200Lomas NW, Ste. 1111, Albuq. NM 87102
Perry Wilkes, Downtown Neigh. Assoc., 718 Mountain Rd. NW, Albuq. NM 87102
Jim Barr, Downtown Neigh. Assoc., 407 12th St. NW, Albuq. NM 87102

00110 00000 01515
00128 00000 01516
00128 00000 01523
Project # 1000651

Herb Denish and Associates, Inc., agents for Tijeras Place, LLC request a zone map amendment from SU-1 PDA C-1 Uses & Office to SU-1 PDA C-1 Uses & Office & Auto Sales plus approval of a site development plan for subdivision purposes and approval of a site development plan for building permit for Tract A29A, Town of Atrisco Grant Northeast, located on Coors Boulevard NW between Pheasant Avenue NW and Redlands Road NW, containing approximately 3.41 acres. (G-11) Debbie Stover, Staff Planner **(DEFERRED TO FEBRUARY 15, 2001)**

NOW, THEREFORE, BE IT RESOLVED THAT the Environmental Planning Commission voted to defer 00110 0000 01515/00128 00000 01516/00128 00000 01523 to the Environmental Planning Commission Public Hearing on February 15, 2000. There is a $75.00 fee when a deferral is made at the request of an applicant/agent. Payment is due by February 2, 2001 and may be paid at the Land Development Coordination counter at the Plaza del Sol Building.

MOVED BY COMMISSIONER JOHNSON
SECONDED BY COMMISSIONER McMAHAN — MOTION CARRIED UNANIMOUSLY

00110 00000 01500
00138 00000 01501
00128 00000 01502
Project # 1000892

Garcia Kraemer, agents for Charles Benzaquen, request a zone map amendment from SU-2/TH to SU-2/SU-1 Single Family Residence & Restaurant plus an amendment to the Sector Development Plan and approval of a site development plan for building permit for Lots 47 & 48, Perea Addition, located on the northeast corner of Tijeras Avenue and 13th Street, containing approximately .11 acres. (J-13) Simon Shima, Staff Planner **(DEFERRED TO FEBRUARY 15, 2001)**

NOW, THEREFORE, BE IT RESOLVED THAT the Environmental Planning Commission voted to defer 00110 00000 01500/00138 00000 01501/00128 00000 01502 to the Environmental Planning Commission Public Hearing on February 15, 2001. There is a $75.00 fee when a deferral is made at the request of an applicant/agent. Payment is due by February 2, 2001 and may be paid at the Land Development Coordination counter at the Plaza del Sol Building.

MOVED BY COMMISSIONER JOHNSON
SECONDED BY COMMISSIONER McMAHAN — MOTION CARRIED UNANIMOUSLY

B. Approval of the Amended Agenda. **(APPROVED.)**

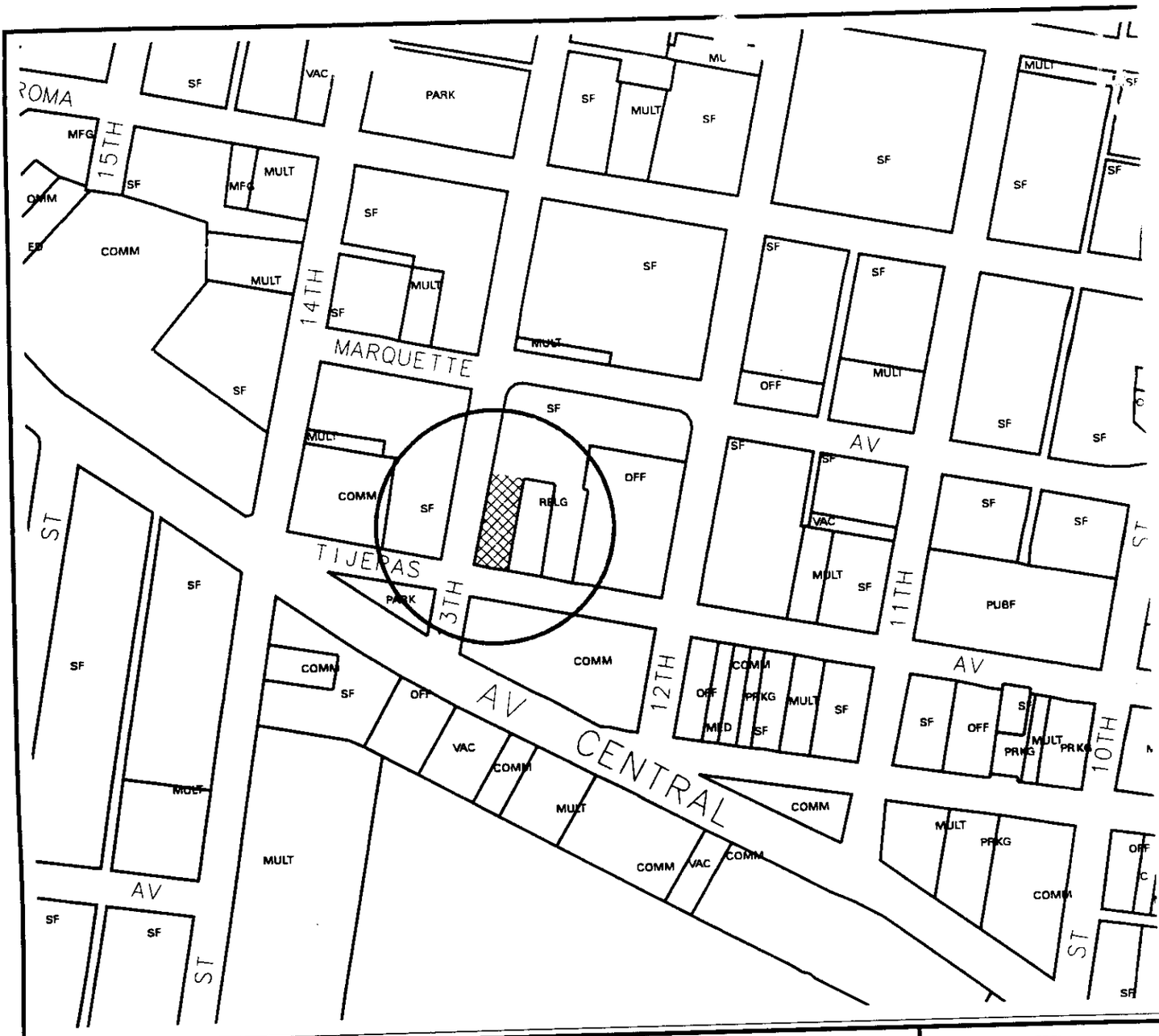
MOVED BY COMMISSIONER McMAHAN
SECONDED BY COMMISSIONER JOHNSON — MOTION CARRIED UNANIMOUSLY

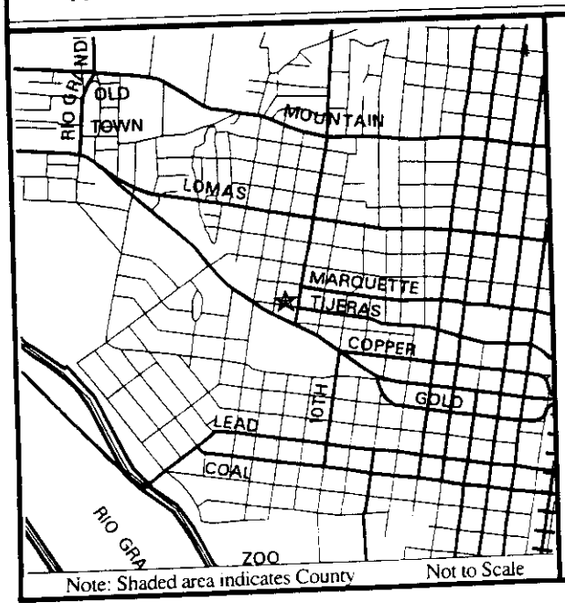
ZONING MAP

A G I S

Scale 1"= 231 '

PROJECT NO.	1000892
HEARING DATE	12-21-00
MAP NO.	J-13
APPLICATION NO.	00110-00000-01500 00138-00000-01501 00128-00000-01502





Note: Shaded area indicates County Not to Scale

LAND USE MAP

KEY to Land Use Abbreviations

AGRI Agricultural
COMM Commercial -Retail, Service, Wholesale
DRNG Drainage
EDUC Public or Private School
GOLF Golf Course
MED Medical Office or Facility
MFG Manufacturing or Mining
MH Mobile Home
MULT Multi-Family or Group Home
OFF Office
ORG Social or Civic Organization
PARK Park, Recreation or Open Space
PRKG Parking
PUBF Public Facility
RELG Religious Facility
SF Single Family
TRAN Transportation Facility
UTIL Utility
VAC Vacant Land or Abandoned Bldgs
WH Wa[illegible]rage

-149-

AGIS

Scale 1" = 231 '

PROJECT NO.
1000892

HEARING DATE
12-21-00

MAP NO.
J-13

APPLICATION NO.
00110-00000-01500
00138-00000-01501
00128-00000-01502

file

City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

NOTICE OF APPEAL

April 9, 2001

TO WHOM IT MAY CONCERN:

The Planning Department received the attached appeal on **April 6, 2001**. You will be notified by mail when the appeal has been scheduled to be heard before the Land Use Planning & Zoning Committee (LUPZ).

If you have any questions, please contact Crystal Ortega, Administrative Assistant, Development Services Division at (505) 924-3889.

CITY COUNCIL APPEAL NUMBER: **AC-01-11**

PLANNING DEPARTMENT CASE FILE NUMBERS:

00110-00000-01500/00138-00000-01501/00128-00000-01502

APPELLANTS: Downtown Neighborhoods Assoc.
718 Mountain Rd. NW
Albuquerque, NM 87102

AGENT: Perry R. Wilkes
718 Mountain Rd. NW
Albuquerque, NM 87102

cc: Charles Benzaquen, 1223 Tijeras Ave. NW, Albuq. NM 87102
Garcia/Kraemer, 200Lomas NW, Ste. 1111, Albuq. NM 87102
Perry Wilkes, Downtown Neigh. Assoc., 718 Mountain Rd. NW, Albuq. NM 87102
Jim Barr, Downtown Neigh. Assoc., 407 12th St. NW, Albuq. NM 87102
Joe Sackett, 905 Fruit NW, Albuq. NM 87102
Stephen Lawless, 1323 Marquette NW, Albuq. NM 87102
HR Blackhurst, 1331 Park Ave. SW, #504, Albuq. NM 87102
Mary Lebeck, 415 11th St. NW, Albuq. NM 87102
Nicholas Gentry, 414 11th St NW, Albuq. NM 87102
Barb Lebeck, 916 Lomas NW, Albuq. NM 87102
John Myers, 1401 Central Ave. NW, Albuq. NM 87104

THE CITY OF ALBUQUERQUE IS AN EQUAL OPPORTUNITY/REASONABLE ACCOMMODATION EMPLOYER

City of Albuquerque
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

NOTICE OF HEARING

June 8, 2001

Charles Benzaquen
1223 Tijeras Ave. NW
Albuquerque, NM 87102

Council Bill R-01-271 (00138-00000-01501/00128-00000-01502/Project #1000892) The Environmental Planning Commission recommends approval of amendments to the Downtown Neighborhood Area Sector Development Plan and an amendment to the Zone Map from SU-2/TH (Townhouse) to SU-2/SU-1 for SF (Single Family residential) and Restaurant with Beer and Wine for Lots 47 & 48, Perea Addition, located on the northeast corner of Tijeras Avenue and 13th Street, containing approximately .11 acres (J-13). **Downtown Neighborhood Association has filed a protest.** Simon Shima, Staff Planner.

The above item will be heard by the Land Use, Planning and Zoning Committee (LUPZ) on **Wednesday, June 27, 2001.** The hearing begins at 5:00 p.m. and will be held in the Council/Committee Room, 9th Floor, City/County Government Center, One Civic Plaza, NW.

If you have any questions or if I can be of further assistance, you can contact me at (505) 924-3889.

Sincerely,

Crystal Ortega

Crystal Ortega
Administrative Assistant

cc: Garcia/Kraemer, 200Lomas NW, Ste. 1111, Albuq. NM 87102
Perry Wilkes, Downtown Neigh. Assoc., 718 Mountain Rd. NW, Albuq. NM 87102
Jim Barr, Downtown Neigh. Assoc., 407 12th St. NW, Albuq. NM 87102
Joe Sackett, 905 Fruit NW, Albuq. NM 87102
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John Myers, 1401 Central Ave. NW, Albuq. NM 87104

THE CITY OF ALBUQUERQUE IS AN EQUAL OPPORTUNITY/REASONABLE ACCOMMODATION EMPLOYER

CITY of ALBUQUERQUE
FOURTEENTH COUNCIL

COUNCIL BILL NO. R-01-271 ENACTMENT NO. _____

SPONSORED BY:

RESOLUTION

AMENDING THE DOWNTOWN NEIGHBORHOOD AREA SECTOR DEVELOPMENT PLAN AND ZONE MAP TO CHANGE THE ZONING OF LOTS 47 & 48 OF PEREA ADDITION FROM SU-2/TH (TOWNHOUSE) TO SU-2/SU-1 FOR SF (SINGLE-FAMILY RESIDENTIAL) & RESTAURANT WITH BEER & WINE.

WHEREAS, the City adopted the Downtown Neighborhood Area Sector Development Plan in October 1976 through Council Resolution R-181, Enactment 158-1976 and amended it in March 1999 through Council Resolution R-148, Enactment 35-1999; and

WHEREAS, the Downtown Neighborhood Area Sector Development Plan established the current land use designation for the subject property containing approximately .11 acre; and

WHEREAS, the owner/ resident of the subject property wishes to open a small restaurant serving dinner with wine, while maintaining his residence; and

WHEREAS, the subject property is located at the edge of the SU-2/TH zone bordering the SU-2/CC (Community Commercial) zone; and

WHEREAS, the subject property is located in a transitional area from residential to the north to office/commercial to the south in close proximity to Central Avenue; and

WHEREAS, none of the existing zoning designations of the Downtown Neighborhood Area Sector Development Plan permits a combined residence and restaurant serving beer and wine; and

WHEREAS, the owner/resident of the subject property has requested amendments of the Downtown Neighborhood Area Sector Development Plan

[+bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

and the Zone Map that would allow him to use the property for a combined residence and restaurant serving dinner with beer and wine; and

WHEREAS, upon evaluating the above request, the Planning Department recommended to the Environmental Planning Commission that the Downtowr Neighborhood Area Sector Development Plan be amended to: 1) provide for a new zoning designation of SU-2/SU-1 for SF (Single –Family residential) & Restaurant with Beer & Wine; and 2) add certain language to the text that describes the Special Use land use; and

WHEREAS, on March 22, 2001, the Environmental Planning Commission, in its advisory role on land use and planning matters, recommended approval of amendments to the Downtown Neighborhood Area Sector Development Plan to the City Council based on findings including that: 1) the above amendments would allow a combined single-family residence and small restaurant serving dinner with beer and wine at the applicant's residence; and 2) the amendments would further certain applicable goals and policies of the Comprehensive Plan for the Central Urban Area and the Downtown Neighborhood Area Sector Development Plan; and

WHEREAS, the zone change for the subject site is in compliance with Resolution 270-1980, the City's policies for zone map amendment requests; and

WHEREAS, the City Council has the authority to not only adopt but amend a sector development plan.

BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1. The first map of the Downtown Neighborhood Area Sector Development Plan document, titled Downtown Neighborhood Area, is hereby amended to show Lots 47 and 48 of Perea Addition as SU (Special Use).

SECTION 2. The text of the Downtown Neighborhood Area Sector Development Plan describing the Special Use land use is hereby amended to read as follows:

The Special Use land use corresponds to the SU-1 Special Use Zone in the Comprehensive City Zoning Code and regulates existing churches and certain other approved land uses. It is subject to the regulations of that

[+Bracketed/Underscored Material+] - New
[-~~Bracketed/Strikethrough Material~~-] - Deletion

zone and adopted development plans. Existing churches' present configurations are to be treated as their development plans. Newly zoned SU-1 properties require site development plan approval.

SECTION 3. The zone map adopted by Section 14-16-1-1 et. Seq. R.O.A. 1994 and the existing zoning map on page 9 of the Downtown Neighborhood Area Sector Development Plan are hereby amended, establishing SU-2/SU-1 zoning for SF (Single-Family residential) & Restaurant with Beer & Wine for the site described in Section 1 above.

SECTION 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this resolution is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this resolution. The Council hereby declares that it would have passed this resolution and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provisions being declared unconstitutional or otherwise invalid.

[Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Office of the Mayor

INTER-OFFICE MEMORANDUM May 15, 2001

TO: Brad Winter, President, City Council

FROM: Jim Baca, Mayor

SUBJECT: **00138-00000-01501/00128-00000-01502/Project #1000892** The Environmental Planning Commission recommends approval of amendments to the Downtown Neighborhood Area Sector Development Plan and an amendment to the Zone Map from SU-2/TH (Townhouse) to SU-2/SU-1 for SF (Single Family residential) and Restaurant with Beer and Wine for Lots 47 & 48, Perea Addition, located on the northeast corner of Tijeras Avenue and 13th Street, containing approximately .11 acres (J-13). **Downtown Neighborhood Association has filed a protest**. Simon Shima, Staff Planner.

The owner/resident of the above property is requesting approval of the above-referenced amendments in order to open a small restaurant serving dinner with beer and wine and to maintain his residence at the above location.

On March 22, 2001, the Environmental Planning Commission (the "EPC") heard the above case and recommended approval to the City Council of: 1) amendments to the Downtown Neighborhood Area Sector Development Plan; and 2) an amendment to the Zone Map, as indicated above.

None of the existing zoning designations of the Downtown Neighborhood Area Sector Development Plan covering the subject property permits a **combined** residence and small restaurant serving dinner with beer and wine, as requested. Therefore, the EPC is recommending amendments to the Downtown Neighborhood Area Sector Development Plan that would provide: 1) a new zoning designation of SU-2/SU-1 for SF (Single Family residential) & Restaurant with Beer & Wine for the subject property; and 2) certain language to the text that describes the Special Use (SU-1) land use.

The EPC found that the above amendments to the Downtown Neighborhood Area Sector Development Plan and the Zone Map would allow a combined single family residence and restaurant serving dinner with beer and wine, and that certain applicable goals and policies of the Comprehensive Plan and Downtown Neighborhood Area Sector Development Plan are supportive of the proposed land use. Further, the EPC found that although the Board of the Downtown Neighborhood Association took action not to support the motion for the Downtown Neighborhood Area Sector Development Plan amendments and the associated Zone Map amendment, there is substantial property owner support for the amendments, both residents and commercial property owners, within the immediate neighborhood and adjoining neighborhoods.

On April 5, 2001, Perry Wilkes, Chairman of the Downtown Neighborhood Association (the Association"), filed a **protest** to the EPC recommendation for approval to the City Council regarding the above-referenced matters. The major reasons for the protest are that the Downtown Neighborhood Area Sector Development Plan does not support the conversion of residential dwellings to commercial uses and that a zone change to a commercial zoning is inappropriate.

At issue in this protest is how to interpret the nature of the recommended amendments as well as the request for the subject property. At the March 22, 2001 public hearing, the EPC ascertained the applicant's intent to maintain his residence upon opening a small restaurant at his residence and found that a **combined** residence and small restaurant at the subject property would be feasible. The Association, on the other hand, regards the request as the **conversion** of a single-family residence to an eventual commercial restaurant without a residential use. Similarly, the Association regards the recommended zoning as a commercial zoning. The SU-2/SU-1 for SF and Restaurant with Beer and Wine, as recommended, is a Special Use zoning, not a commercial zoning.

RECOMMENDED:

date: 5/18/2001

Robert R. McCabe, AIA, APA
Planning Director

REVIEWED AS TO FORM:

date: 5-31-01

Robert M. White
City Attorney

RECOMMENDED:

date:

Lawrence Rael
Chief Administrative Officer

Cover Analysis

00138-00000-01501/00128-00000-01502/Project #1000892

1. What is it?

This case is threefold: 1) amendments to the Downtown Neighborhood Area Sector Development Plan including: a) an amendment of the text describing the Special Use land use; and b) an amendment of the Land Use Plan Map on the subject property from SU-2/TH to SU-2/SU-1 for SF (Single-Family residential) & Restaurant to include sale of beer & wine; 2) a zone map amendment on the subject property from SU-2/TH to SU-2/SU-1 for SF & Restaurant to include sale of beer & wine; and 3) approval of a site development plan for building permit.

2. What will this piece of legislation do?

Legislation would allow a **combined** single-family residence and a small restaurant for dinner serving beer and wine at the owner's residence located within the Downtown Neighborhood Sector Development Plan area and currently zoned SU-2/TH.

3. Why is the project needed?

The applicant/property owner is requesting certain amendments to the Sector Development Plan and associated Zone Map to allow him to open a small restaurant serving dinner with beer and wine at his existing residence while maintaining his residence on the premises. While there are a number of residents who have written to the Environmental Planning Commission in support of the proposed project, the Board of the Downtown Neighborhood Association has voiced its opposition to the request.

4. How much will it cost and what is the funding source?

The City would incur no direct cost to the project. On the other hand, as the attached fiscal impact analysis indicates, the City would benefit receipt of an estimated annual gross receipt tax of $2,101 from the restaurant operation. In addition, a certain increase in property tax would be expected as well.

5. What will happen if the project is not approved?

The applicant/property owner would not be permitted to operate the restaurant, as described above, at his residence.

FISCAL IMPACT ANALYSIS

TITLE: 00138-00000-01501
00128-00000-01502

R-_____ O-_____

FUND: 0110

DEPT: Planning

[ ] No measurable fiscal impact is anticipated, i.e., no impact on fund balance over and above existing appropriations.

[ ] (If Applicable) The estimated fiscal impact (defined as impact over and above existing appropriations) of this legislation is as follows:

	CURRENT YEAR*	NEXT YEAR*
Base Salary/Wages	$_____	$_____
Fringe Benefits at _____%	_____	_____
Subtotal Personnel	$	$
Operating Expenses	_____	_____
Property	_____	_____
Indirect Costs	_____	_____
Total	$_____	$_____
[ ] Estimated revenues not affected		
[ ] Estimated revenue impact	$_____	$_____

* These estimates do not include any adjustment for inflation.
* Range if not easily quantifible.

Number of Positions _____ _____

COMMENTS:

See attached.

COMMENTS ON NON-MONETARY IMPACTS TO COMMUNITY/CITY GOVERNMENT:

PREPARED BY: [signature]
FISCAL ANALYST

APPROVED: [signature] 5/18/2001
DIRECTOR (date)

REVIEWED BY: [signature] 5/23/01
EXECUTIVE BUDGET ANALYST

REVIEWED BY: Becky Snapka
BUDGET OFFICER (date)

REVIEWED BY: Jacques Blair
CITY ECONOMIST

MEMORANDUM

DATE: 4/18/2001

TO: SIMON SHIMA, PLANNER, DEVELOPMENT SERVICES

FROM: CHRISTOPHER HYER, ECONOMIST, ADVANCE PLANNING

RE: FISCAL IMPACT ANALYSIS OF PROJECT #1000892

The fiscal impact resulting from allowing the zone change from SU-2/townhouse to SU-2/SU-1 for single-family residence and restaurant (including beer and wine sales), will be positive. It is assumed that the City expenditures for infrastructure and services are already in existence and thus, will remain the same. The existing water meter would also remain and no additional police or fire protection would be required.

The City would benefit from additional GRT collected from the food and service sales at 2.02% of the projected $2,000/week revenue generated from the business's operation – an annual GRT of $2,101. An increase in property tax collected is expected as well.

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CITY OF ALBUQUERQUE

EPC

ENVIRONMENTAL PLANNING COMMISSION

Agenda Number: 3
Case Number: 00110 00000 01500/00138 00000 01501/00128 00000 01502
March 22, 2001

Staff Report

Agent	Garcia/Kraemer & Associates
Applicant	Charles Benzaquen
Requests	1) Downtown Neighborhood Area Sector Development Plan Amendments; 2) Zone Map Amendment; and 3) Site Development Plan for Building Permit
Legal Description	Lots 47 & 48 of Perea Addition
Location	1223 Tijeras Avenue NW
Size	Approximately .11 acre
Existing Zoning	SU-2/TH (Townhouse)
Proposed Zoning	SU-2/SU-1 for SFR (Single Family Residence) & Restaurant with Wine & Beer

Staff Recommendation

APPROVAL of 00138 00000 01501, 00110 00000 01500, 00128 00000 01502, based on the findings on pages 19 - 22 and subject to the conditions of approval on pages 23-24.

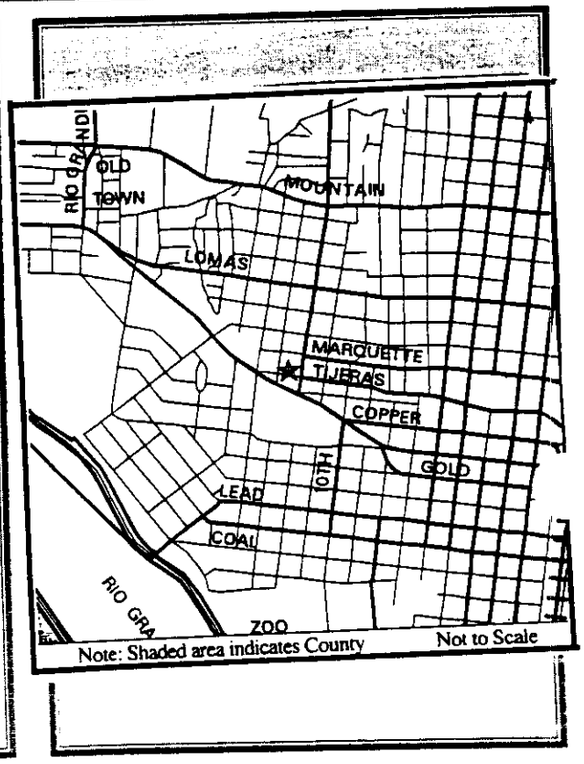
Staff Planner

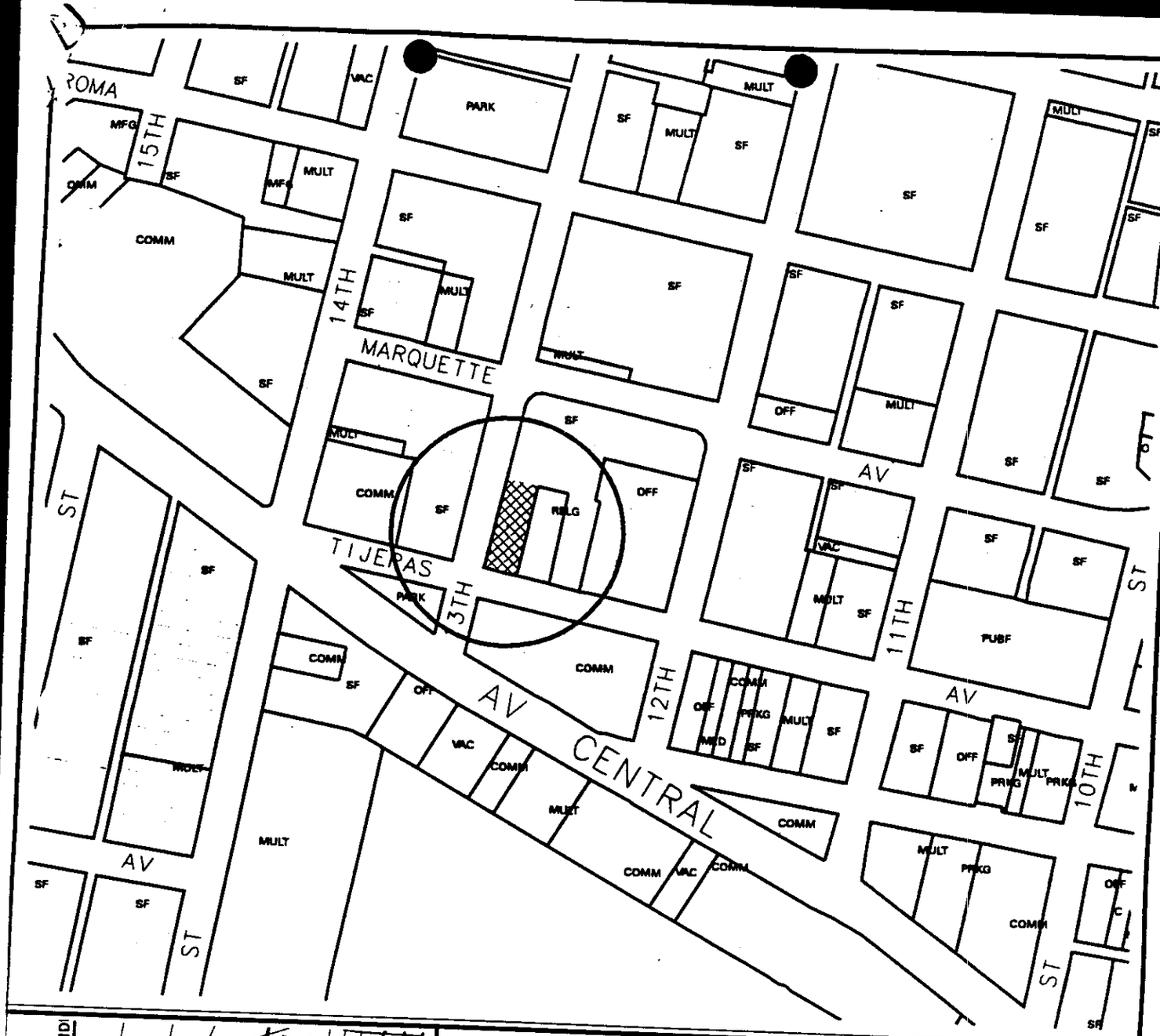
Simon Shima AICP, Senior Planner

Summary of Analysis

In order to allow the applicant to open a small restaurant (maximum 24 seats) to serve fine food and fine wine for dinner at his residence at 1223 Tijeras Avenue NW, the applicant is requesting approval of: 1) Downtown Neighborhood Area Sector Development Plan amendments, including: a) a text amendment; and b) a Land Use Plan Map amendment from SU-2/TH (Townhouse) to SU-2/SU-1 for SFR (Single Family Residence) & Restaurant with Wine & Beer; 2) a Zone Map amendment from SU-2/TH to SU-2/SU-1 for SFR & Restaurant with Wine & Beer; and 3) Site Development Plan for Building Permit.

Based on the ensuing analysis, it is found that the proposed amendments, as enumerated above, would be compatible with certain applicable goals, policies, and intents of the Comprehensive Plan, the Downtown Neighborhood Area Sector Development Plan, and the Downtown 2010 Sector Development Plan. In addition, the applicant has provided adequate justification for the Zone Map amendment pursuant to the policies contained in Resolution 270-1980. The proposed Site Development Plan is found adequate subject to conditions of approval as enumerated on pages 23-24.





Note: Shaded area indicates County Not to Scale

LAND USE MAP

KEY to Land Use Abbreviations

AGRI Agricultural
COMM Commercial -Retail, Service, Wholesale
DRNG Drainage
EDUC Public or Private School
GOLF Golf Course
MED Medical Office or Facility
MFG Manufacturing or Mining
MH Mobile Home
MULT Multi-Family or Group Home
OFF Office
ORG Social or Civic Organization
PARK Park, Recreation or Open Space
PRKG Parking
PUBF Public Facility
RELG Religious Facility
SF Single Family
TRAN Transportation Facility
UTIL Utility
VAC Vacant Land or Abandoned Bldgs
WH Warehousing & Storage

AGIS

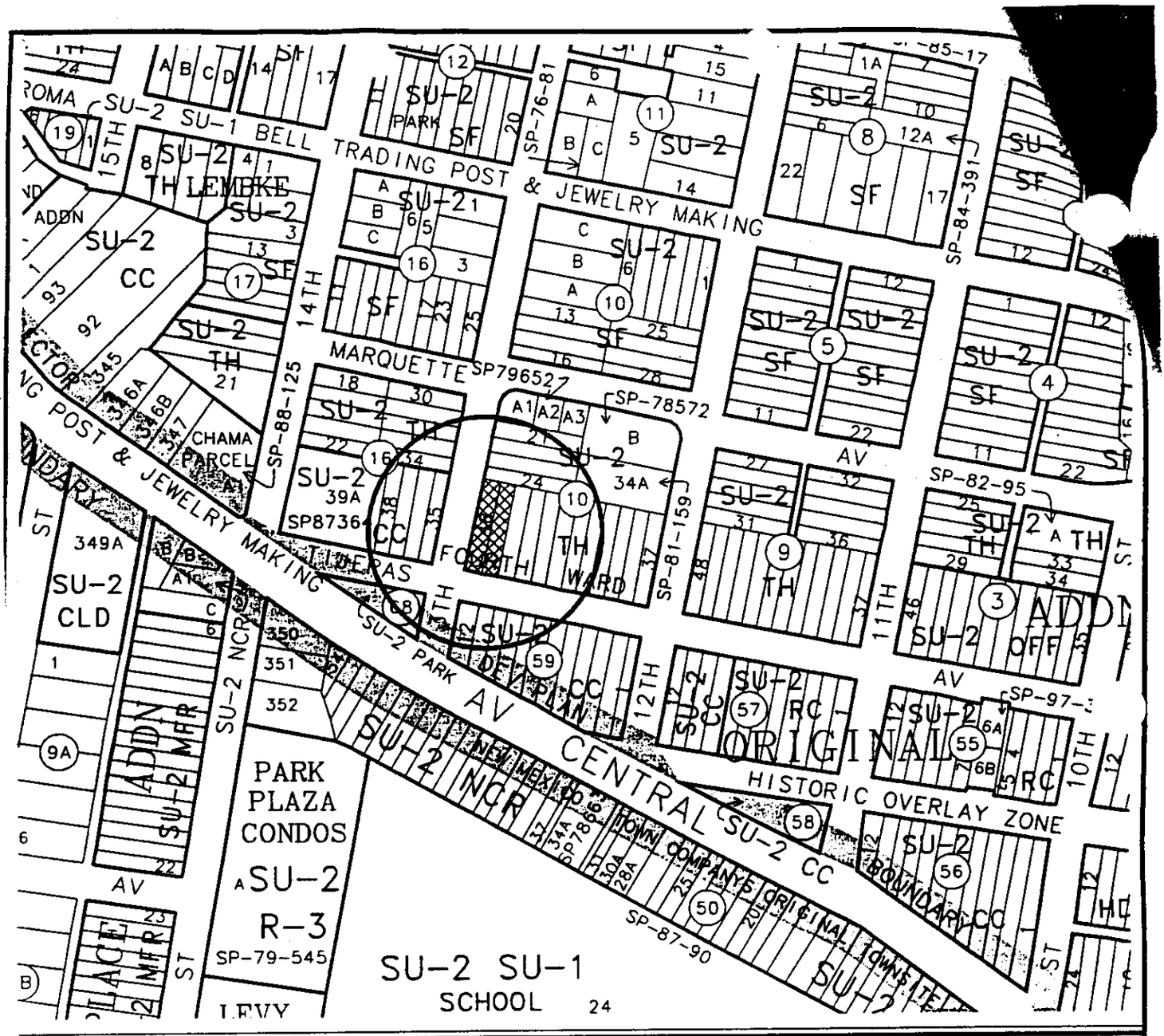
Scale 1"= 231'

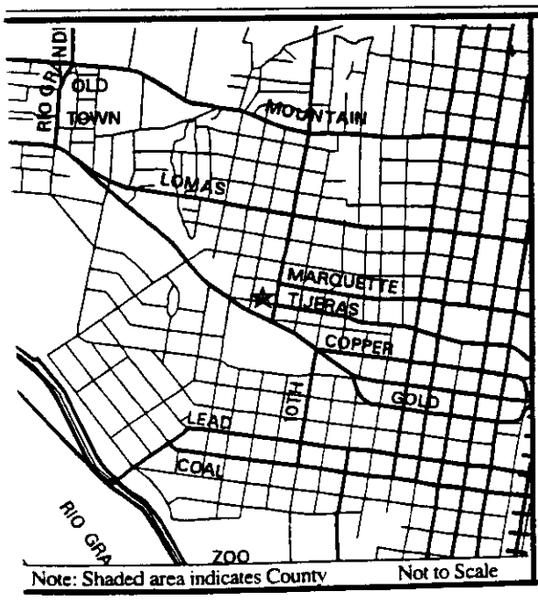
PROJECT NO.
1000892

HEARING DATE
12-21-00

MAP NO.
J-13

APPLICATION NO.
00110-00000-01500
00138-00000-01501
00128-00000-01502





Note: Shaded area indicates County Not to Scale

ZONING MAP

-3-

AGIS

Scale 1" = 231'

PROJECT NO.	1000892
HEARING DATE	12-21-00
MAP NO.	J-13
APPLICATION NO.	00110-00000-01500 00138-00000-01501 00128-00000-01502

City Departments and other interested agencies reviewed this application from December 1, 2000 to December 15, 2000. Agency comments were used in the preparation of this report, and begin on page 25.

Development Services Report

SUMMARY OF REQUEST

Requests	1) Downtown Neighborhood Area Sector Development Plan Amendments; 2) Zone Map Amendment; and 3) Site Development Plan for Building Permit
Location	1223 Tijeras Avenue NW

AREA CHARACTERISTICS AND ZONING HISTORY

Surrounding zoning, plan designations, and land uses:

	Zoning	Comprehensive Plan Area; Applicable Rank II & III Plans	Land Use
Site	SU-2/TH	Central Urban Area of Comprehensive Plan; Downtown Neighborhood Area Sector Development Plan; Downtown 2010 Sector Development Plan	Single-family residence
North	SU-2/TH		Single-family residence
South	SU-2/CC		Motel
East	SU-2/TH		Office
West	SU-2/CC		Single-family residence

Background, History and Context

In order to allow the applicant to open a small restaurant (maximum 24 seat capacity) to serve fine food and fine wine for dinner at his residence at 1223 Tijeras Avenue NW located in the historic Downtown Neighborhood Area, the applicant is requesting approval of: 1) Downtown Neighborhood Area Sector Development Plan (the "DNA Plan") amendments, including: a) a text amendment; and b) a Land Use Plan Map amendment from SU-2/TH (Townhouse) to SU-2/SU-1 SFR (Single Family Residence) & Restaurant with Wine & Beer; 2) a Zone Map amendment from SU-2/TH (Townhouse) to SU-2/SU-1 for SFR & Restaurant with Wine & Beer; and 3) Site Development Plan for Building Permit. No package liquor sale is requested.

The current land uses north of 1223 Tijeras Avenue (the "subject property") are predominantly single-family residential. However, the existing land uses fronting Tijeras Avenue, where the subject property

is located, are mixed with single-family residential and office/commercial. There are former Stephen's Restaurant, an architect office and a single-family residence to the west across 13th Street, and a law office immediately to the east in the same block. Directly across Tijeras Avenue is the two story Downtown Inn fronting Central Avenue. Proximity to Central Avenue, a short block away, might have contributed to the existing mixed land uses in the immediate vicinity of the subject property, as viewed above.

The applicant's request for the DNA Plan amendments, as attached, are:

1) Amendment of the text of the DNA Plan that describes the SU-1 zoning to read as follows (new language underlined):

   The Special Use Land Use corresponds to the SU-1 Special Use Zone in the Comprehensive City Zoning Code and regulates existing churches and certain other approved land uses. It is subject to the regulations of that zone and adopted development plans. Existing churches' present configurations are to be treated as their development plans. Newly zoned SU-1 properties require site development plan approval; and

2) Amendment of Map 7, Land Use Plan, on the subject property from SU-2/TH to SU-2/SU-1 for SFR & Restaurant with Wine & Beer.

APPLICABLE PLANS AND POLICIES

Albuquerque / Bernalillo County Comprehensive Plan

The Comprehensive Plan was adopted in 1988. The subject site is located in the area designated Central Urban by the Comprehensive Plan with the Goal to "promote the Central Urban Area as a focus for arts, cultural, and public facilities/activities while recognizing and enhancing the character of its residential neighborhoods and its importance as the historic center of the City."

Downtown Neighborhood Area Sector Development Plan

The DNA Plan was first adopted in 1976, and revised in 1999. The DNA Plan generally encompasses properties between Mountain Road to the north, Central Avenue to the south, 19th Street to the west, and 4th - 9th Streets to the east; specific boundaries are shown on Map 1 in the DNA Plan. Quoting the 1975 Comprehensive Policies Plan, the DNA Plan sets forth a goal of:

> "a quality urban environment which perpetuates the tradition of identifiable, individualistic communities within the metropolitan area and offers variety and maximum choice in housing, work areas and life styles, while creating visually pleasing architecture, landscaping and vistas to enhance the appearance of the community".

Again quoting the 1975 Comprehensive Policies Plan, the DNA Plan sets forth the first policy:

> "Redevelopment and rehabilitation of older neighborhoods should be continued and expanded"; and the second policy:
>
> "selected buildings and areas which explain our past and which give Albuquerque identity, individuality and cultural richness shall be preserved, enhanced and reused where appropriate".

Downtown 2010 Sector Development Plan

The Downtown 2010 Sector Development Plan (the "Downtown Plan") was adopted in May, 2000. The Plan is a 10 year policy and implementation plan for Downtown, providing the framework to guide public and private decision-making regarding land use, transportation, development regulations and public investment. Although the Downtown Plan focuses on the Downtown Core, and does not supercede any Rank III sector development plan for surrounding neighborhoods such as the DNA Plan, recommendations contained in the Downtown Plan do address certain policies on surrounding neighborhoods in coordination with the plans for adjacent neighborhoods.

The Downtown Plan's healthy neighborhoods goal states:

> Preserve and enhance the character of the neighborhoods which surround Downtown.

Its objective No.1 is:

> Protecting surrounding neighborhoods from incompatible land uses and minimizing the impacts of Downtown revitalization.

One of its actions calls for:

> The Plan makes the boundary between the Downtown Core and its adjacent neighborhoods a hard line in order to protect adjacent neighborhoods from encroachment of commercial activity outside of the core. Variances, zone changes and other administrative actions which would allow commercial activity to creep across the boundary from the Downtown Core into the adjacent neighborhoods should only occur in the most exceptional of cases.

The Downtown Plan's urban housing goal states:

> Have at least 20,000 people living within one mile of the Downtown Core, and 5,000 living within the Downtown Core by 2010.

Its objective No. 3 is:

> Protecting the character of the existing urban neighborhoods adjacent to Downtown and /or within the Historic District.

And one of its action calls for:

> Neighborhood commercial businesses shall be attracted to locate Downtown.

Design Guidelines for Fourth Ward and Eight/Forrester Historical Overlay Zones

The subject property is located within the Fourth Ward Historical Overlay Zone. The above guidelines were adopted by the Landmarks & Urban Conservation Commission in May, 1991 and amended in April, 1998. To insure that building projects in the overlay zones are compatible with traditional neighborhood features, property owners must receive a Certificate of Appropriateness from the City before they begin work. A Certificate of Appropriateness certifies that the owner has complied with historic design guidelines and may proceed with the proposed work. Exterior alterations and additions to existing buildings (not interior work or routine maintenance), new construction, and demolition of contributing buildings, require a Certificate of Appropriateness.

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

This Resolution outlines policies and requirements for deciding zone map change applications pursuant to the Comprehensive City Zoning Code. There are several tests that must be met and the applicant

must provide sound justification for the change. The burden is on the applicant to show why a change should be made, not on the City to show why the change should not be made.

The applicant must demonstrate that the existing zoning is inappropriate because of one of three findings: 1) there was an error when the existing zone map pattern was created; or 2) changed neighborhood or community conditions justify the change; or 3) a different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City master plan.

Resolution 91-1998 (R-70)

This Resolution establishes an overall direction for implementation of the City's growth policies, with a framework emphasizing:

- development of community and regional activity centers and major transportation corridors (high capacity corridors); encourage increased densities and mixed uses in activity centers and corridors; meet the needs of residents closer to their homes or employment to decrease Vehicle Miles Traveled and automobile dependence.
- maintenance, enhancements and upgrades of roads and utilities in the core area, to prevent deterioration of existing communities and to encourage infill; diversify the Downtown land use mix with public facilities, hotels, office and retail development, more and higher density housing; generate more activity and attract more private investment in the Downtown area.
- enhance transit system performance, consistent with the principles of a compact urban form and a network of centers and corridors; improve the viability of transit as an alternative to the single-occupancy vehicle and reduce Vehicle Miles Traveled; improve pedestrian mobility and the character of the pedestrian environment, transit orientation and bicycle connections, within centers and corridors.
- plan the timing of road and utility construction to ensure orderly growth, and coordinate capacity increases and street extensions; transportation improvement programs must recognize the significance of natural, historic, and cultural resources and include strategies for minimizing adverse impacts on them.

ANALYSIS

I. *DNA SECTOR DEVELOPMENT PLAN AMENDMENTS & ZONE MAP AMENDMENT*

As previously stated, the applicant's request for the DNA Plan amendments are:

1) Amendment of the text of the DNA Plan that describes the SU-1 zoning to read as follows (new language underlined):

   The Special Use Land Use corresponds to the SU-1 Special Use Zone in the Comprehensive City Zoning Code and regulates existing churches <u>and certain other approved land uses</u>. It is subject to the regulations of that zone and adopted development plans. Existing churches' present configurations are to be treated as their development plans. <u>Newly zoned SU-1 properties require site development plan approval; and</u>

2) Amendment of Map 7, Land Use Plan, on the subject property from SU-2/TH to SU-2/SU-1 for SFR & Restaurant with Wine & Beer.

Regarding the above request for the DNA Plan amendments, the Environmental Planning Commission (the "EPC') charge is to make a recommendation to the City Council.

Conformance to Adopted Plans, Policies, and Ordinances

Albuquerque / Bernalillo County Comprehensive Plan:

In view of the request for a **combined single-family residence and small fine restaurant** serving wine and beer which would maintain the existing residential architectural façade subject to the Historical Overlay Zone Design Guidelines, the Comprehensive Plan for the Central Urban Area is supportive of the proposed land use with its goal of "promote the Central Urban Area as a focus for arts, cultural, and public facilities/activities while recognizing and enhancing the character of its residential neighborhoods and its importance as the historic center of the City."

DNA Sector Development Plan:

The DNA Plan is supportive of the proposed land use with its goal of :

> "a quality urban environment which perpetuates the tradition of identifiable, individualistic communities within the metropolitan area and offers variety and maximum choice in housing, work areas and life styles, while creating visually pleasing architecture, landscaping and vistas to enhance the appearance of the community".

Further, the DNA policies are supportive of the proposed land use as well with its policies stating:

> "Redevelopment and rehabilitation of older neighborhoods should be continued and expanded" (the first policy); and
>
> "selected buildings and areas which explain our past and which give Albuquerque identity, individuality and cultural richness shall be preserved, enhanced and reused where appropriate" (the second policy).

As previously described, the current land uses north of the subject property are predominantly single-family residential. However, the existing land uses fronting Tijeras Avenue, where the subject property is located, are mixed with single-family residential and office/commercial. There are the former Stephen's Restaurant), an architect office and a single-family residence to the west across 13th Street, and a law office immediately to the east in the same block. Directly across Tijeras Avenue is the Downtown Inn fronting Central Avenue. Proximity to Central Avenue might have contributed to the existing mixed land uses in the immediate vicinity of the subject property.

With respect to **zoning**, the existing zoning designation of the subject property and its entire block is SU-2/TH. Nevertheless, the property immediately to the east of the subject property houses law offices under the SU-2/TH zoning. There is no record of any zoning changes granted to this property. The SU-2/CC zoning is to the west and the south of the subject property. In addition to the fact that the subject property is located at the edge of the SU-2/TH zone bordering the SU-2/CC zone, there are certain discrepancies between what the DNA Plan has envisioned and the existing land uses. It is reasonable to

characterize the subject property as located in a transitional area from residential to the north to office/commercial to the south in close proximity to Central Avenue.

The DNA Plan allows only existing churches under the Special Use. None of the existing zoning designations contained in the DNA Plan permits the proposed residence and restaurant serving wine. Therefore, under the existing DNA Plan framework, SU-2/SU-1 for SFR and Restaurant with Wine & Beer along with the associated text amendment, as requested, would permit the proposed land use.

Regarding the Zone Map amendment, the EPC charge is to make a recommendation to the City Council.

Downtown Plan:

Different from the Comprehensive Plan goal for the Central Urban Area adopted in 1988 and the DNA Plan goal and policies adopted in 1976, as discussed above, the Downtown Plan adopted in 2000 appears to discourage the proposed land use on the subject location.

The Downtown Plan's healthy neighborhoods goal states "Preserve and enhance the character of the neighborhoods which surround Downtown", and its objective No.1 states that "Protecting surrounding neighborhoods from incompatible land uses and minimizing the impacts of Downtown revitalization". One of its actions states:

> The Plan makes the boundary between the Downtown Core and its adjacent neighborhoods a hard line in order to protect adjacent neighborhoods from encroachment of commercial activity outside of the core. Variances, zone changes and other administrative actions which would allow commercial activity to creep across the boundary from the Downtown Core into the adjacent neighborhoods should only occur in the most exceptional of cases.

There appears to be a conflict in policies between the two (2) adopted Rank III plans, the DNA Plan and the Downtown Plan, both of which could be applied to the subject request. At least, two issues would be involved here: 1) the nature of the proposed land use; and 2) applicability of the plan.

First, the nature of the proposed land use: The request is not for an exclusively commercial restaurant, but for a **combined single-family residence and small fine restaurant** serving wine and beer which would maintain the existing residential architectural façade subject to the Historical Overlay Zone Design Guidelines. It should be questioned as to whether or not the Downtown Plan has envisioned this kind of land use where it speaks against encroachment of commercial activity outside of the Downtown Core. It is considered rather appropriate that the requested commercial activity has been envisioned by the Downtown Plan as one of "the most exceptional of cases" which would be allowed in adjacent neighborhoods.

Second, applicability of the plan: At issue will be which Rank III plan should take precedence. The DNA Plan with the most immediacy on the subject location would take precedence over the Downtown Plan with the primary focus on the Downtown Core, 3 to 4 blocks away from the subject location. Nevertheless, a complexity exists in this issue. Although the Downtown Plan does not supercede any Rank III sector development plan for surrounding neighborhoods, such as the DNA Plan, it has strongly-worded specific policies for the surrounding neighborhoods. Such policies, as cited above, however, can be construed as self-serving. Yet, the time element may have to be considered. The DNA Plan was adopted initially in 1976 while the Downtown Plan was adopted in 2000. One can argue that the Downtown Plan adopted in 2000 would more immediately reflect the current policy of the City than the DNA Plan adopted in 1976 would.

Based on the above discussions, it would be reasonable to conclude that the Downtown Plan policies for adjacent neighborhoods would have to be considered; however, that the Downtown Plan has envisioned the requested land use as one of the most exceptional cases which could occur in the adjacent neighborhoods.

Resolution 91-1998 (R-70):

Since the subject location is outside of Downtown, a regional activity center, R-70 has little applicability to the request except for its mixed- use component and its close proximity to the Central Avenue corridor and immediate access to transit service on Central Avenue.

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

The applicant maintains that a restaurant at this historic and pedestrian-oriented site, as proposed, would be advantageous to the community by providing the local residents with a convenient opportunity to enjoy fine food and wine, contributing to the cultural diversity of the City, and enhancing the City's reputation in fine cuisine, while not disrupting the adjacent property, the neighborhood, or the community. The applicant further indicates that the site's proximity to Central Avenue would help enhance the marketing of the Route 66 corridor.

The potential consequences of the request, as the applicant has demonstrated above, would be worthy of consideration and would comply with one of the criteria for justification of a Zone Map Change application, Section 1. D. (3).

The requested Zone Map Amendment would not constitute a spot zone. The SU-1 Zone is not considered a spot zone due to its special nature. As discussed above, the request would facilitate realization of the Comprehensive Plan